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FILED
FEB 22 2018
ASST. CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

IN THE HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS Appeal 2018-002

SAMSUNG HEAVY INDUSTRIES CO LTD, a Korean corporation

Plaintiff,

vs.

FOCUS INVESTMENTS LTD, a Marshall Islands corporation, and

MEHMET EMIN KARAMEHMET

Defendants.

Civil Action **2017-081**

NOTICE OF APPEAL TO THE SUPREME COURT UNDER RULES 3 AND 4 OF THE MARSHALL ISLANDS SUPREME COURT RULES OF PROCEDURE;

ATTACHMENT:
- 7 FEBRUARY 2018 "ORDER GRANTING MOTION TO DISMISS"; and

CERTIFICATE OF SERVICE

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that Samsung Heavy Industries Co Ltd, Plaintiff in the above-captioned case, hereby appeals to the Supreme Court of the Republic of the Marshall Islands from the Order of the High Court entered in this action on 7 February 2018, to wit "Order Granting Motion to Dismiss," a copy of which is attached to this Notice.

The following is a concise statement of the questions presented in this appeal:

1. Whether the High Court erred by adopting Section 8-112 of the UCC as the common law of the Republic of the Marshall Islands with regard to the procedures that must be

followed in order for a judgment creditor to execute judgment against shares in a Marshall Islands corporation;

2. Whether the High Court erred by disregarding and declining to apply U.S. common law with regard to the situs of shares in a corporation for purposes of executing judgment;
3. Whether the High Court erred by finding that Defendant Mehmet Emin Karamehmet ("Defendant Karamehmet") owns no property located in the Republic of the Marshall Islands; and
4. Whether the High Court in this matter erred by granting Defendant Karamehmet's motion to dismiss for lack of jurisdiction.

Dated: 21 February 2018
Baja California

By:
Digitally signed by James McCaffrey
DN: cn=James McCaffrey, o=McCaffrey Firm, ou, email=James@McCaffreyFirm.com, c=MH
Date: 2018.02.21 13:54:38 -08'00'

JAMES McCAFFREY
Attorney for Plaintiff

FILED

FEB 07 2018

ASST. CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO. LTD., a Korean corporation, Plaintiff, vs. FOCUS INVESTMENTS LTD., a Marshall Islands corporation, and MEHMET EMIN KARAMEHMET, Defendants	CIVIL ACTION NO. 2017-081 **ORDER GRANTING MOTION TO DISMISS**

TO: James McCaffrey, counsel for plaintiff
Dennis Reeder, counsel for defendants

ORDER

Plaintiff Samsung Heavy Industries Co. Ltd. ("Samsung") filed this suit against defendants Mehmet Emin Karamehmet ("Karamehmet") and Focus Investments Ltd. ("Focus"), seeking enforcement of a $44,332,413 judgment entered against Karamehmet in the High Court of England ("English Judgment"). Karamehmet moved to dismiss the Complaint against both defendants for lack of personal jurisdiction over Karamehmet and for *forum non conveniens*. Karamehmet has filed the following documents:

- Motion to Dismiss ("Motion to Dismiss");
- Defendant Mehmet Emin Karamehmet's Reply to Plaintiff's Opposition to the Motion to Dismiss;
- Initial Supplemental Brief of Defendant Karamehmet in Support of Motion to Dismiss ("Dft's Supp. Br."); and

- Supplemental Reply Brief of Defendant Karamehmet in Support of Motion to Dismiss.

In response, Samsung has filed the following documents:

- Plaintiff's Opposition to Defendant Mehmet Emin Karamehmet's Motion to Dismiss ("Opposition");
- Plaintiff's Supplemental Opposition to Defendant Mehmet Emin Karamehmet's Motion to Dismiss ("Pl's Supp. Opp."); and
- Plaintiff's Supplemental Reply Opposition to Defendant Mehmet Emin Karamehmet's Motion to Dismiss ("Pl's Supp. Reply to Opp.").

The Court, having carefully considered the Motion to Dismiss, related submissions, and counsel's arguments, finds, concludes, and orders that the Motion to Dismiss is **GRANTED** and that this matter is **DISMISSED** for the reasons set forth below.

BACKGROUND

Samsung is a corporation, incorporated in the Republic of Korea. Complaint ¶ 1. Karamehmet is an individual, resident of Turkey, and absent from the Marshall Islands. *Id.* ¶ 3. Samsung has not alleged that Karamehmet was personally served in the Republic or consented to service. Focus is a non-resident, domestic corporation organized under the laws of the Republic of the Marshall Islands. *Id.* ¶ 2.

The High Court of England issued the $44,332,413 English Judgment in favor of Samsung and against Karamehmet on February 8, 2016, and Samsung seeks to enforce the English Judgment in the Republic. *Id.* ¶¶ 5, 17. In support of its request, Samsung makes several factual allegations: (i) Karamehmet indirectly owns 100% of the beneficial interest of Focus represented by its shares; (ii) Focus, in turns, owns 17.26% of voting ordinary shares in Genel Energy plc ("Genel") and 23.31 % of the Ordinary Shares of Genel; and (iii) the only business interest of Focus is holding shares in Genel. *Id.* ¶¶ 8-10. Samsung goes on to make several legal allegations. *Id.* ¶¶ 11-15.

In its prayer for relief, Samsung requests, among other things, that the Court recognize and enforce the English Judgment by ordering the sale of shares in Focus, with the proceeds to be

applied to the English Judgment or, in the alternative, by ordering the transfer of shares in Focus to Samsung, with their fair market value to be applied to reduce the English Judgment. *Id.* ¶ 17. Samsung seeks recognition and enforcement of the English Judgment under the Republic's Uniform Foreign Money-Judgments Recognition Act, 30 MIRC Chp. 4. Opposition, at 2.

LAW AND ANALYSIS

I. Recognition and Enforcement of Judgment

To obtain recognition and enforcement of the English Judgment under the Republic's Uniform Foreign Money-Judgment Recognition Act, Samsung must, in addition to meeting the requirements of the Act, demonstrate (i) that the Court has personal jurisdiction over Karamehmet or (ii) that his property can be found in the Republic. As the Restatement provides, "enforcement of a debt arising out of a foreign judgment must be initiated by civil action, and the judgment creditor must establish a basis for the exercise of jurisdiction by the enforcing court over the judgment debtor or his property." Restatement (Third) of Foreign Relations Law § 481, comment g (1987).

Absent personal jurisdiction over the judgment debtor or the presence of the judgment debtor's asset in the jurisdiction, courts have refused foreign judgments recognition and enforcement. *See Electrolines, Inc. v. Prudential Assurance Co., Ltd.*, 260 Mich. App. 144, 161, 677 N.W.2d 874, 884 (2003) ("[I]n an action brought to enforce a judgment, the trial court must possess jurisdiction over the judgment debtor or the judgment debtor's property"); *Glencore Grain Rotterdam B.V. v. Shivnath Rai Harnarain Co.*, 284 F.3d 1114, 1127–28 (9th Cir. 2002) ("[B]y the very terms of its argument, the *sine qua non* of basing jurisdiction on a defendant's assets in the forum is the identification of some asset. Glencore Grain fails to identify any property owned by Shivnath Rai in the forum against which Glencore Grain could attempt to enforce its award. Indeed, the best Glencore Grain can say is that it believes in good faith that Shivnath Rai has or will have assets located in the forum. This is simply not enough. Given the record before us, we must reject Glencore Grain's argument for jurisdiction based on property in the forum."); *Arbor Farms, LLC v. GeoStar Corp.*, 305 Mich. App. 374, 382, 853 N.W.2d 421, 427 (2014) ("When a party seeks enforcement of a foreign judgment in Michigan, there exists a

foundational jurisdictional requirement that must be satisfied with regard to the judgment debtor's person or property."); *UMS Partners, Ltd. v. Jackson*, No. 94J-12-159H-17-076, 1995 WL 413395, at *2 (Del. Super. Ct. June 15, 1995).

Samsung, however, has not obtained personal jurisdiction over Karamehmet or established that his property can be found in the Republic.

A. *Personal Jurisdiction*

When a defendant, such as Karamehmet, moves to dismiss for lack of personal jurisdiction under MIRCP Rule 12(b)(2), the plaintiff bears the burden of demonstrating that the court has jurisdiction over the defendant. *See Pebble Beach Co. v. Caddy*, 453 F.3d 1151, 1154 (9th Cir. 2006). "This demonstration requires that plaintiff make only a prima facie showing of jurisdictional facts to withstand the motion to dismiss." *Id.* (internal quotations and citations omitted).

In considering a motion to dismiss, courts assume the truth of the allegations contained in the complaint. *See Mann v. Brenner*, 375 Fed. App'x 232, 235 (3d Cir. 2010) ("the District Court must accept the plaintiff's well-pleaded allegations as true . . . "). "To withstand a . . . motion to dismiss, 'a complaint must contain sufficient factual matter, accepted as true, to "state a claim to relief that is plausible on its face."'" *Eurofins Pharma US Holdings v. BioAlliance Pharma SA*, 623 F.3d 147, 158 (3d Cir. 2010) (*citing Ashcroft v. Iqbal*, 556 U.S. 662, 129 S.Ct. 1937, 1949, 173 L.Ed.2d 868 (2009) (*quoting Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007)). "[T]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." *Iqbal*, 129 S.Ct. at 1949.

United States courts have held that to exercise personal jurisdiction over a non-resident defendant consistent with due process, a court must have either "general jurisdiction" or "specific jurisdiction" over the defendant. General jurisdiction may be based on contacts that are not directly related to the claims at issue, and is present where the defendant has "continuous and systematic" contacts with the forum. *Helicopteros Nacionales de Columbia S.A. v. Hall*, 466 U.S. 408, 416 (1984); *Autogenomics, Inc. v. Oxford Gene Tech., Ltd.*, 566 F.3d 1012, 1017 (Fed.

Cir. 2009).[1] In contrast, specific jurisdiction "is proper if it is permitted by a long-arm statute and if the exercise of that jurisdiction does not violate . . . due process." *Pebble Beach Co.*, 453 F.3d at 1154-1155 (*citing Fireman's Fund Ins. Co. v. Nat. Bank of Coops.*, 103 F.3d 888, 893 (9th Cir.1996)). "For due process to be satisfied, a defendant, if not present in the forum, must have 'minimum contacts' with the forum state such that the assertion of jurisdiction 'does not offend traditional notions of fair play and substantial justice.'" *Pebble Beach Co.*, 453 F.3d 155 (*citing Int'l Shoe Co. v. Washington*, 326 U.S. 310, 315, 66 S.Ct. 154, 90 L.Ed. 95 (1945)).

1. General Jurisdiction

As noted above, general jurisdiction requires that a defendant have "continuous and systematic" contacts with the forum. *Helicopteros*, 466 U.S. at 416; *Autogenomics, Inc.*, 566 F.3d at 1017; *Southmark Corp. v. Life Inv'rs, Inc.*, 851 F.2d 763, 772 (5th Cir. 1988). "While seemingly broad, the standard for general jurisdiction is high in practice and not often met." *Reach & Assocs., P.C. v. Dencer*, 269 F. Supp. 2d 497, 505 (D. Del. 2003).

In this case, Samsung has not alleged facts sufficient to establish that Karamehmet is subject to general jurisdiction in the Republic, and, as Samsung concedes in Pl's Supp. Reply to Opp., at 3, Karamehmet's status as an owner of Focus shares does not suffice to establish general jurisdiction. Karamehmet's contacts in the Republic are not continuous or substantial enough to establish general jurisdiction. Accordingly, the Court need only consider the question of whether Karamehmet's contacts are sufficient to establish specific jurisdiction. *See Glencore*, 284 F.3d at 1125.

2. Specific Jurisdiction

In order to establish specific jurisdiction, Samsung must establish two things: (i) that the Republic's long-arm statute confers such jurisdiction; and (ii) that the exercise of such

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[1]"Article I, § 3(1) of the Constitution governs how the Courts are to interpret and apply the Constitution: '[i]n interpreting and applying this Constitution, a Court shall look to the decisions of the courts of other countries having constitutions similar, in the relevant respect, to the Constitution of the Republic of the Marshall Islands, but shall not be bound thereby; and, in following any such decision, a court shall adapt it to the needs of the Republic, taking into account this Constitution as a whole and the circumstances of the Republic from time to time.'" *In the Matter of P.L. No. 1995-118*, 2 MILR 105, 109 (1997).

jurisdiction is consistent with principles of due process, *i.e.*, the defendant must have "minimum contacts" with the forum. Courts have interpreted "minimum contacts" to mean that (a) a defendant "has performed some act or consummated some transaction within the forum or otherwise purposefully availed himself of the privileges of conducting activities in the forum," (b) "the claim arises out of or results from the defendant's forum-related activities," and (c) "the exercise of jurisdiction is reasonable." *Pebble Beach Co.*, 453 F.3d at 1154-1155. "The plaintiff bears the burden of satisfying the first two prongs of the test. If the plaintiff fails to satisfy either of these prongs, personal jurisdiction is not established in the forum state. If the plaintiff succeeds in satisfying both of the first two prongs, the burden then shifts to the defendant to "present a compelling case" that the exercise of jurisdiction would not be reasonable. *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 802 (C.A.9 (Cal.), 2004) (*citing Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 476–78, 105 S.Ct. 2174, 85 L.Ed.2d 528 (1985)). Samsung has failed to establish that the Republic's long-arm statute confers personal jurisdiction over Karamehmet and that such jurisdiction is consistent with principles of due process.

a. The Scope of the Republic's Long-arm Statute

Under the Republic's "long-arm statute," Section 251 of the Judiciary Act 1983, 27 MIRC Ch. 2, a non-resident person or entity is subject to civil jurisdiction in the Republic if the non-resident engages in specified conduct. *See* 27 MIRC 251. Only causes of action referenced in Section 251, may be asserted against a person in proceedings based upon Part VII, Division 2, of the Judiciary Act 1983. *See* 27 MIRC 254.

Samsung, however, has not asserted that Karamehmet has engaged in any conduct that would subject him to civil jurisdiction in the Republic under Section 251. Samsung has not alleged that Karamehmet transacted business within the territorial limits of the Republic (27 MIRC 251(1)(a)); operated a vessel or aircraft within the territorial waters or airspace of the Republic (27 MIRC 251(1)(c)); acted within the territorial limits of the Republic as director, manager, trustee or other officer of a corporation organized under the laws of the Republic (27 MIRC 251(1)(i)); or engaged in any other conduct listed in Section 251.

Rather, in support of its claim for jurisdiction over Karamehmet, Samsung asserts that Karamehmet indirectly owns 100% of the beneficial interest of Focus represented by its shares

and that the situs of the shares is the Republic. Even if this were the case (and the Court does not find that it is), holding such an interest in a non-resident domestic corporation is not conduct that subjects one to civil jurisdiction under the Republic's long-arm statute, 27 MIRC 251.

Because Karamehmet has not engaged in any Section 251 conduct, the Court concludes that it does not have personal jurisdiction over Karamehmet.

b. "Minimum Contacts" Consistent with Due Process

Even if ownership of shares of a non-resident domestic corporation were listed under Section 251(1), as conduct subjecting a person to the civil jurisdiction of the Republic, the exercise of such jurisdiction would not be consistent with the due process principles set forth above in the three-pronged "minimum contacts" test. First, Samsung has not alleged that Karamehmet has performed some act or consummated some transaction within the Republic or otherwise purposefully availed himself of the privileges of conducting activities in the Republic. Second, Samsung's claim does not arise out of or results from Karamehmet's forum-related activities. As Samsung can meet either the first or second prong of the "minimum contacts" test, this Court need not consider the third prong, that the exercise of jurisdiction over Karamehmet is not reasonable. *See Pebble Beach Co.*, 453 F.3d at 1155.

For the above reasons, the Court concludes that exercising personal jurisdiction over Karamehmet is not consistent with due process. This conclusion is consisted with the United States Supreme Court's decision in *Shaffer v. Heitner*, 433 U.S. 186, 97 S. Ct. 2569, 53 L. Ed. 2d 683 (1977) (Delaware's assertion of jurisdiction over defendants, based solely on the statutory presence of their property in Delaware (*i.e.*, under a Delaware statute, Delaware is the legal situs of shares in Delaware corporations), violated the due process clause of the United States Constitution.); *see also In Matter of Dissolution of Arctic Ease*, LLC, No. CV 8932-VCMR, 2016 WL 7174668, at *3 (Del. Ch. Dec. 9, 2016) citing *Fisk Ventures, LLC v. Segal*, 2008 WL 1961156, at *7 (Del. Ch. May 7, 2008) ("A party's ownership of interests in a Delaware entity alone does not constitute sufficient minimum contacts for Delaware courts to exercise personal jurisdiction.").

Because the Court does not have personal jurisdiction over Karamehmet, to maintain an enforcement action, Samsung must prove Karamehmet has property in the Republic, which it has

not.

B. *Property in the Forum*

Samsung maintains that Karamehmet has property in the Republic through his indirect beneficial interest in Focus shares, shares whose legal situs is the Republic. In support of its claim, Samsung argues as follows. The Republic does not have an express statute that establishes the legal situs of shares of domestic corporations. In the absence of an express statute, the Court must look to the common law. *See Linkinbod and Alik v. Kejlat*, 2 MILR 65, 66 (1995) (The legal framework established by the 1979 Marshall Islands Constitution "continued the common law in effect as the governing law, in the absence of customary law, traditional practice or constitutional or statutory provisions to the contrary."). "[T]he general rule at common law has been that the situs of stock for the purpose of attachment is the domicile of the corporation, *i.e.*, its place of incorporation." Opposition, at 7 (citing cases from the early 20th Century). Therefore, the legal situs of shares in Focus, a non-resident domestic corporation of the Republic, is the Republic.

From this conclusion, Samsung argues that as Karamehmet indirectly owns 100% of the beneficial interest in Focus represented by its shares, Karamehmet owns property in the Republic, and his property is subject to sale or transfer to enforce the English Judgment. However, a closer look at *Linkinbod* negates Samsung's claim.

As noted above, in *Linkinbod*, the Marshall Islands Supreme Court held that the legal framework established by the 1979 Marshall Islands Constitution "continued *the common law in effect* as the governing law, in the absence of customary law, traditional practice or constitutional or statutory provisions to the contrary." *Id*, at 66 (emphasis added). Accordingly, the Court must determine what was "*the common law in effect*," on May 1, 1979, when the Constitution took effect.

As Samsung concedes, "[t]he situs of shares for attachment purposes is currently addressed by statute in most U.S. states." Opposition, at 7. Similarly, Karamehmet argues that the situs of shares for attachment has been controlled by statute for decades: under the Uniform Stock Transfer Act proposed in 1909 and adopted by all 50 states in the next 30 years; and under §8-317(1) [currently §8-112] of the Uniform Commercial Code promulgated in 1951 and

adopted by 49 of the 50 states, with Delaware enacting its own statute, § 169 of the DGCL. Dft's Supp. Br., at 5-7. In short, by May 1, 1979, when the Republic's constitution came into effect there was no United States "*common law in effect*" regarding the situs of shares in corporations. The relevant United States law *in effect* was statutory law.

In the absence of an express statute and common law that remains *in effect*, this Court can look to other methods to enforce judgments against shares in a domestic corporation. As Samsung points out, Section 105 of the Enforcement of Judgments Act, 30 MIRC Ch. 1, provides: "[e]nforcement of judgment[s] may also be affected, if the High Court deems justice requires and so orders by the appointment of a receiver, or receivers, by taking possession of property and disposing of it in accordance with the orders of the Court, or by a civil action on the judgment, *or in any other manner known* to American common law or *in the courts in the United States*." Pl's Supp. Opp., at 6. That is, if the Court deems justice so requires, the Court can look beyond the abandoned common law to how courts in the United States enforce judgments against shares in a domestic corporation.

As noted above, in the United States, 49 of the 50 states reply on Section 8-112 of the Uniform Commercial Code. Section 8-112 (a) provides as follows: "The interest of a debtor in a certificated security [including shares of stock] may be reached by a creditor only by actual seizure of the security certificate by the officer making the attachment or levy,. . . ."[2]

"[T]he historical [common law] rule was that the situs of shares was the domicile of the corporation; the location of the certificates did not count for much since they were mere evidence of the shares. [However, a]fter states enacted the Uniform Stock Transfer Act, and later Article 8 of the Uniform Commercial Code, courts tended to view the situs of shares as the place where the share certificates were located. The reasoning was that the purpose of these acts was to make the transfer of title to stock easier and less subject to collateral attack." § 5101. Situs of shares of stock, 11 Fletcher Cyc. Corp. § 5101 (citations omitted).

Consistent with this reasoning, this Court concludes that it is in the interest of justice to

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[2]" Section 8-112 of UCC Article 8 governs a creditor's levy upon or attachment of a debtor's 'securities,' which includes shares of stock." § 5104.Levy or attachment under UCC Article 8, 11 Fletcher Cyc. Corp. § 5104 (citation omitted).

make the transfer of title to stock easier and less subject to collateral attack under the laws of the Republic. Accordingly, under the authority of Section 105 of the Enforcement of Judgments Act, this Court adopts Section 8-112 of the UCC as the Republic's common law governing the enforcement of judgments on shares of domestic corporations.[3] This Court does not accept the abandoned historical United States common law regarding that the situs of shares. *See Yandal Investments Pty Ltd v. White Rivers Gold Limited, et al.*, C.A. No. 2010-158, slip op, at 3.

Even if the abandoned historical United States common law were still effect, the needs of modern commerce have so changed that the common law regarding the jurisdiction for enforcing judgment on debtors' interest in shares should be modified as set forth in Section 8-112 of the UCC, and as followed by the vast majority of U.S. states. It makes no sense to this Court to apply abandoned 19th Century common law in the 21st Century. This Court has the authority to advance the common law, and hereby does so. *See* 15A Am. Jur. 2d Common Law § 13 ("Total abrogation, revision, or modification or change of an outmoded common-law rule is within the competence of the judiciary; and indeed it is the duty of the courts to bring the law into accordance with present-day standards of wisdom and justice, and to keep it responsive to the demands of a changing scene." (internal citations omitted)); *see also*, 15A C.J.S. Common Law § 15 ("It is a basic precept of common law that it can, and must, change when change is appropriate. Common law is not static; it is consistent with reason and common sense." (citation omitted)); *see also*, Article I, Section 3, of the Marshall Islands Constitution (In interpreting and applying the Republic's Constitution, the courts are to take into account "circumstances in the Republic from time to time.").

For these reasons, the Court concludes Samsung has not shown that Karamehmet's property, even if it includes shares in Focus, can be found in the Republic.

II. Forum non Conveniens

As the Court finds that it does not have personal jurisdiction over Karamehmet and that his property is not to be found in the Republic, the Court need not address the question of *forum*

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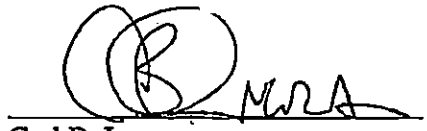
[3]The courts of the Federated States of Micronesia have long used the FSM's version of Section 105 to authorize the remedy of garnishment, which also is in derogation of the common law. *See FSM Social Sec. Admin. v. Lelu Town*, 13 FSM R. 60, 62 (Kos. 2004).

non conveniens.

DECISION AND ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED for the foregoing reasons that the Motion to Dismiss is **GRANTED** and that this matter is **DISMISSED.**

Ordered and Entered: February 7, 2018.



Carl B. Ingram
Chief Justice

Civil Action No. **2017-081 CBJ**

METHOD OF FILING

The foregoing

NOTICE OF APPEAL TO THE SUPREME COURT UNDER RULES 3 AND 4 OF THE MARSHALL ISLANDS SUPREME COURT RULES OF PROCEDURE;

ATTACHMENT:
- 7 FEBRUARY 2018 "ORDER GRANTING MOTION TO DISMISS"

was filed with the High Court in Majuro on the date below-written with

Clerk of Courts – High Court
P.O. Box 378
Majuro, MH 96960

Marshall.Islands.Judiciary@Gmail.com

CERTIFICATE OF SERVICE

I hereby certify that an exact duplicate of the document(s) filed above was duly served upon the below-named person(s) on the date below written by sending him a copy by

(**x**) by Email to the address listed below his name
( ) by Mail to the address below his name
( ) by Hand Delivery to his office

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Attorney for the Defendant
Mehmet Emin KARAMEHMET

Dated: 21 February 2018
Baja California

By: /s/ *James McCaffrey*
JAMES McCAFFREY
Attorney for Plaintiffs

FILED
FEB 20 2018
ASST. CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO. LTD., a Korean corporation, Plaintiff, vs. FOCUS INVESTMENTS LTD, a Marshall Islands corporation, and MEHMET EMIN KARAMEHMET, Defendants.	CIVIL ACTION NO. 2017-081 **ORDER DENYING STAY PENDING RECONSIDERATION OR APPEAL**

TO: James McCaffrey, counsel for plaintiff Samsung
Dennis Reeder, counsel for defendants Karamehmet and Focus

On 9 February 2018, plaintiff Samsung Heavy Industries Co. Ltd. ("Samsung") filed "Plaintiff's Motion for Clarification as to Continuing Force of Preliminary Injunction or in the Alternative an Order to Extend Preliminary Injunction Pending Appeal from February 7, 2018 Order Dismissing Action ('Motion for Clarification')." In its motion, Samsung requests that the Court either

(i) issue an order confirming that its 18 May 2017 Preliminary Injunction ("Preliminary Injunction") remains in effect pending reconsideration and/or appeal or,

(ii) in the alternative, if the Court finds that the Preliminary Injunction has been dissolved as a result of its Order Dismissing Action, issue an order extending the Preliminary Injunction pending reconsideration and/or appeal.

I. FACTUAL AND PROCEDURAL BACKGROUND

Samsung filed this suit against the defendants Mehmet Emin Karamehmet ("Karamehmet") and Focus Investments Ltd. ("Focus"), seeking enforcement of a $44,332,413 judgment entered against Karamehmet in the High Court of England ("English Judgment"). Karamehmet moved to dismiss the Complaint against both defendants for lack of personal jurisdiction over Karamehmet and for *forum non conveniens* ("Motion to Dismiss").

Samsung is a corporation, organized under the laws of the Republic of Korea.[1] Defendant Karamehmet is an individual, resident of Turkey, and absent from the Marshall Islands.[2] Defendant Focus is a non-resident, domestic corporation organized under the laws of the Republic of the Marshall Islands on 28 November 2008.[3]

The English Judgment was issued in favor of Samsung and against Karamehmet on 8 February 2016. In its Complaint, Samsung seeks to enforce the English Judgment in the Republic.[4] In support of its request, Samsung makes several factual allegations: (i) Karamehmet indirectly owns 100% of the beneficial interest of Focus, represented by its shares; (ii) Focus, in turns, owns 17.26% of voting ordinary shares in Genel Energy plc ("Genel") and 23.31 % of its Ordinary Shares; and (iii) the only business interest of Focus is holding shares in Genel.[5] Samsung goes on to make several legal allegations, including that the Republic is the situs of

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[1]Complaint ¶ 1.

[2]*Id.* ¶ 3.

[3]*Id.* ¶ 2.

[4]*Id.* ¶¶ 5, 17.

[5]*Id.* ¶¶ 8-10.

shares in Focus.[6]

In its prayer for relief, Samsung requests, among other things, that the Court recognize and enforce the English Judgment by ordering the sale Focus's shares, with the proceeds to be applied to the English Judgment or, in the alternative, by ordering the transfer of Focus's shares to Samsung, with their fair market value to be applied to reduce the English Judgment.[7] Samsung seeks recognition and enforcement of the English Judgment under the Republic's Uniform Foreign Money-Judgments Recognition Act, 30 MIRC Chp. 4.[8]

Having carefully considered Karamehmet's Motion to Dismiss, Samsung's Opposition, related filings, and counsel's argument, the Court dismissed Samsung's action in its 7 February 2018 "Order Granting Motion to Dismiss ('Order Dismissing Action')," concluding that it lacked "personal jurisdiction" over Karamehmet and that his property was not "found" in the Republic for purposes of attachment, execution, or garnishment. By this reference, the Order Dismissing Action is incorporated herein.

Under the terms of the above-referenced Preliminary Injunction, which was drafted, in part, by Samsung's counsel, the injunction was to remain in effect "until the conclusion of the matter."[9] The matter was concluded by the Court's Order Dismissing Action, a final judgment. Accordingly, the Preliminary Injunction dissolved upon the issuance of the Order Dismissing Action. As courts have held, "[a] preliminary injunction cannot survive the dismissal of a

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[6]*Id.* ¶¶ 11-15.

[7]*Id.* ¶ 17.

[8]"Plaintiff's Opposition to Defendant Mehmet Emin Karamehmet's Motion to Dismiss ('Opposition')," at 2.

[9]Preliminary Injunction, at 2.

complaint." *Venezia v. Robinson*, 16 F.3d 209, 211 (C.A.7 (Ill.), 1994) (citation omitted). The question then before the Court is not whether to confirm or to extend the Preliminary Injunction, but whether to issue a stay pending reconsideration and/or appeal.

II. LEGAL STANDARD

The Marshall Islands Supreme Court in *Niedenthal v CEO*, SCT Civil Case No. 2015-001, (June 2015), set forth the purpose and legal standard for granting a stay pending appeal. "The purpose of a stay is to preserve the status quo pending the outcome of an appeal. Because a stay intrudes into ordinary judicial review, it is generally not a matter of right even if irreparable injury might otherwise result. The party requesting the stay bears the heavy burden of showing the circumstances justify a stay."[10] There are two standards for issuing a stay: the "traditional test"; and the "alternative standard."

"Although there have been various formulations of the "traditional test" for granting a stay, it is generally held that the moving party must show (1) that the moving party will suffer irreparable injury if the relief is not granted, (2) the moving party will probably prevail on the merits or has a substantial likelihood of success on the merits, (3) the balance of hardships favors the moving party, and (4) the public interest favors granting relief."[11] Under the "alternative standard," "the moving party may meet its burden by demonstrating either (1) a combination of probable success on the merits and the possibility of irreparable injury or (2) that serious questions exist and the balance of hardships tips sharply in its favor. This last formulation represents two points on a sliding scale in which the required degree of irreparable harm

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[10] *Id.*, at 3 (internal citations omitted).

[11] *Id.* (internal citations and quotation marks omitted).

increases as the probability of success decreases."[12] Samsung has not shown that it is entitled to a stay under either the "traditional test" or the "alternative standard."

III. ANALYSIS

A. Irreparable injury

Samsung asserts that it will sustain irreparable injury if injunctive relief is not granted. As the Marshall Islands Supreme Court held in *Niedenthal*, "[i]n order to demonstrate irreparable harm, it must be shown there is an injury that is certain, great, actual, and not theoretical, and not merely serious or substantial. It must also be shown that the harm is imminent."[13] Samsung has not shown its loss is certain, great, actual, and not theoretical. Nor has Samsung shown its loss is imminent.

As Samsung reports, Karamehmet's holdings in Genel through Focus are very large.[14] As of 14 June 2017, Karamehmet held 64,589,351 ordinary shares in Genel through Focus.[15] As of the close of business 9 February 2018, shares of Genel were trading at Gbp 111.40 per share.[16] Assuming Focus's holdings in Genel have not changed since 14 June 2017, the total value of Karamehmet's holdings in Genel is approximately £71,952,537.01. Using an online currency converter, the Court estimates that £71,952,537.01 is approximately USD $100,773,552 at an

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[12] *Id.*, at 3-4 (internal citations omitted).

[13] *Id.*, at 4 (internal quotations and citations omitted).

[14] Complaint, ¶ 16.

[15] *See* Declaration of Derek J.T. Adler in Response to Order of 10 February 2018 ("Adler Decl."), at 2; *see also* the 12 February 2018 Reply Brief of Defendant Karamehmet to Plaintiff's Motion for Clarification, at 7.

[16] *See* Adler Decl., at 2.

exchange rate of 1.40 to the dollar. However, as Samsung also reports, as of October 2016 (16 months ago), only 745,660 of Focus's holdings in Genel, 1.15%, were unencumbered and freely tradeable.[17] At Gbp 111.40 per share shares, the value of the 745,660 shares is £830,665.[18] Again, using an online currency converter, the Court estimates that £830,665 is USD $1,162,931 at an exchange rate of 1.40 to the dollar, a substantial sum, although only a small percentage of Focus's USD $100,773,552 holdings in Genel (1.15%) and Samsung's USD $44,332,413 English Judgment (2.62%).[19] Focus's remaining shares are pledged to secure loan and insurance arrangements.[20]

Samsung is concerned that while this matter is pending reconsideration or appeal, Karamehmet may transfer Focus or its assets beyond the Court's reach. Although injunctive relief may be warranted where irreparable harm would result from the inability to collect a money judgment,[21] here the risk is uncertain and theoretical. Samsung has not shown that Karamehmet is likely to, or even can, transfer Focus or its assets. First, Samsung has not shown that Karamehmet's November 2008 creation of Focus and later use as a vehicle for holding Genel's shares was done to avoid the February 2016 English Judgment. Second, as Samsung has recently informed the Court, at least 98.85% of Focus's holdings in Genel are encumbered.

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[17] *Id.*

[18] *Id.*

[19] This calculation assumes that 16 months after the October 2016 report, Focus's 745,660 shares in Genel are still unencumbered and freely tradeable.

[20] *Id.*

[21] *See Nuka v. Morelik*, 3 MILR 39, 42 (2009)

Although Samsung has not had an opportunity to obtain details the encumbrance documents,[22] it is not likely that under the encumbrance documents Karamehmet will be able to transfer Focus or its assets until the debt secured by the encumbrance is cleared. Until the debt is cleared, the lenders presumably will have priority over Samsung in at least 98.85% of Focus's holdings in Genel. Third, given it has been 16 months since Samsung's last update of Focus's unencumbered and freely tradeable shares in Genel, it is not certain if any of Focus's Genel shares are still unencumbered and freely tradeable.

In summary, Samsung has not shown its loss is certain, not theoretical, and imminent. Samsung has not met the Niedenthal test for irreparable injury.

B. Probability of prevailing on the merits or substantial likelihood of success on the merits

Samsung's argument that it will prevail on the merits is based upon two assertions. First, the common law rule that the situs of stock for the purpose of attachment and garnishment is the domicile of the corporation (*i.e.*, its place of incorporation) was suspended, not extinguished or repealed, by the enactment of Section 8-112 of the Uniform Commercial Code. Second, "[d]uring the trust period, courts of the Trust Territory were required to apply U.S. common law in effect at the time of decision. *See* 1 TTC § 103 ('The rules of the common law, as expressed in the restatements of the law approved by the American Law Institute and, to the extent not so expressed, as generally understood and applied in the United States, shall be the rules of decision in the courts of the Trust Territory in applicable cases ....'). The most natural reading of the Supreme Court's statement in *Linkinbod* is that this continues to be the case."[23]

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[22]*See* Adler Decl., at 2

[23]Motion for Clarification, at 9-10 (emphasis added).

With respect to Samsung's first argument (*i.e.*, that the common law rule regarding the situs of shares was "suspended," rather than "extinguished," by the adoption of Section 8-112 of the Uniform Commercial Code), the Court notes that whether the traditional common law rule was "suspended" or "extinguished," makes no difference. Either way, the abandoned rule was not "in effect" when the Marshall Islands Constitution came into effect on 1 May 1979, and it is not "in effect" now. In the United States, the law regarding attachment, execution, or garnishment of stock is governed not by the abandoned common law but by statute: Section 8-112 of the UCC in 49 states; and Section 169 of the DGCL in Delaware.

With respect to Samsung's second argument (*i.e.*, that as stated in 1 TTC § 103, the common law shall be the rule of decision in the courts of the Trust Territory), the Nitijela has taken legislative action that precludes the continuing application of 1 TTC § 103 in the Republic. In November 1988, the Nitijela enacted the Marshall Islands Revised Code Act 1988 ("MIRC Act"), 1 MIRC Ch. 2. In Sessional Paper 1, the Nitijela declined to include the text of 1 TTC § 103 in the Marshall Islands Revised Code 1988, so by omission and under § 203 of the MIRC Act, the Nitijela repealed 1 TTC § 103. In light of this repeal, the Supreme Court's decision in *Linkinbod* (a 1995 case) cannot be said to require adherence to the United States common law pursuant to the mandatory language of 1 TTC § 103.[24]

At any rate, "common law" is judge-made law, and the "[t]otal abrogation, revision, or modification or change of an outmoded common-law rule is within the competence of the judiciary." This is what the Court has done. *See* Order Dismissing Action, at 10.

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[24]In this connection, the Court notes that under Rule 3.3(a)(2) of the Model Rules of Professional Conduct a lawyer shall not knowingly "fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel."

C. Balance of hardships

Samsung has the burden of demonstrating that the harm it will suffer, if relief is denied, is greater that the harm to the defendants, if the stay is granted. As Samsung has failed to show that it will suffer "irreparable injury," the Court finds that the balancing of the equities or hardships does not weigh in favor of Samsung.

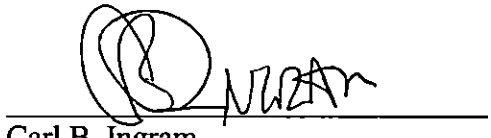
D. Public interest

Samsung also has the burden of demonstrating that issuance of the stay promotes the public interest. However, as Samsung "has failed to show a likelihood of success on the merits, the public interest [would be] harmed by the entry of a [stay]." *Lyden v. Adidas Am., Inc.*, No. 3:14-CV-01586-MO, 2015 WL 758642, at *4 (D. Or. Feb. 20, 2015). Accordingly, the Court finds that the public interest weighs against issuing a stay.

IV. CONCLUSION

For the above reasons, the Court denies Samsung's Motion for Clarification. Accordingly, the Court does not confirm or extend the Preliminary Injunction or issue a stay.

Entered: 20 February 2018.



Carl B. Ingram
Chief Justice, High Court

FILED

FEB 20 2018

ASST. CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

Samsung Heavy Industries Co Ltd
Plaintiff
v
Focus investments Ltd & Mehmet Emin Karamehmet
Defendant

Civil Case No. 2017-081

CERTIFICATE OF SERVICE

I, Hainrick Moore, Asst. Clerk of the Courts, hereby certify that on 2/9/2018

I served the Order denying stay pending reconsideration or appeal

filed 02/20/2018 in the above captioned matter on:

1. James McCaffrey by ☑ Email ☐ Fax ☐ Personal Hand Delivery
2. Dennis Reeder by ☑ Email ☐ Fax ☐ Personal Hand Delivery
3. _____ by ☐ Email ☐ Fax ☐ Personal Hand Delivery
4. _____ by ☐ Email ☐ Fax ☐ Personal Hand Delivery

Attached is a copy of my ☒ Sent Email / ☐ Fax Confirmation.

FILED:

Hainrick Moore
Asst. Clerk of the Courts
Marshall Islands Judiciary

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FILED
FEB 12 2018
ASST. CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

IN THE
HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO LTD, Plaintiff, vs. FOCUS INVESTMENTS LTD, a Marshall Islands corporation, and MEHMET EMIN KARAMEHMET Defendants.	CIVIL ACTION NO. 2017-081 **REPLY BRIEF OF DEFENDANT KARAMEHMET TO PLAINTIFF'S MOTION FOR CLARIFICATION**

Defendant Mehmet Emin Karamehmet ("Karamehmet") hereby submits this Reply Brief to Plaintiff's Motion for Clarification dated February 8, 2018 (The "Motion"), as ordered by the Court's February 10, 2018 Order (the "Scheduling Order"). The Scheduling Order: (i) directed Samsung to produce evidence of the value of the assets it sought to restrain by twelve noon MHT February 12, 2018; and (ii) ordered Karamehmet to serve and file a reply to the Motion by 4:30 p.m. MHT February 12, 2018. Samsung has filed the Declaration of Derek J.T. Adler in response to the Scheduling Order (the "Adler Dec.").

Despite the Court's February 8, 2018 Decision and Order (the "Order") dismissing the Complaint filed by Plaintiff Samsung Heavy Industries Co. Ltd. ("Samsung" or "Plaintiff") for lack of personal jurisdiction over Karamehmet, Samsung argues that the preliminary injunction issued at the inception of this case remains in place. In the alternative, Samsung moves the Court to extend the preliminary injunction pending Samsung's appeal, should it file one. There is no basis in law or the facts of this matter to support Samsung's requests, and Defendant respectfully submits that, to the extent Samsung needs clarification, the preliminary injunction necessarily dissolved upon the issuance of the Order. To the extent the Court considers Samsung's request to extend the preliminary injunction pending appeal, Samsung fails to meet the requisite standard and its motion should be denied. Should the Court credit the Adler Dec.'s suggestion that the Order be stayed pending appeal, Defendant respectfully urges a significant bond.

Point 1

The Preliminary Injunction Dissolved When the Case Was Dismissed

Citing no case law, Samsung blithely argues that the Preliminary Injunction in this matter remains in place pending Samsung's appeal, if any. Motion P. 4. As Samsung concedes, the Court's May 18, 2017 Order establishing the preliminary injunction provides that it remains in effect "until the conclusion of the matter or modified upon noticed motion." (May 18, 2017 Order at 2). The Court's dismissal of the Complaint for lack of personal jurisdiction, Defendant respectfully submits, concluded this matter.

Where a court lacks personal jurisdiction over a defendant, a preliminary injunction issued against such Defendants is void (notably, Plaintiff fails to cite a single one of the many cases in this area). *See, e.g., United Elec., Radio & Mach. Workers of Am. v. 163 Pleasant St. Corp.*, 960 F.2d 1080, 1084 (1st Cir., 1992) (noting that absent personal jurisdiction, preliminary injunction and

contempt orders are void since the court would not have had the authority to enter the orders); *Kulko v. Superior Court*, 436 U.S. 84, 91, 98 S. Ct. 1690, 56 L.Ed.2d 132 (1978) ("[i]t has long been the rule that a valid judgment ... may be entered only by a court having jurisdiction over the person of the defendant"); *Aliberti v. GMAC Mortg., LLC*, 779 F.Supp.2d 242, 248 (D.Mass., 2011) (noting that preliminary injunction is ordinarily lifted once a motion to dismiss is granted); *Intelsat Corp. v. Multivision TV LLC*, (S.D.Fl., 2010) 736 F.Supp.2d 1334 (denying motion for preliminary injunction where defendant was not subject to personal jurisdiction); *NewLead Holdings Ltd. v. Ironridge Global IV Ltd.*, (S.D.N.Y., 2014) 2014 WL 2619588 (denying motion for preliminary injunction and dissolving temporary restraining order for lack of personal jurisdiction); *LockeBridge, LLC v. RGMS Media, Inc.*, (D.Mass., 2012) 2012 WL 2370114 (voiding preliminary injunction for lack of personal jurisdiction); *Family Watchdog, LLC v. Schweiss*, (S.D.Ind., 2009) 2009 WL 276856 (finding motion for preliminary injunction moot following dismissal of defendant for lack of personal jurisdiction); *see further XO Energy LLC v. Zhao*, (S.D.Tx., 2016) 2016 WL 6902418 (voiding preliminary injunction for lack of subject matter jurisdiction and awarding damages for improper restraint); *Commodity Futures Trading Com'n v. Zelener*, (D.Ill., 2003) 2003 WL 22284295 (dissolving preliminary injunction where case dismissed for lack of subject matter jurisdiction).

There is thus no question that under an overwhelming body of applicable law in multiple districts a preliminary injunction dissolves when a case is dismissed for want of personal jurisdiction. Samsung's failure to cite a single case in support of its position that the preliminary injunction remains in place following this dismissal reveals the paucity of its arguments. In this matter, the Court's unambiguous finding that Samsung "has not obtained personal jurisdiction over

Karamehmet or established that his property can be found in the [RMI]" concurrently dissolves the preliminary injunction. Order at p. 4.

Point 2

The Court should Decline To "Extend" the Preliminary Injunction

Samsung's request that the Court extend the preliminary injunction is misplaced in at least two respects: (1) as shown *supra*, the "extension" request is illogical because the preliminary injunction dissolved by operation of law when the Court found it did not have personal jurisdiction over Karamehmet; and (2) in any event, Samsung fails to meets the burden for a preliminary injunction (strangely made pending appeal). Accordingly, Defendant respectfully avers that the Court should deny Samsung's motion to "extend".

Samsung does not meet the high legal burden required to obtain a preliminary injunction, especially at this late stage of the case. A preliminary injunction should not be granted lightly: "a preliminary injunction is an extraordinary and drastic remedy, one that should not be granted unless the movant, by a clear showing, carries the burden of persuasion." *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (emphasis deleted). An "[i]njunction is an equitable remedy which should not be lightly indulged in, but used sparingly and only in a clear and plain case." *Plain Dealer Publishing Co. v. Cleveland Typographical Union # 53*, 520 F.2d 1220, 1230 (6th Cir. 1975), *cert. denied*, 428 U.S. 909 (1977). The Court of Appeals for the Third Circuit has observed that "upon an application for a preliminary injunction to doubt is to deny." *Madison Square Garden Corp. v. Braddock*, 90 F.2d 924, 927 (3d Cir. 1937). In considering a request for a preliminary injunction, the burden of establishing the propriety of a preliminary injunction is entirely on the movant. *See, e.g., Baker Elec. Co-op., Inc. v. Chaske*, 28 F.3d 1466, 1472 (8th Cir. 1994). Samsung does not persuasively

show that it is entitled to such an extraordinary remedy, particularly following the Order dismissing Karamehmet for lack of personal jurisdiction, and in any event Samsung fails to carry its burden to show such relief is appropriate under the requisite test.

It appears to be common ground that "[t]he requirements for granting an injunction pending appeal are essentially the same as those for injunctive relief in general: (1) whether the [injunction] applicant has made a strong showing that he [or she] is likely to succeed on the merits; (2) whether the applicant will be irreparable injured absent a[n injunction]; (3) whether issuance of the [injunction] will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies." *Hilton v. Braunskill*, 481 U.S. 770, 776, 107 S.Ct. 2113, 2119, 95 L.Ed.2d 724 (1987); *Dataphase Sys., Inc. v. CL Sys., Inc.*, 640 F.2d 109 (8th Cir. 1981) (en banc) (the Court may find the widely-cited *Dataphase* decision instructive); *see also Archstone Partners, L.P. v Lichtenstein*, 2009 WL 2031785, at *6-7 (Del. Ch. Ct. July 10, 2009). Samsung fails to make the requisite showing for all four elements.

i. <u>*Samsung Is Unlikely to Succeed on the Merits*</u>

Samsung's argument that it has a substantial chance of success on the merits if it appeals is a little more than poorly disguised attack on the Court's Order. Likelihood of success on the merits requires that the movant find support for its position in governing law. *See, e.g., Curtis 1000, Inc. v. Youngblade*, (N.D. Iowa, 1995) 878 F.Supp. 1224, 1247 (collecting 8th Cir. cases). Here, Samsung fails to point to a single case in any jurisdiction that supports the argument that the situs of shares in a corporation is where the corporation is organized. Instead, Samsung insists that ancient common law controls and takes issue with the Court's determination that the common law of the United States on this issue has been abrogated by statute. The Order reviews and analyzes

the juridical developments that have led to the unchallenged current law in the United States that shares in a corporation are not located where that company is organized. In attacking this, Samsung fails to cite a single case that supports its contention or challenge the cases relied upon in the Order, especially the proposition that the Uniform Commercial Code replaced, and now forms, common law with respect to share situs. In the absence of any support for its position in governing law, Samsung is highly unlikely succeed on the merits.

ii. *Samsung Will Not Suffer Irreparable Harm*

Samsung claims that if the Court does not issue an injunction extending the preliminary injunction while Samsung appeals, it will suffer irreparable harm because it may not be able to collect its judgment. The rule is that where a movant has an adequate legal remedy, a preliminary injunction will not issue. *See, e.g. Frank B. Hall & Co. v. Alexander & Alexander, Inc.*, (8th Cir., 1992) 974 F.2d 1020, 1025. Samsung's Complaint makes clear that the object of this action is the restraint of shares in Genel Energy Plc, ("Genel") a publicly-traded company in the United Kingdom. Complaint ¶¶8, 9 and Ex. 2. Moreover, the judgment Samsung seeks to enforce was issued in the United Kingdom. Id., ¶5, Ex. 1. It is therefore clear that Samsung has access to the courts in the same jurisdiction as its ultimate target. Since Samsung seeks only money damages, and has not identified any reason why it is precluded from proceeding in the United Kingdom (where the parties agreed to resolve their disputes in the first place), it cannot show that it does not have an adequate remedy at law. Accordingly, Samsung fails to carry its burden on the irreparable harm prong.

Critically, the irreparable harm enquiry can be determinative of a motion for a preliminary injunction. For example, in the Eighth Circuit "the movant's failure to sustain its burden of proving

irreparable harm ends the inquiry 'and the denial of the injunctive request is warranted.'" *Gelco Corp. v. Coniston Partners*, (8th Cir. 1987) 811 F.2d 414 at 420; a*ccord Modern Computer Sys., Inc. v. Modern Banking Sys., Inc.*, 871 F.2d 734, 738 (8th Cir. 1989) (en banc); *Dataphase*, 640 F.2d at 114 n. 9. Should the Court agree that Samsung has not shown irreparable injury, its request for an injunction can be safely denied on this basis alone.

iii. *The Balance of Harms Analysis Favors Karamehmet*

Defendant will be harmed by the continued restraint of Genel shares when the Court has found it does not have jurisdiction. According to the Adler Dec., Focus holds 64,589,351 shares of Genel valued at GBp (British pence) 111.40 per share. Although Samsung attempts to minimize the amount it is restraining by trying to differentiate between encumbered and unencumbered shares, the preliminary injunction reaches all of Focus' shares, for a total value of approximately GBP71,952,537 (approximately $100 million U.S. dollars). This enormous restraint is simply unjustified where the Court has dismissed the case for lack of personal jurisdiction. The balance of harm analysis examines the harm of granting or denying the injunction upon both of the parties to the dispute and upon other interested parties, including the public, as well. *See, e.g., Dataphase*, 640 F.2d at 114; *see also Modern Computer Sys.*, 871 F.2d at 737–38 *1249 (harm to other interested parties also considered). An illusory harm to the movant will not outweigh any actual harm to the non-movant. *Frank B. Hall*, 974 F.2d at 1023. To determine what must be weighed, Courts have looked at the threat to each of the parties' rights that would result from granting or denying the injunction. *Baker Elec. Co-op*, 28 F.3d at 1473. Also, the potential economic harm to each of the parties and to interested third parties of either granting or denying the injunction is relevant. Id. In the matter at bar, Samsung does not make a credible showing that it will be harmed in the absence of a preliminary injunction because the shares it ultimately seeks to restrain are in

the United Kingdom or Jersey, not the RMI. Samsung's alleged harm is thus illusory, but even if it were not, the harm to Defendant – restraining shares worth tens of millions of dollars when the defendant has taken no action in the Marshall Islands - greatly outweighs Samsung's allegations. It is clear that a preliminary injunction during the multi-year pendency of an appeal is an unreasonable threat to the value of the Genel shares. It is also clear that restraining an asset that Samsung alleges is worth nearly $100 million USD will cause significant economic harm to Focus, whose secured creditors will doubtless be impacted in addition to Defendant, and who would lose the use of these shares for an additional period beyond the approximately 10 months in which the shares have already been restrained. Finally, as discussed *supra*, the public interest factors also favor denial of the request for a preliminary injunction, adding additional weight to Defendant's argument that the balance of harm factors militate denial of Plaintiff's Motion.

iv. *The Public Interest Strongly Favors Denial*

Allowing the continued and indefinite restraint of Focus' shares in Genel after the Court has dismissed for lack of personal jurisdiction would be deleterious to the public interest. The "public interest" factor frequently invites the court to make broad observations about conduct that is generally recognizable as costly or injurious. *Curtis 1000, Inc. v. Youngblade*, 878 F.Supp. 1224 fn. 25. In this case, Plaintiff has not alleged any facts subjecting Karamehmet to jurisdiction in the RMI. The only alleged "contact" is indirect ownership of shares in a non-resident RMI corporation – the most tenuous link imaginable. If Samsung is allowed to continue to restrain Focus on this basis, it will call into doubt the "non-resident" nature of such entities in direct contravention to the many provisions of the Marshall Islands Business Corporations Act. Such a decision will also open the floodgates of litigation, as every claimant with a case involving a non-resident RMI entity will discover that obtaining a preliminary injunction here can tie that entity down for years. Finally,

granting Samsung's Motion will encourage forum shopping, even in cases such as this where the alleged judgment and the alleged asset are located in the same jurisdiction. There are accordingly significant public interest factors supporting denial of the Motion.

Point 3

If The Court Grants the Injunction Pending Appeal, A Substantial Bond Should Be Posted

The Adler Dec. argues that in addition to granting an injunction to Plaintiff, the Court should excuse the usual requirement for a bond. Bizarrely, Samsung argues that the Court should apply F.R.Civ.P. 65(c), which requires a bond on the initial application for a preliminary injunction, not R.M.I.R.Civ.P. 62, which governs bonds on appeal: "[w]hile an appeal is pending from an interlocutory order or final judgment that *grants, dissolves, or denies an injunction*, the court may suspend, modify, restore, or grant an injunction on terms for bond or other terms that secure the opposing party's rights." Fed.R.Civ.P. 62(c) (emphasis added). If Samsung files an appeal, the bond amount would be set under R.M.I.R.Civ.P. 62(d):

> Stay with Bond on Appeal. If an appeal is taken, the appellant may obtain a stay by *supersedeas* bond, except in an action described in Rule 62(a)(1) or (2). The bond may be given upon or after filing the notice of appeal or after obtaining the order allowing the appeal. The stay takes effect when the court approves the bond.

While Samsung's citation to a plainly inapplicable rule is sufficient grounds to deny the Motion, in the abundance of caution Defendant responds as if Plaintiff had properly moved for a *supersedeas* bond.

The Motion should be denied because Samsung doesn't offer any bond, even to cover the costs of appeal or the loss of use of the Genel shares, leaving it to the Court and Defendant to determine the applicable law and calculate the correct amount of a *supersedeas* bond. Should the Court determine that setting a *supersedeas* bond amount is appropriate, it is within the Court's

sound discretion to determine the amount and nature of the bond. 20 Moore's Fed. Prac. § 307.02; accord Adsani v. Miller, 139 F.3d 67, 79 (2d Cir. 1998) ("A district court, familiar with the contours of the case appealed, has the discretion to impose a[n appellate] bond which reflects its determination of the likely outcome of the appeal."); Fed. R. App. P. 7, Advisory Committee Note, 1979 Amendment ("[T]he question of the need for a bond for costs and its amount [is] in the discretion of the court."). The purpose of such a bond is not only to "protect[ ] the prevailing [party] from the risk of a later uncollectible judgment," but also to "compensate[ ] him for delay in the entry of final judgment." Brinkman v. Department of Corrections of State of Kan., 815 F.Supp. 407, 408 (D. Kan. 1993) (citations omitted); see also Poplar Grove Planting and Refining Co. v. Bache Halsey Stuart, Inc., 600 F.2d 1189, 1190–91 (5th Cir. 1979) ("The purpose of a *supersedeas* bond is to preserve the status quo while protecting the non-appealing party's rights pending appeal.... [T]he bond secures the prevailing party against any loss sustained as a result of being forced to forgo execution on a judgment during the course of an ineffectual appeal").

To the extent the Court seeks an appropriate *supersedeas* bond amount, Defendant respectfully submits that the usual rule calls for Samsung to bond the possible damages caused by continued restraint, plus interest, costs, and legal fees on appeal. In this case, shares worth nearly $100 million will be restrained for an unknown period of time estimated to be in excess of 12 months. Defendant respectfully suggests that a reasonable bond for such a restraint would be 5-10% of the value of the property restrained, or $5-10 million.[1]

[1] If the Court applied this to only the approximately $44 million sought by Plaintiff, it would still indicate a bond in the $2.5-5 million range.

Point 4

The Only Party Entitled to Damages Is Defendant

In fact, it is Defendant who is entitled to damages from Samsung in this action. If an injunction order is found to have been improperly issued or wrongfully continued, "the general rule is that the enjoined party may recover damages ... if said damages are the actual, natural, and proximate result of the wrong committed." *Grant v. Smith*, 574 F.2d 252, 256 (5th Cir. 1978) (internal citations omitted). Under federal law, a party may recover damages for a wrongful injunction when the injunction was vacated for lack of subject matter jurisdiction. *Minnesota Power & Light Co. v. Hockett*, 105 F. Supp. 2d 939, 942 (S.D.Ind. 1999). Since the Focus shares have been restrained since May 5, 2017 based on an improperly issued injunction, Defendant is entitled to recover the value of the loss of use of those shares.[2] Defendant therefore respectfully requests, if the Court is so inclined, that Defendant be allowed to quantify the damages it has suffered while the Focus shares were restrained pursuant to Plaintiff's wrongfully obtained injunction.

CONCLUSION

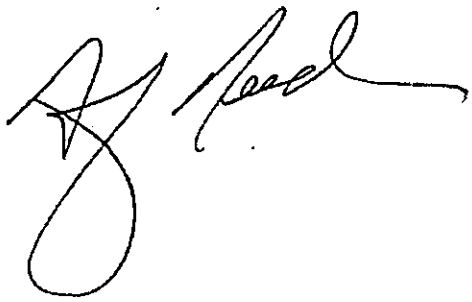
Samsung obtained the preliminary injunction knowing that neither Defendant nor his property were located here. Once the Court dismissed this case for lack of personal jurisdiction, the preliminary injunction dissolved as a matter of law. Rather than accept this result, Samsung takes the unsupported position that the preliminary injunction remains in place (having failed to direct the Court to the overwhelming body of case law to the contrary) and moves in the alternative for a new preliminary injunction. Unable to carry its burden to show such relief is appropriate post-dismissal, Samsung's Motion should be denied. To the extent Samsung finds it unclear, the Court

[2] To be clear, Defendant casts no aspersions on the Court for the issuance of a preliminary injunction based upon Plaintiff's erroneous papers. The proper procedure is to maintain the status quo at that time to protect a plaintiff, who then bears the risk of Defendant's damages if the Plaintiff's allegations prove unfounded, as they have here.

might clarify that the preliminary injunction dissolved when this case was dismissed for lack of personal jurisdiction. In the event the Court credits Samsung's last ditch attempt to stall the Order, Defendant respectfully suggests a bond in the amount of 5-10% of the value of the property restrained, or $5-10 million.

Dated: February 12, 2018

Counsel for Defendant
MEHMET EMIN KARAMEHMENT



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Attorney for Defendant Mehmet Emin Karamehmet

IN THE HIGH COURT OF THE

REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO LTD Plaintiff, v. FOCUS INVESTMENTS LTD, a Marshall Islands Corporation, and MEHMET EMIN KARAMEHMET Defendants.	H. Ct. Civil Action No. 2017-081 CERTIFICATE OF SERVICE

I hereby certify that on February 12, 2018, Majuro date, a true and correct copy of Defendant Mehmet Emin Karamehmet's Reply to Plaintiff's Motion for Clarification was served on James McCaffrey and Derek Adler, Attorneys for Plaintiff, by sending to them via email transmission in pdf. format to: James@McCaffreyFirm.com and Derek.Adler@hugheshubbard.com.

Dennis J. Reeder - February 12, 2018 (Majuro Date)

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO. LTD., a Korean corporation, Plaintiff, vs. FOCUS INVESTMENTS LTD, a Marshall Islands corporation, and MEHMET EMIN KARAMEHMET, Defendants.	CIVIL ACTION NO. 2017-081 **ORDER**

FILED
FEB 10 2018
CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

TO: James McCaffrey, counsel for plaintiff Samsung
Dennis Reeder, counsel for defendants Karamehmet and Focus

On or about 10:43 a.m. on February 9, 2018, MHT, plaintiff Samsung Heavy Industries Co. Ltd. ("Samsung") filed the "Plaintiff's Motion for Clarification as to Continuing Force of Preliminary Injunction or in the Alternative an Order to Extend Preliminary Injunction Pending Appeal from February 7, 2018 Order Dismissing Action ('Motion')." At 2:00 p.m. on February 9, 2018, the Court discussed the Motion with the above-referenced counsel. Counsel for the defendants stated that although defense counsel did not have time to file a response by close of business on February 9, 2018, the defendants opposed the Motion.

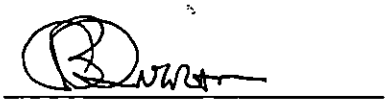
To better respond to the Motion, the Court orders as follows:

1. On or before 12:00 noon on February 12, 2018, MHT, Samsung must file with the Court and serve on opposing counsel an affidavit setting forth the current value of Focus's

holdings in Genel Energy plc; and

2. On or before 4:30 p.m. on February 12, 2018, MHT, the defendants must file with the Court and serve on opposing counsel their response to Samsung's Motion and the Samsung affidavit, if any.

Ordered and Entered: February 10, 2018.



Carl B. Ingram
Chief Justice, High Court

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

Samsung Heavy Industries Co. Ltd., a Korean Corp.	)	Civil Case No. 2017-081
Plaintiff	)	
vs	)	
	)	**CERTIFICATE OF SERVICE**
Focus Investments Ltd., a MI Corp, & Mehmet Emin Karamehmet	)	
Defendants	)	
	)	

I, Ingrid Kabua, Chief Clerk of the Courts, hereby certify that on 2/10/18

I served the Order

filed 02/08/2018 in the above captioned matter on:

1. James McCaffrey by ☑ Email ☐ Fax ☐ Personal Hand Delivery
2. Dennis Reeder by ☑ Email ☐ Fax ☐ Personal Hand Delivery
3. _____ by ☐ Email ☐ Fax ☐ Personal Hand Delivery
4. _____ by ☐ Email ☐ Fax ☐ Personal Hand Delivery

Attached is a copy of my ☒ Sent Email / ☐ Fax Confirmation.

Ingrid Kabua
Chief Clerk of the Courts
Marshall Islands Judiciary

FILED:

FILED
FEB 10 2018
CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

Gmail **Marshall Islands Judiciary <marsnall.islands.judiciary@gmail.com>**

HC CA2017-081

Marshall Islands Judiciary <marshall.islands.judiciary@gmail.com> Sat, Feb 10, 2018 at 3:18 PM
To: James McCaffrey <James@mccaffreyfirm.com>, Dennis Reeder <dreeder.rmi@gmail.com>

Iakwe Counsel,

Please find attached filed stamped 2.10.18 Order in re: above High Court Civil Action.

Kindly confirm receipt.

Kommol,

Ingrid

--

Republic of the Marshall Islands Judiciary
P.O. Box B
Majuro, MH 96960
Phone: (692) 625-3201/3297
Fax: (692) 625-3323
Website: rmicourts.org

2017-081.pdf
743K

James McCaffrey, M.I. Adm. # 103
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Attorney for Plaintiff

FILED
FEB 12 2018
ASST. CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

IN THE HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO LTD, a Korean corporation Plaintiff, vs. FOCUS INVESTMENTS LTD, a Marshall Islands corporation, and MEHMET EMIN KARAMEHMET Defendants	Civil Action 2017-081 CBJ PLAINTIFF'S FILING OF ATTACHED: DECLARATION OF DEREK J.T. ADLER IN RESPONSE TO ORDER OF FEBUARY 10, 2018 and CERTIFICATE OF SERVICE

Pursuant to paragraph 1 of the Court's Order of 10 February 2018 Plaintiff hereby files the attached Declaration of Derek J.T. Adler and simultaneously serves opposing counsel with the same email.

Dated: 11 February 2018
Baja California

By: _____
JAMES McCAFFREY
Attorney for Plaintiff

Digitally signed by James McCaffrey
DN: cn=James McCaffrey, o=McCaffrey Firm, ou, email=James@McCaffreyFirm.com, c=MH
Date: 2018.02.11 15:34:15 -08'00'

James McCaffrey, M.I. Adm. # 103
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Attorney for Plaintiff

IN THE HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO LTD, a Korean corporation Plaintiff, vs. FOCUS INVESTMENTS LTD, a Marshall Islands corporation, and MEHMET EMIN KARAMEHMET Defendants.	Civil Action 2017-081 **DECLARATION OF DEREK J.T. ADLER IN RESPONSE TO ORDER OF FEBUARY 10, 2018**

I, Derek J.T. Adler, declare under penalty of perjury of the laws of the Republic of the Marshall Islands that the following is true and correct to the best of my knowledge and belief:

1. I am a member in good standing of the bar of the State of New York and am a partner at Hughes Hubbard & Reed LLP, co-counsel for Plaintiff in these proceedings. I have been admitted to appear before the Court *pro hac vice* in the present matter. I make this Declaration to provide information requested by the Court pursuant to its Order of February 10, 2018, i.e. "the current value of Focus's holdings in Genel Energy plc." The factual matters stated below are based on information found in or obtained from public sources believed to be reliable, as indicated.

I. Current Value of Focus's Holdings in Genel Energy plc

2. Genel Energy plc ("Genel") is a Jersey company whose ordinary shares are listed on the London Stock Exchange.

3. Genel's audited accounts filed on June 14, 2017 disclose that Focus Investments Ltd ("Focus") holds 64,589,351 ordinary shares in Genel. (Declaration of Segun Osuntukun in Opposition to Defendant's Motion to Dismiss, executed December 21, 2017, ¶ 16 & Ex. E.)

4. I have been informed that in October 2016 Plaintiff's English counsel commissioned a search of the Jersey security interests registry in relation to Genel. This search disclosed that Focus has pledged the vast majority of its holdings in Genel to secure various loan and insurance arrangements. As of that time, only 745,660 of Focus's holdings in Genel appeared to be unencumbered and freely tradeable. Under present time constraints, we have not had an opportunity to seek current information about the encumbrances on Focus's shareholdings or indeed to reconfirm the precise amount of those holdings.

5. The Genel Energy corporate website discloses the company's current share price.[1] As of close of business February 9, 2018, shares in Genel were trading on the London Stock Exchange at GBp (British pence) 111.40 per share.[2]

6. Assuming that Focus's unencumbered holding in Genel remains 745,660 ordinary shares, the current value of its holding immediately available for execution of the English Judgment in this proceeding is £830,665 (745,660 shares x GBp 111.40/share).

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1. *See* http://www.genelenergy.com.

2. The share price is quoted in British Pence, equivalent to 1/100 of a British Pound.

II. It Would Be Unjust and Unnecessary to Require Plaintiff to Post a Bond.

7. As Plaintiff has noted, maintaining the preliminary injunction entered by the Court on May 18, 2017 (the "Preliminary Injunction") is necessary in order to preserve the status quo pending a potential appeal from the Court's February 7, 2018 Order granting Plaintiff's motion to dismiss for lack of jurisdiction. That Order raises substantial and disputed matters of first impression that would benefit from being considered by the Supreme Court. Allowing Defendant Karamehmet to render himself judgment-proof in the Marshall Islands by transferring Focus or its assets is likely to moot the present action and, if Plaintiff is ultimately successful on appeal, deprive Plaintiff of any chance of obtaining the relief for which it commenced this action.

8. Although Rule 65(c) of the Rules of Civil Procedure appears to require the posting of a bond as a condition of maintaining the Preliminary Injunction, courts applying the analogous provision of the U.S. Federal Rules of Civil Procedure have held no bond is required when a defendant fails to show that the preliminary injunction is likely to cause him or her to suffer harm. *See, e.g.*, *Connecticut Gen. Life Ins. Co. v. New Images of Beverly Hills*, 321 F.3d 878, 882 (9th Cir. 2003) ("[T]he bond amount may be zero if there is no evidence the party will suffer damages from the injunction"); *Doctor's Assocs., Inc. v. Stuart*, 85 F.3d 975, 985 (2d Cir. 1996) (affirming preliminary injunction granted without bond when defendants have not shown likely harm); *Coquina Oil Corp. v. Transwestern Pipeline Co.*, 825 F.2d 1461, 1462 (10th Cir. 1987) ("[A] bond is unnecessary to secure a preliminary injunction if there is an absence of proof showing a likelihood of harm."); *Ferguson v. Tabah*, 288 F.2d 665, 675 (2d Cir. 1961) (listing circumstances in which granting injunction with no bond is appropriate).

9. Under the circumstances presented here, it would be unjust and unnecessary to require Plaintiff to post a bond.

10. Defendant Karamehmet has been adjudged by a Court of competent jurisdiction to owe Plaintiff $44.3 million dollars. His position in this proceeding is that he is seeking to avoid paying this debt. In the more normal scenario, for example an appeal or collateral attack on the judgment, it would be Defendant Karamehmet who would be required to post a bond as a condition of continuing his efforts to avoid payment. It would be uniquely unjust to require a judgment creditor, who is suffering an ongoing harm from the judgment debtor's nonpayment, to post a bond in order to continue with proceedings seeking to collect on the unpaid judgment.

11. Defendant Karamehmet will only suffer harm from the Preliminary Injunction if the English Judgment is ultimately found not to be enforceable against him. To date he has not suggested that he has any valid defense to enforcement, although he has had ample opportunity and incentive to do so. For present purposes, it should be presumed that Plaintiff will succeed in establishing that enforcement should be granted.

12. The principal effect of the Preliminary Injunction will be to prevent Defendant Karamehmet from causing Focus to sell its shares of Genel during the period the Preliminary Injunction is in effect. The only obvious harm Defendant Karamehmet might suffer would be if he at some point desires to sell his shares and is prevented from doing so, and the price subsequently declines. But no showing has been made that Defendant Karamehmet has any intention of selling his shares or would be likely to want to do so. Defendant Karamehmet appears to be one of the founders of or original investors in Genel, and has held a substantial percentage of the company's shares at all relevant times.[3] He is plainly a long-term investor.

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[3] Prior to Genel's 2011 merger and listing, Defendant Karamehmet held a 25% stake in the company. *See* Evrim Ergin, "Genel Deal Shows Turkish Tycoon Unfazed by the Past", Reuters Sept. 8, 2011

(Footnote continued on next page)

Focus and Mr. Karamehmet are considered "related parties" of Genel. Focus and another affiliated company collectively hold over 10% of Genel's shares and are parties to a Relationship Agreement that gives Defendant Karamehmet the right, among other things, to appoint a director to Genel's board. That directorship is held by a family member of Mr. Karamehmet.[4]

13. One of the principal reasons for requiring a bond is to ensure that the enjoined party will have no difficulty collecting a possible award of damages for harm caused by the entry of a preliminary injunction, if he or she is ultimately successful on the merits. Accordingly, where there is no uncertainty about the ability to collect such an award from the party that sought the injunction, there is no need for a bond. *See, e.g.*, *Federal Prescription Serv., Inc. v. Am. Pharmaceutical Ass'n*, 636 F.2d 755, 759 (D.C. Cir. 1980) (appropriate to dispense with bond where the applicant for equitable relief has "considerable assets and [is] . . . able to respond in damages if [defendant] does suffer damages by reason of [a wrongful] injunction") (quoting *Cont'l Oil Co. v. Frontier Refining Co.*, 338 F.2d 780, 782-83 (10th Cir. 1964)) (internal quotation marks omitted). Unlike Defendant Karamehmet, Plaintiff Samsung Heavy Industries is far from judgment-proof. It is a huge multinational corporation with substantial assets and operations all over the world.

14. Any supposed harm to Defendant Karamehmet from not being able to sell his shares in Genel must also be considered in light of the fact that the current price range Genel

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(Footnote continued from previous page)

(https://uk.reuters.com/article/uk-vallares-karamehmet/genel-deal-shows-turkish-tycoon-unfazed-by-past-idUKTRE7872Y620110908).

[4] *See* Genel Energy plc 2016 Annual Report at 70, available at: http://www.genelenergy.com/media/2054/genel-energy-2016-annual-report-final.pdf.

shares trade is at an all-time low. For the first several years after its 2011 listing on the London Stock Exchange, Genel common shares generally traded in the range of 600 to 1000 pence. As a result of negative results, including disclosures about a drop in the company's oil holdings in February 2016, the company's share price has declined precipitously.[5] Since early 2016, the shares have generally traded in the range of 75 to 125 pence.[6]

15. In the event the Court does require a bond, the amount should be nominal or very low. For the reasons set forth above, there is no realistic likelihood that Defendant Karamehmet will suffer any harm as a result of the injunction. Furthermore, because his shares are heavily encumbered, the potential harm to him would be limited to only the increment of a possible share price decline in relation only to the number of shares he is free to trade.

Dated: February 12, 2018

/s/ Derek J.T. Adler
Derek J.T. Adler

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[5] *See* "How Hayward's Genel Lost its Kurdish Oil Reserves," Reuters May 21, 2016 (https://www.reuters.com/article/genel-energy-reserves/how-haywards-genel-lost-its-kurdish-oil-reserves-idUSL5N18N3S4).

[6] Customizable charts of Genel's trading history are available on the company's website: http://www.genelenergy.com/investor-relations/share-price/share-price-chart/.

Civil Action No. **2017-081 CBJ**

METHOD OF FILING

The foregoing

PLAINTIFF'S FILING OF ATTACHED: DECLARATION OF DEREK J.T. ADLER IN RESPONSE TO ORDER OF FEBUARY 10, 2018

was filed with the High Court in Majuro on the date below-written with

Clerk of Courts – High Court
P.O. Box 378
Majuro, MH 96960
Marshall.Islands.Judiciary@Gmail.com

CERTIFICATE OF SERVICE

I hereby certify that an exact duplicate of the document(s) filed above was duly served upon the below-named person(s) on the date below written by sending him a copy by

(**x**) by Email to the address listed below his name
( ) by Mail to the address below his name
( ) by Hand Delivery to his office

Dennis J. Reeder
REEDER & SIMPSON
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Majuro, MH 96960
DReeder.RMI@gmail.com

Attorney for the Defendant
Mehmet Emin KARAMEHMET

Dated: 11 February 2018
Baja California

By: /s/ *James McCaffrey*
JAMES McCAFFREY
Attorney for Plaintiffs

LOADED 2/10/18

Subject: Samsung v Focus and Karamehmet, HCT CA 17-81
From: Marshall Islands Judiciary <marshall.islands.judiciary@gmail.com>
Date: 2/10/2018 12:01 PM
To: James McCaffrey <James@McCaffreyFirm.com>, Dennis Reeder <dreeder.rmi@gmail.com>

Counsel,

Please see attached an Order regarding the Court's consideration of "Plaintiff's Motion for Clarification as to Continuing Force of Preliminary Injunction or in the Alternative an Order to Extend Preliminary Injunction Pending Appeal from February 7, 2018 Order Dismissing Action."

A file-stamp copy of the Order will follow.

CJ Ingram

—Attachments:

180210 br'g ord re stay mtn samsung v karamehet.pdf 88.1 KB

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO. LTD., a Korean corporation, Plaintiff, vs. FOCUS INVESTMENTS LTD, a Marshall Islands corporation, and MEHMET EMIN KARAMEHMET, Defendants.	CIVIL ACTION NO. 2017-081 **ORDER**

TO: James McCaffrey, counsel for plaintiff Samsung
Dennis Reeder, counsel for defendants Karamehmet and Focus

On or about 10:43 a.m. on February 9, 2018, MHT, plaintiff Samsung Heavy Industries Co. Ltd. ("Samsung") filed the "Plaintiff's Motion for Clarification as to Continuing Force of Preliminary Injunction or in the Alternative an Order to Extend Preliminary Injunction Pending Appeal from February 7, 2018 Order Dismissing Action ('Motion')." At 2:00 p.m. on February 9, 2018, the Court discussed the Motion with the above-referenced counsel. Counsel for the defendants stated that although defense counsel did not have time to file a response by close of business on February 9, 2018, the defendants opposed the Motion.

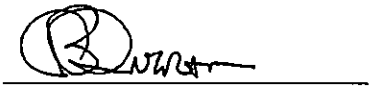
To better respond to the Motion, the Court orders as follows:

1. On or before 12:00 noon on February 12, 2018, MHT, Samsung must file with the Court and serve on opposing counsel an affidavit setting forth the current value of Focus's

holdings in Genel Energy plc; and

2. On or before 4:30 p.m. on February 12, 2018, MHT, the defendants must file with the Court and serve on opposing counsel their response to Samsung's Motion and the Samsung affidavit, if any.

Ordered and Entered: February 10, 2018.



Carl B. Ingram
Chief Justice, High Court

from transferring any shares that he owns, directly or indirectly, in Defendant Focus Investments Ltd;

b) Defendant Focus Investments Ltd, its officers, agents, servants, employees, attorneys and all persons acting in concert or participation with them are enjoined and prohibited from transferring on its records any shares owned by Karamehmet or any other shareholder in Focus Investments Ltd; and

c) Defendants, and their officers, agents, servants, employees, attorneys and all persons acting in concert or participation with them are enjoined and prohibited from transferring or selling any assets of Defendant Focus Investments Ltd. not in the ordinary course of business including, without limitation, the shares of Genel Energy plc held by Focus Investments Ltd.

3. This Order and the May 18, 2017 Order shall remain in effect until the conclusion of this matter by entry of a final, non-appealable order, including during the period from now until the expiration of the time to appeal or seek other relief from the Court's February 7, 2018 Order as well as during any possible appeal therefrom and any subsequent proceedings, or until modified upon noticed motion.

Dated: ___ February 2018

By: _____
Carl B. Ingram, Chief Justice

Civil Action No. **2017-081 CBJ**

METHOD OF FILING

The foregoing

PLAINTIFF'S MOTION FOR CLARIFICATION AS TO CONTINUING FORCE OF PRELIMINARY INJUNCTION OR IN THE ALTERNATIVE AN ORDER TO EXTEND PRELIMINARY INJUNCTION PENDING APPEAL FROM FEBRUARY 7, 2018 ORDER DISMISSING ACTION;
[Proposed] ORDER TO EXTEND PRELIMINARY INJUNCTION PENDING APPEAL

was filed with the High Court in Majuro on the date below-written with

Clerk of Courts – High Court
P.O. Box 378
Majuro, MH 96960
Marshall.Islands.Judiciary@Gmail.com

CERTIFICATE OF SERVICE

I hereby certify that an exact duplicate of the document(s) filed above was duly served upon the below-named person(s) on the date below written by sending him a copy by

(x) by Email to the address listed below his name
( ) by Mail to the address below his name
( ) by Hand Delivery to his office

Dennis J. Reeder
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DReeder.RMI@gmail.com

Attorney for the Defendant
Mehmet Emin KARAMEHMET

Dated: 8 February 2018
Baja California

By: /s/ *James McCaffrey*
JAMES McCAFFREY
Attorney for Plaintiffs

FILED

FEB 08 2018

ASST CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO. LTD., a Korean corporation, Plaintiff, vs. FOCUS INVESTMENTS LTD., a Marshall Islands corporation, and MEHMET EMIN KARAMEHMET, Defendants	CIVIL ACTION NO. 2017-081 **NOTICE OF CORRECTIONS TO ORDER GRANTING MOTION TO DISMISS**

TO: James McCaffrey, counsel for plaintiff
Dennis Reeder, counsel for defendants

Pursuant to Rule 60(a) of Marshall Islands Rules of Civil Procedure, the Court in its "Order Granting Motion to Dismiss" issued February 7, 2018, makes the following corrections:

1. On page 7, 2nd full paragraph, line 8, change "either" to "neither";
2. On page 7, 3rd full paragraph, line 2, change "consisted" to "consistent";
3. On page 9, 2nd full paragraph, line 1, change "reply" to "rely"; and
4. On page 10, italicize the heading *Forum non Conveniens*.

If you find any other clerical mistakes, please let me know.

The Order now reads as attached.

Ordered and Entered: February 8, 2018.

Carl B. Ingram
High Court, Chief Justice

Corrected 2/8/18

and that the situs of the shares is the Republic. Even if this were the case (and the Court does not find that it is), holding such an interest in a non-resident domestic corporation is not conduct that subjects one to civil jurisdiction under the Republic's long-arm statute, 27 MIRC 251.

Because Karamehmet has not engaged in any Section 251 conduct, the Court concludes that it does not have personal jurisdiction over Karamehmet.

b. "Minimum Contacts" Consistent with Due Process

Even if ownership of shares of a non-resident domestic corporation were listed under Section 251(1), as conduct subjecting a person to the civil jurisdiction of the Republic, the exercise of such jurisdiction would not be consistent with the due process principles set forth above in the three-pronged "minimum contacts" test. First, Samsung has not alleged that Karamehmet has performed some act or consummated some transaction within the Republic or otherwise purposefully availed himself of the privileges of conducting activities in the Republic. Second, Samsung's claim does not arise out of or results from Karamehmet's forum-related activities. As Samsung can meet either the first or second prong of the "minimum contacts" test, this Court need not consider the third prong, that the exercise of jurisdiction over Karamehmet is not reasonable. *See Pebble Beach Co.*, 453 F.3d at 1155.

For the above reasons, the Court concludes that exercising personal jurisdiction over Karamehmet is not consistent with due process. This conclusion is consistent with the United States Supreme Court's decision in *Shaffer v. Heitner*, 433 U.S. 186, 97 S. Ct. 2569, 53 L. Ed. 2d 683 (1977) (Delaware's assertion of jurisdiction over defendants, based solely on the statutory presence of their property in Delaware (*i.e.*, under a Delaware statute, Delaware is the legal situs of shares in Delaware corporations), violated the due process clause of the United States Constitution.); *see also In Matter of Dissolution of Arctic Ease*, LLC, No. CV 8932-VCMR, 2016 WL 7174668, at *3 (Del. Ch. Dec. 9, 2016) citing *Fisk Ventures, LLC v. Segal*, 2008 WL 1961156, at *7 (Del. Ch. May 7, 2008) ("A party's ownership of interests in a Delaware entity alone does not constitute sufficient minimum contacts for Delaware courts to exercise personal jurisdiction.").

Because the Court does not have personal jurisdiction over Karamehmet, to maintain an enforcement action, Samsung must prove Karamehmet has property in the Republic, which it has

adopted by 49 of the 50 states, with Delaware enacting its own statute, § 169 of the DGCL. Dft's Supp. Br., at 5-7. In short, by May 1, 1979, when the Republic's constitution came into effect there was no United States "*common law in effect*" regarding the situs of shares in corporations. The relevant United States law *in effect* was statutory law.

In the absence of an express statute and common law that remains *in effect*, this Court can look to other methods to enforce judgments against shares in a domestic corporation. As Samsung points out, Section 105 of the Enforcement of Judgments Act, 30 MIRC Ch. 1, provides: "[e]nforcement of judgment[s] may also be affected, if the High Court deems justice requires and so orders by the appointment of a receiver, or receivers, by taking possession of property and disposing of it in accordance with the orders of the Court, or by a civil action on the judgment, *or in any other manner known* to American common law or *in the courts in the United States*." Pl's Supp. Opp., at 6. That is, if the Court deems justice so requires, the Court can look beyond the abandoned common law to how courts in the United States enforce judgments against shares in a domestic corporation.

As noted above, in the United States, 49 of the 50 states rely on Section 8-112 of the Uniform Commercial Code. Section 8-112 (a) provides as follows: "The interest of a debtor in a certificated security [including shares of stock] may be reached by a creditor only by actual seizure of the security certificate by the officer making the attachment or levy,. . . ."[2]

"[T]he historical [common law] rule was that the situs of shares was the domicile of the corporation; the location of the certificates did not count for much since they were mere evidence of the shares. [However, a]fter states enacted the Uniform Stock Transfer Act, and later Article 8 of the Uniform Commercial Code, courts tended to view the situs of shares as the place where the share certificates were located. The reasoning was that the purpose of these acts was to make the transfer of title to stock easier and less subject to collateral attack." § 5101. Situs of shares of stock, 11 Fletcher Cyc. Corp. § 5101 (citations omitted).

Consistent with this reasoning, this Court concludes that it is in the interest of justice to

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[2]" Section 8-112 of UCC Article 8 governs a creditor's levy upon or attachment of a debtor's 'securities,' which includes shares of stock." § 5104.Levy or attachment under UCC Article 8, 11 Fletcher Cyc. Corp. § 5104 (citation omitted).

make the transfer of title to stock easier and less subject to collateral attack under the laws of the Republic. Accordingly, under the authority of Section 105 of the Enforcement of Judgments Act, this Court adopts Section 8-112 of the UCC as the Republic's common law governing the enforcement of judgments on shares of domestic corporations.[3] This Court does not accept the abandoned historical United States common law regarding that the situs of shares. *See Yandal Investments Pty Ltd v. White Rivers Gold Limited, et al.*, C.A. No. 2010-158, slip op, at 3.

Even if the abandoned historical United States common law were still effect, the needs of modern commerce have so changed that the common law regarding the jurisdiction for enforcing judgment on debtors' interest in shares should be modified as set forth in Section 8-112 of the UCC, and as followed by the vast majority of U.S. states. It makes no sense to this Court to apply abandoned 19th Century common law in the 21st Century. This Court has the authority to advance the common law, and hereby does so. *See* 15A Am. Jur. 2d Common Law § 13 ("Total abrogation, revision, or modification or change of an outmoded common-law rule is within the competence of the judiciary; and indeed it is the duty of the courts to bring the law into accordance with present-day standards of wisdom and justice, and to keep it responsive to the demands of a changing scene." (internal citations omitted)); *see also*, 15A C.J.S. Common Law § 15 ("It is a basic precept of common law that it can, and must, change when change is appropriate. Common law is not static; it is consistent with reason and common sense." (citation omitted)); *see also*, Article I, Section 3, of the Marshall Islands Constitution (In interpreting and applying the Republic's Constitution, the courts are to take into account "circumstances in the Republic from time to time.").

For these reasons, the Court concludes Samsung has not shown that Karamehmet's property, even if it includes shares in Focus, can be found in the Republic.

II. Forum non Conveniens

As the Court finds that it does not have personal jurisdiction over Karamehmet and that his property is not to be found in the Republic, the Court need not address the question of *forum*

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[3]The courts of the Federated States of Micronesia have long used the FSM's version of Section 105 to authorize the remedy of garnishment, which also is in derogation of the common law. *See FSM Social Sec. Admin. v. Lelu Town*, 13 FSM R. 60, 62 (Kos. 2004).

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

Samsung Heavy Industries Co. Ltd.
Plaintiff
v
Focus Investments Ltd. and Mehmet Emin Karamehmet
Defendant

Civil Case No. 2017-081

CERTIFICATE OF SERVICE

I, Tanya Lomae, Asst. Clerk of the Courts, hereby certify that on 2/8/18

I served the Notice Of Corrections To Order Granting Motion To Dismiss

filed 02/08/2018 in the above captioned matter on:

1. James McCaffrey by ☑ Email ☐ Fax ☐ Personal Hand Delivery
2. Dennis Reeder by ☑ Email ☐ Fax ☐ Personal Hand Delivery
3. _____ by ☐ Email ☐ Fax ☐ Personal Hand Delivery
4. _____ by ☐ Email ☐ Fax ☐ Personal Hand Delivery

Attached is a copy of my ☒ Sent Email / ☐ Fax Confirmation.

Tanya Lomae
Asst. Clerk of the Courts
Marshall Islands Judiciary

FILED:

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FEB 08 2018
ASST. CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

FILED

FEB 07 2018

ASST. CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO. LTD., a Korean corporation, Plaintiff, vs. FOCUS INVESTMENTS LTD., a Marshall Islands corporation, and MEHMET EMIN KARAMEHMET, Defendants	CIVIL ACTION NO. 2017-081 **ORDER GRANTING MOTION TO DISMISS**

TO: James McCaffrey, counsel for plaintiff
Dennis Reeder, counsel for defendants

ORDER

Plaintiff Samsung Heavy Industries Co. Ltd. ("Samsung") filed this suit against defendants Mehmet Emin Karamehmet ("Karamehmet") and Focus Investments Ltd. ("Focus"), seeking enforcement of a $44,332,413 judgment entered against Karamehmet in the High Court of England ("English Judgment"). Karamehmet moved to dismiss the Complaint against both defendants for lack of personal jurisdiction over Karamehmet and for *forum non conveniens*. Karamehmet has filed the following documents:

- Motion to Dismiss ("Motion to Dismiss");
- Defendant Mehmet Emin Karamehmet's Reply to Plaintiff's Opposition to the Motion to Dismiss;
- Initial Supplemental Brief of Defendant Karamehmet in Support of Motion to Dismiss ("Dft's Supp. Br."); and

- Supplemental Reply Brief of Defendant Karamehmet in Support of Motion to Dismiss.

In response, Samsung has filed the following documents:

- Plaintiff's Opposition to Defendant Mehmet Emin Karamehmet's Motion to Dismiss ("Opposition");
- Plaintiff's Supplemental Opposition to Defendant Mehmet Emin Karamehmet's Motion to Dismiss ("Pl's Supp. Opp."); and
- Plaintiff's Supplemental Reply Opposition to Defendant Mehmet Emin Karamehmet's Motion to Dismiss ("Pl's Supp. Reply to Opp.").

The Court, having carefully considered the Motion to Dismiss, related submissions, and counsel's arguments, finds, concludes, and orders that the Motion to Dismiss is **GRANTED** and that this matter is **DISMISSED** for the reasons set forth below.

BACKGROUND

Samsung is a corporation, incorporated in the Republic of Korea. Complaint ¶ 1. Karamehmet is an individual, resident of Turkey, and absent from the Marshall Islands. *Id.* ¶ 3. Samsung has not alleged that Karamehmet was personally served in the Republic or consented to service. Focus is a non-resident, domestic corporation organized under the laws of the Republic of the Marshall Islands. *Id.* ¶ 2.

The High Court of England issued the $44,332,413 English Judgment in favor of Samsung and against Karamehmet on February 8, 2016, and Samsung seeks to enforce the English Judgment in the Republic. *Id.* ¶¶ 5, 17. In support of its request, Samsung makes several factual allegations: (i) Karamehmet indirectly owns 100% of the beneficial interest of Focus represented by its shares; (ii) Focus, in turns, owns 17.26% of voting ordinary shares in Genel Energy plc ("Genel") and 23.31 % of the Ordinary Shares of Genel; and (iii) the only business interest of Focus is holding shares in Genel. *Id.* ¶¶ 8-10. Samsung goes on to make several legal allegations. *Id.* ¶¶ 11-15.

In its prayer for relief, Samsung requests, among other things, that the Court recognize and enforce the English Judgment by ordering the sale of shares in Focus, with the proceeds to be

applied to the English Judgment or, in the alternative, by ordering the transfer of shares in Focus to Samsung, with their fair market value to be applied to reduce the English Judgment. *Id.* ¶ 17. Samsung seeks recognition and enforcement of the English Judgment under the Republic's Uniform Foreign Money-Judgments Recognition Act, 30 MIRC Chp. 4. Opposition, at 2.

LAW AND ANALYSIS

I. Recognition and Enforcement of Judgment

To obtain recognition and enforcement of the English Judgment under the Republic's Uniform Foreign Money-Judgment Recognition Act, Samsung must, in addition to meeting the requirements of the Act, demonstrate (i) that the Court has personal jurisdiction over Karamehmet or (ii) that his property can be found in the Republic. As the Restatement provides, "enforcement of a debt arising out of a foreign judgment must be initiated by civil action, and the judgment creditor must establish a basis for the exercise of jurisdiction by the enforcing court over the judgment debtor or his property." Restatement (Third) of Foreign Relations Law § 481, comment g (1987).

Absent personal jurisdiction over the judgment debtor or the presence of the judgment debtor's asset in the jurisdiction, courts have refused foreign judgments recognition and enforcement. *See Electrolines, Inc. v. Prudential Assurance Co., Ltd.*, 260 Mich. App. 144, 161, 677 N.W.2d 874, 884 (2003) ("[I]n an action brought to enforce a judgment, the trial court must possess jurisdiction over the judgment debtor or the judgment debtor's property"); *Glencore Grain Rotterdam B.V. v. Shivnath Rai Harnarain Co.*, 284 F.3d 1114, 1127–28 (9th Cir. 2002) ("[B]y the very terms of its argument, the *sine qua non* of basing jurisdiction on a defendant's assets in the forum is the identification of some asset. Glencore Grain fails to identify any property owned by Shivnath Rai in the forum against which Glencore Grain could attempt to enforce its award. Indeed, the best Glencore Grain can say is that it believes in good faith that Shivnath Rai has or will have assets located in the forum. This is simply not enough. Given the record before us, we must reject Glencore Grain's argument for jurisdiction based on property in the forum."); *Arbor Farms, LLC v. GeoStar Corp.*, 305 Mich. App. 374, 382, 853 N.W.2d 421, 427 (2014) ("When a party seeks enforcement of a foreign judgment in Michigan, there exists a

foundational jurisdictional requirement that must be satisfied with regard to the judgment debtor's person or property."); *UMS Partners, Ltd. v. Jackson*, No. 94J-12-159H-17-076, 1995 WL 413395, at *2 (Del. Super. Ct. June 15, 1995).

Samsung, however, has not obtained personal jurisdiction over Karamehmet or established that his property can be found in the Republic.

A. *Personal Jurisdiction*

When a defendant, such as Karamehmet, moves to dismiss for lack of personal jurisdiction under MIRCP Rule 12(b)(2), the plaintiff bears the burden of demonstrating that the court has jurisdiction over the defendant. *See Pebble Beach Co. v. Caddy*, 453 F.3d 1151, 1154 (9th Cir. 2006). "This demonstration requires that plaintiff make only a prima facie showing of jurisdictional facts to withstand the motion to dismiss." *Id.* (internal quotations and citations omitted).

In considering a motion to dismiss, courts assume the truth of the allegations contained in the complaint. *See Mann v. Brenner*, 375 Fed. App'x 232, 235 (3d Cir. 2010) ("the District Court must accept the plaintiff's well-pleaded allegations as true . . . "). "To withstand a . . . motion to dismiss, 'a complaint must contain sufficient factual matter, accepted as true, to "state a claim to relief that is plausible on its face."'" *Eurofins Pharma US Holdings v. BioAlliance Pharma SA*, 623 F.3d 147, 158 (3d Cir. 2010) (*citing Ashcroft v. Iqbal*, 556 U.S. 662, 129 S.Ct. 1937, 1949, 173 L.Ed.2d 868 (2009) (*quoting Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007)). "[T]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." *Iqbal*, 129 S.Ct. at 1949.

United States courts have held that to exercise personal jurisdiction over a non-resident defendant consistent with due process, a court must have either "general jurisdiction" or "specific jurisdiction" over the defendant. General jurisdiction may be based on contacts that are not directly related to the claims at issue, and is present where the defendant has "continuous and systematic" contacts with the forum. *Helicopteros Nacionales de Columbia S.A. v. Hall*, 466 U.S. 408, 416 (1984); *Autogenomics, Inc. v. Oxford Gene Tech., Ltd.*, 566 F.3d 1012, 1017 (Fed.

Cir. 2009).[1] In contrast, specific jurisdiction "is proper if it is permitted by a long-arm statute and if the exercise of that jurisdiction does not violate . . . due process." *Pebble Beach Co.*, 453 F.3d at 1154-1155 (*citing Fireman's Fund Ins. Co. v. Nat. Bank of Coops.*, 103 F.3d 888, 893 (9th Cir.1996)). "For due process to be satisfied, a defendant, if not present in the forum, must have 'minimum contacts' with the forum state such that the assertion of jurisdiction 'does not offend traditional notions of fair play and substantial justice.'" *Pebble Beach Co.*, 453 F.3d 155 (*citing Int'l Shoe Co. v. Washington*, 326 U.S. 310, 315, 66 S.Ct. 154, 90 L.Ed. 95 (1945)).

1. General Jurisdiction

As noted above, general jurisdiction requires that a defendant have "continuous and systematic" contacts with the forum. *Helicopteros*, 466 U.S. at 416; *Autogenomics, Inc.*, 566 F.3d at 1017; *Southmark Corp. v. Life Inv'rs, Inc.*, 851 F.2d 763, 772 (5th Cir. 1988). "While seemingly broad, the standard for general jurisdiction is high in practice and not often met." *Reach & Assocs., P.C. v. Dencer*, 269 F. Supp. 2d 497, 505 (D. Del. 2003).

In this case, Samsung has not alleged facts sufficient to establish that Karamehmet is subject to general jurisdiction in the Republic, and, as Samsung concedes in Pl's Supp. Reply to Opp., at 3, Karamehmet's status as an owner of Focus shares does not suffice to establish general jurisdiction. Karamehmet's contacts in the Republic are not continuous or substantial enough to establish general jurisdiction. Accordingly, the Court need only consider the question of whether Karamehmet's contacts are sufficient to establish specific jurisdiction. *See Glencore*, 284 F.3d at 1125.

2. Specific Jurisdiction

In order to establish specific jurisdiction, Samsung must establish two things: (i) that the Republic's long-arm statute confers such jurisdiction; and (ii) that the exercise of such

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[1]"Article I, § 3(1) of the Constitution governs how the Courts are to interpret and apply the Constitution: '[i]n interpreting and applying this Constitution, a Court shall look to the decisions of the courts of other countries having constitutions similar, in the relevant respect, to the Constitution of the Republic of the Marshall Islands, but shall not be bound thereby; and, in following any such decision, a court shall adapt it to the needs of the Republic, taking into account this Constitution as a whole and the circumstances of the Republic from time to time.'" *In the Matter of P.L. No. 1995-118*, 2 MILR 105, 109 (1997).

jurisdiction is consistent with principles of due process, *i.e.*, the defendant must have "minimum contacts" with the forum. Courts have interpreted "minimum contacts" to mean that (a) a defendant "has performed some act or consummated some transaction within the forum or otherwise purposefully availed himself of the privileges of conducting activities in the forum," (b) "the claim arises out of or results from the defendant's forum-related activities," and (c) "the exercise of jurisdiction is reasonable." *Pebble Beach Co.*, 453 F.3d at 1154-1155. "The plaintiff bears the burden of satisfying the first two prongs of the test. If the plaintiff fails to satisfy either of these prongs, personal jurisdiction is not established in the forum state. If the plaintiff succeeds in satisfying both of the first two prongs, the burden then shifts to the defendant to "present a compelling case" that the exercise of jurisdiction would not be reasonable. *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 802 (C.A.9 (Cal.), 2004) (*citing Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 476–78, 105 S.Ct. 2174, 85 L.Ed.2d 528 (1985)). Samsung has failed to establish that the Republic's long-arm statute confers personal jurisdiction over Karamehmet and that such jurisdiction is consistent with principles of due process.

a. The Scope of the Republic's Long-arm Statute

Under the Republic's "long-arm statute," Section 251 of the Judiciary Act 1983, 27 MIRC Ch. 2, a non-resident person or entity is subject to civil jurisdiction in the Republic if the non-resident engages in specified conduct. *See* 27 MIRC 251. Only causes of action referenced in Section 251, may be asserted against a person in proceedings based upon Part VII, Division 2, of the Judiciary Act 1983. *See* 27 MIRC 254.

Samsung, however, has not asserted that Karamehmet has engaged in any conduct that would subject him to civil jurisdiction in the Republic under Section 251. Samsung has not alleged that Karamehmet transacted business within the territorial limits of the Republic (27 MIRC 251(1)(a)); operated a vessel or aircraft within the territorial waters or airspace of the Republic (27 MIRC 251(1)(c)); acted within the territorial limits of the Republic as director, manager, trustee or other officer of a corporation organized under the laws of the Republic (27 MIRC 251(1)(i)); or engaged in any other conduct listed in Section 251.

Rather, in support of its claim for jurisdiction over Karamehmet, Samsung asserts that Karamehmet indirectly owns 100% of the beneficial interest of Focus represented by its shares

and that the situs of the shares is the Republic. Even if this were the case (and the Court does not find that it is), holding such an interest in a non-resident domestic corporation is not conduct that subjects one to civil jurisdiction under the Republic's long-arm statute, 27 MIRC 251.

Because Karamehmet has not engaged in any Section 251 conduct, the Court concludes that it does not have personal jurisdiction over Karamehmet.

b. "Minimum Contacts" Consistent with Due Process

Even if ownership of shares of a non-resident domestic corporation were listed under Section 251(1), as conduct subjecting a person to the civil jurisdiction of the Republic, the exercise of such jurisdiction would not be consistent with the due process principles set forth above in the three-pronged "minimum contacts" test. First, Samsung has not alleged that Karamehmet has performed some act or consummated some transaction within the Republic or otherwise purposefully availed himself of the privileges of conducting activities in the Republic. Second, Samsung's claim does not arise out of or results from Karamehmet's forum-related activities. As Samsung can meet neither the first or second prong of the "minimum contacts" test, this Court need not consider the third prong, that the exercise of jurisdiction over Karamehmet is not reasonable. *See Pebble Beach Co.*, 453 F.3d at 1155.

For the above reasons, the Court concludes that exercising personal jurisdiction over Karamehmet is not consistent with due process. This conclusion is consistent with the United States Supreme Court's decision in *Shaffer v. Heitner*, 433 U.S. 186, 97 S. Ct. 2569, 53 L. Ed. 2d 683 (1977) (Delaware's assertion of jurisdiction over defendants, based solely on the statutory presence of their property in Delaware (*i.e.*, under a Delaware statute, Delaware is the legal situs of shares in Delaware corporations), violated the due process clause of the United States Constitution.); *see also In Matter of Dissolution of Arctic Ease*, LLC, No. CV 8932-VCMR, 2016 WL 7174668, at *3 (Del. Ch. Dec. 9, 2016) citing *Fisk Ventures, LLC v. Segal*, 2008 WL 1961156, at *7 (Del. Ch. May 7, 2008) ("A party's ownership of interests in a Delaware entity alone does not constitute sufficient minimum contacts for Delaware courts to exercise personal jurisdiction.").

Because the Court does not have personal jurisdiction over Karamehmet, to maintain an enforcement action, Samsung must prove Karamehmet has property in the Republic, which it has

not.

B. *Property in the Forum*

Samsung maintains that Karamehmet has property in the Republic through his indirect beneficial interest in Focus shares, shares whose legal situs is the Republic. In support of its claim, Samsung argues as follows. The Republic does not have an express statute that establishes the legal situs of shares of domestic corporations. In the absence of an express statute, the Court must look to the common law. *See Linkinbod and Alik v. Kejlat*, 2 MILR 65, 66 (1995) (The legal framework established by the 1979 Marshall Islands Constitution "continued the common law in effect as the governing law, in the absence of customary law, traditional practice or constitutional or statutory provisions to the contrary."). "[T]he general rule at common law has been that the situs of stock for the purpose of attachment is the domicile of the corporation, *i.e.*, its place of incorporation." Opposition, at 7 (citing cases from the early 20th Century). Therefore, the legal situs of shares in Focus, a non-resident domestic corporation of the Republic, is the Republic.

From this conclusion, Samsung argues that as Karamehmet indirectly owns 100% of the beneficial interest in Focus represented by its shares, Karamehmet owns property in the Republic, and his property is subject to sale or transfer to enforce the English Judgment. However, a closer look at *Linkinbod* negates Samsung's claim.

As noted above, in *Linkinbod*, the Marshall Islands Supreme Court held that the legal framework established by the 1979 Marshall Islands Constitution "continued *the common law in effect* as the governing law, in the absence of customary law, traditional practice or constitutional or statutory provisions to the contrary." *Id*, at 66 (emphasis added). Accordingly, the Court must determine what was "*the common law in effect*," on May 1, 1979, when the Constitution took effect.

As Samsung concedes, "[t]he situs of shares for attachment purposes is currently addressed by statute in most U.S. states." Opposition, at 7. Similarly, Karamehmet argues that the situs of shares for attachment has been controlled by statute for decades: under the Uniform Stock Transfer Act proposed in 1909 and adopted by all 50 states in the next 30 years; and under §8-317(1) [currently §8-112] of the Uniform Commercial Code promulgated in 1951 and

adopted by 49 of the 50 states, with Delaware enacting its own statute, § 169 of the DGCL. Dft's Supp. Br., at 5-7. In short, by May 1, 1979, when the Republic's constitution came into effect there was no United States "*common law in effect*" regarding the situs of shares in corporations. The relevant United States law *in effect* was statutory law.

In the absence of an express statute and common law that remains *in effect*, this Court can look to other methods to enforce judgments against shares in a domestic corporation. As Samsung points out, Section 105 of the Enforcement of Judgments Act, 30 MIRC Ch. 1, provides: "[e]nforcement of judgment[s] may also be affected, if the High Court deems justice requires and so orders by the appointment of a receiver, or receivers, by taking possession of property and disposing of it in accordance with the orders of the Court, or by a civil action on the judgment, *or in any other manner known* to American common law or *in the courts in the United States*." Pl's Supp. Opp., at 6. That is, if the Court deems justice so requires, the Court can look beyond the abandoned common law to how courts in the United States enforce judgments against shares in a domestic corporation.

As noted above, in the United States, 49 of the 50 states rely on Section 8-112 of the Uniform Commercial Code. Section 8-112 (a) provides as follows: "The interest of a debtor in a certificated security [including shares of stock] may be reached by a creditor only by actual seizure of the security certificate by the officer making the attachment or levy,. . . ."[2]

"[T]he historical [common law] rule was that the situs of shares was the domicile of the corporation; the location of the certificates did not count for much since they were mere evidence of the shares. [However, a]fter states enacted the Uniform Stock Transfer Act, and later Article 8 of the Uniform Commercial Code, courts tended to view the situs of shares as the place where the share certificates were located. The reasoning was that the purpose of these acts was to make the transfer of title to stock easier and less subject to collateral attack." § 5101. Situs of shares of stock, 11 Fletcher Cyc. Corp. § 5101 (citations omitted).

Consistent with this reasoning, this Court concludes that it is in the interest of justice to

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[2]" Section 8-112 of UCC Article 8 governs a creditor's levy upon or attachment of a debtor's 'securities,' which includes shares of stock." § 5104.Levy or attachment under UCC Article 8, 11 Fletcher Cyc. Corp. § 5104 (citation omitted).

make the transfer of title to stock easier and less subject to collateral attack under the laws of the Republic. Accordingly, under the authority of Section 105 of the Enforcement of Judgments Act, this Court adopts Section 8-112 of the UCC as the Republic's common law governing the enforcement of judgments on shares of domestic corporations.[3] This Court does not accept the abandoned historical United States common law regarding that the situs of shares. *See Yandal Investments Pty Ltd v. White Rivers Gold Limited, et al.*, C.A. No. 2010-158, slip op, at 3.

Even if the abandoned historical United States common law were still effect, the needs of modern commerce have so changed that the common law regarding the jurisdiction for enforcing judgment on debtors' interest in shares should be modified as set forth in Section 8-112 of the UCC, and as followed by the vast majority of U.S. states. It makes no sense to this Court to apply abandoned 19th Century common law in the 21st Century. This Court has the authority to advance the common law, and hereby does so. *See* 15A Am. Jur. 2d Common Law § 13 ("Total abrogation, revision, or modification or change of an outmoded common-law rule is within the competence of the judiciary; and indeed it is the duty of the courts to bring the law into accordance with present-day standards of wisdom and justice, and to keep it responsive to the demands of a changing scene." (internal citations omitted)); *see also*, 15A C.J.S. Common Law § 15 ("It is a basic precept of common law that it can, and must, change when change is appropriate. Common law is not static; it is consistent with reason and common sense." (citation omitted)); *see also*, Article I, Section 3, of the Marshall Islands Constitution (In interpreting and applying the Republic's Constitution, the courts are to take into account "circumstances in the Republic from time to time.").

For these reasons, the Court concludes Samsung has not shown that Karamehmet's property, even if it includes shares in Focus, can be found in the Republic.

II. *Forum non Conveniens*

As the Court finds that it does not have personal jurisdiction over Karamehmet and that his property is not to be found in the Republic, the Court need not address the question of *forum*

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[3]The courts of the Federated States of Micronesia have long used the FSM's version of Section 105 to authorize the remedy of garnishment, which also is in derogation of the common law. *See FSM Social Sec. Admin. v. Lelu Town*, 13 FSM R. 60, 62 (Kos. 2004).

non conveniens.

DECISION AND ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED for the foregoing reasons that the Motion to Dismiss is **GRANTED** and that this matter is **DISMISSED**.

Ordered and Entered: February 7, 2018.

Carl B. Ingram
Chief Justice

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IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

Chubb Insurance (Thailand) Company Ltd, Tokio Marine & Nichido Fire Insurance Co Ltd, *et al.*

Plaintiffs,

v.

ELENI Maritime Limited *in personam* and Empire Bulkers Limited

Defendants

H.Ct. Civil No. 2014-110
H.Ct. Civil No. 2014-050
H.Ct. Civil No. 2015-194

RESPONSE/OPPOSITION TO PROPOSED FINDINGS OF FACT & CONCLUSIONS OF LAW SUBMITTED BY DEFENDANTS; CERTIFICATE OF SERVICE

Plaintiffs, by and though Dennis J. Reeder and James Roussel and Christopher Hannan, *pro hac vice*, and further to the Court's Orders of October 25 2017 and December 3, 2017, respectfully submit the attached Response/Opposition to the Proposed Findings of Fact and Conclusions of Law submitted by Defendants.

Dennis Reeder Date

Attorney for Plaintiffs

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

Chubb Insurance (Thailand) Company Ltd, Tokio Marine & Nichido Fire Insurance Co Ltd, *et al.*	**H.Ct. Civil No. 2014-110** **H.Ct. Civil No. 2014-050** **H.Ct. Civil No. 2015-194**
Plaintiffs, **v.** ELENI Maritime Limited *in personam* and Empire Bulkers Limited **Defendants**	**RESPONSE/OPPOSITION TO PROPOSED FINDINGS OF FACT & CONCLUSIONS OF LAW SUBMITTED BY DEFENDANTS; CERTIFICATE OF SERVICE**

PLAINTIFFS' RESPONSE/OPPOSITION TO DEFENDANTS' PROPOSED FINDINGS OF FACT & CONCLUSIONS OF LAW REGARDING PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT REGARDING LIABILITY

Plaintiffs' **anticipated and have already responded to** essentially all of the points raised in Defendants' Proposed Findings of Fact and Conclusions of Law ("Defendants' PFFCL") in:

- Plaintiffs' original memorandum in support (filed September 21, 217 RMI date) of their Motion for partial Summary Judgment regarding Liability ("Fault MSJ");
- reply memorandum in further support their Fault MSJ (filed October 19, ,2017 RMI date);
- the arguments of counsel at the October 25, 2017 hearing on the Fault MSJ; and
- in their own Proposed Findings of Fact and Conclusions of Law (filed December 29, 2017 RMI date).

(collectively "Incorporated Materials"). Accordingly, Plaintiffs reassert and incorporate by reference herein all of these Incorporated Materials in opposition/response to Defendants' PFFCL. Plaintiffs will not repeat all of these same arguments here, but (at the risk of some repetition), will respond in like-numbered paragraphs to Defendants PFFCL, with cross-references to their above-noted/incorporated briefing/argument that refute Defendants' positions.

1-2. Defendants belabor the point that the owners/operators of the HEUNG A-DRAGON ("HAD Interests") are not defendants in this case.[1] **This is a red herring. Cargo Plaintiffs *have no claim* against the HAD Interests as a matter of law** under the relevant bills of lading (which, as is typical, incorporate the Hague or Hague-Visby rules and/or some version of COGSA, all of which provide a complete defense/immunity to a carrying vessel for any "error in navigation"[2]). *See* Plaintiffs' reply memorandum at p. 5. Plaintiffs did not sue the HAD Interests here, but **they could not have sued them anywhere.**

Moreover and relatedly, Defendants' unceasing refrain (*see* Defendants' PFFCL at ¶35) that Plaintiffs could and should have "joined in the earlier Hong Kong actions" as to both liability and limitation **is equally misguided.** The Hong Kong Fault Order was issued in the Hong Kong Liability Action, in which Defendants sued the HAD Interests **based on the HAD Interests alleged fault in causing the Collision.** As a result, Plaintiffs in this case **could not as a matter of law have participated in the Hong Kong Liability Action** (and/or the resulting agreed fault allocation in that proceeding) **because they were barred by the applicable bills of lading** from asserting any claims (such as those in the Hong Kong Liability Action) against the HAD Interests. Indeed, this is the precise scenario at issue in *The Karo* (cited by Defendants, but which in reality supports Plaintiffs position, *see* Plaintiffs' reply memorandum at p. 9), where innocent cargo was suing *only the non-carrying vessel* (because it

[1] It bears noting that Defendants themselves have made no effort to add the HAD Interests as parties in this case, which (putting aside issues of personal jurisdiction, which the HAD Interests could waive), would fall within this Court's subject matter jurisdiction. *See* 27 MIRC §605(1)(c); §264(1).

[2] *See* S. Mandelbaum, *International Ocean Shipping and Risk Allocation for Cargo Loss, Damage and Delay: A U.S. Approach to COGSA, Hague-Visby, Hamburg and the Multimodal Rules*, 5 J. TRANSNAT'L L. & POL'Y 1, 40 (1995) ("Under COGSA [*e.g.* 46 U.S.C. §30706(a); 47 MIRC Ch.4, §405(2)(a); Korean Commercial Code art. 795], Hague and Hague-Visby, carriers [are] ... exempted] from liability when the loss or damage arose from a negligent act in the navigation or management of the ship.").

had no claims against the carrying vessel), and was seeking to avoid a beneficial prior deal agreed between the non-carrying and carrying vessel.

3-4. Defendants suggest summary judgment is inappropriate in maritime cases on the issue of negligence. But this is not a case where negligence is to be tried in a vacuum or in the first instance because Defendants themselves have already agreed in a binding judgment that they are 70% at fault for the Collision.

5. Defendants assert that the Hong Kong Fault Order was between them and the HAD Interests and "no one else." This, however, yet again, flies in the face of Defendants' own position taken previously in this Court - **and in sworn affidavits** - that the Hong Kong Fault Order (once issued) **would be binding in these proceedings**. *See, e.g.*, Plaintiffs' original memorandum in support, §E, pp. 4-6; reply memorandum, §2.A, pp. 7-13; Plaintiffs' PFFCL, ¶13-18, pp. 6-10. Frankly, the fact the Defendants **are still trying to take <u>diametrically contrary positions</u> from those they have actively and affirmatively pursued earlier in these same proceedings is the height of bad faith.**

6.-7. Defendants again suggest that "the absence of the [HAD Interests] creates further genuine disputes" precluding summary judgment, again ignoring that *Plaintiffs could not possibly have sued* the HAD Interests. Likewise, Defendants suggest a litany of "reasonableness inquiries" that they claim preclude summary judgment, all of which have to do with whether/how the HAD Interests responded to or dealt with cargo after the Collision, and all of which at the end of the day coalesce into Defendants' affirmative defense of the alleged comparative fault of the HAD Interests. First and foremost, **this is totally irrelevant**; these issues go to *Defendants' affirmative defense* of comparative fault, **and have nothing to do with the relief sought in the**

Fault MSJ. *See* Plaintiffs' reply memorandum, §A, pp. 1-2. All Plaintiffs' Fault MSJ seeks is a judgment finding that Defendants were 70% at fault *for the Collision itself* - as they themselves agreed in a binding judgment viz. the Hong Kong Fault Order - with any issues of quantum/affirmative defenses as to *individual claims* to be reserved for trial/future motion practice as necessary.

And even aside from the total lack of relevance, the further substantive problem with this line of argument is that **Defendants bear the burden of proof on all their affirmative defenses**, including any supposed comparative fault of the HAD Interests. *See, e.g., Nichols v. Nw. Mut. Life Ins. Co.*, 487 F. App'x 339, 341 (9th Cir. 2012("[a defendant] has to show a genuine issue of material fact regarding [an alleged affirmative defense] to defeat summary judgment"). On the present summary judgment record, **Defendants have not presented any evidence to create a genuine, legally relevant issue of fact** with respect to Plaintiffs' innocent cargo claims. To begin with, all of their "evidence" submitted to create supposed issues of fact vis-à-vis the HAD Interests comparative fault **are not competent summary judgment evidence**. *See, e.g.*, Plaintiffs' reply memorandum, §A(b), pp. 3-4.

And as a practical matter, Defendants themselves have been engaged directly with the HAD Interests for years in the Hong Kong Liability and Limitation Proceedings, in the latter of which Defendants are seeking indemnity against the HAD Interests for any cargo damages that they (Defendants) pay out (including any damages paid in these proceedings to Plaintiffs). As a result, Defendants had years and the impetus to develop evidence of any supposed fault of the HAD Interests (with respect to the issues of pilferage, abandonment, salvage, etc. that they are attempting to raise as genuine issues of fact precluding Plaintiffs' Fault MSJ in these

proceedings) to support their indemnity claims. Yet, the only "evidence" they have mustered in an effort to defeat summary judgment (by resort to their affirmative defense, *on which they bear the burden of proof*, regarding supposed comparative fault of the HAD Interests) is rank hearsay, filled with rank speculation. And moreover this incompetent, speculative "evidence" is *ultimately irrelevant* because as the owners/operators of the 70% at-fault vessel in the Collision, Defendants must show not mere negligence of the HAD Interests to prevail on any affirmative defense of comparative fault, but that the HAD Interests committed some "intervening act of negligence so extravagant and unusual, and in such disregard of every rule of prudence, as to be beyond the horizon of ordinary foresight."[3] In other words, in addition to being incompetent, Defendants "evidence" is substantively insufficient.

8.-17. Defendants contend that hearsay evidence is somehow relevant and admissible in summary judgment proceedings. Notably, they do not even address the equally dispositive problem that **their evidence is also patently and rankly speculative**. Likewise, they do not address the fact that under MIRCP Rule 56, affidavits/declarations submitted in support of/opposition to a motion for summary judgment **must be based on personal knowledge.** However, the two statements (not affidavits or declarations) they have submitted in support of alleged comparative fault of the HAD Interests are **admittedly not based on personal knowledge**: (1) Capt. Kierulf talks about what he physically saw, but then only offers *admittedly speculative "beliefs"* about what he thinks those sights might have meant (*see* Exhibit A to Declaration of Tatyana Cerullo, PDF pp. 5-6, Statement of Capt. Kierulf at ¶5); and Master Mariner Davidson likewise talks about what he saw, but then *admittedly relies* on statements of unidentified crew

[3] *Fed. Ins. Co. v. S.S. Royalton*, 328 F.2d 515, 517 (6th Cir. 1964) (citing *The Walter A. Luckenbach*, 14 F.2d 100, 103 (9th Cir., 1926); *The Algonquin*, 70 F.2d 335, 336, 337 (2d Cir. 1934), other citations omitted).

members of the ELENI as to what they "apparently" saw and what it meant, as well what "seems likely to [him]" (*id.* at PDF pp. 19-20, ¶¶6-7). **None of this is based on personal knowledge; it is based on personal speculation and guessing.** And putting all this aside, Defendants are also wrong on the law regarding admissibility of hearsay on summary judgment in the circumstances of this case. There is no doubt that an opposition to summary judgment may be supported by "hearsay evidence submitted in an inadmissible form, so long as the underlying evidence could be provided in an admissible form at trial, such as by live testimony."[4] However, in this case, the statements of Capt. Kierful and Master Mariner Davidson **cannot possibly be provided in admissible form at trial.** First of all, as explained above, they are inherently and admittedly speculative. Second, as to Master Mariner Davidson, his statements are **derived from what unidentified crew of the ELENI told him** - that is, *they are double hearsay.* As such, in order for his statement to be sanitized for trial, the unidentified crew would have to testify live as to what they told him, which is impossible (as Defendants themselves have previously confirmed to this Court in their *forum non conveniens* briefing) because they are far-flung on vessels sailing around the world. Defendants' effort to whitewash their patently incompetent evidence does not withstand scrutiny.

18.-23. Defendants' effort to escape the effect of the Hong Kong Fault Order by resort to the procedural rules of the Hong Kong Court is procedurally, legally, and common-sensically wrong. *See* Plaintiff's reply memorandum, §B.1, pp. 8-9; Plaintiffs' PFFCL, ¶¶40-41, pp. 17-18. First, the **law of the Marshall Islands**, not Hong Kong, determines the discretionary

[4] *Raimondo v. Fed. Bureau of Investigation*, 2018 WL 398236, at *5 (N.D. Cal. Jan. 12, 2018).

collateral estoppel effect of the Hong Kong Fault Order in these Marshall Islands proceedings,[5] as the Hong Kong Rules of the High Court (RHC) themselves (self-evidently) expressly provide.[6] Second, the *purpose* of the rule Defendants attempt to rely on (as per *The Karo* decision cited in the RHC) is meant to protect against **the exact opposite scenario** from the one in this case (i.e. when an innocent cargo interest seeks to *avoid* a detrimental-to-cargo "sweetheart" deal between shipowners, as opposed to the situation here where Plaintiffs *seek to enforce* an inter-owner deal).

24.-29. Defendants cite essentially the same cases regarding collateral estoppel as Plaintiffs, and thus Plaintiffs have no opposition vis-à-vis the applicable law. However, for all the reasons set forth in Plaintiffs' Incorporated Materials, Plaintiffs **do object to Defendants' improper *application* of those cases** to the facts here. Moreover, Plaintiffs object to Defendants **complete failure to acknowledge/address** the secondary factors under *Parklane Hosiery*. *See* Plaintiffs' reply memorandum, §B, pp. 7-8; Plaintiffs' PFFCL, ¶42, pp. 18-19.

30.-39. (Re *Parklane Hosiery* Application)

Defendants seek to rely on "[t]he general rule ... that in cases where [1] a plaintiff could easily have joined in the earlier action, or [2] where the application of offensive collateral estoppel would be unfair to a defendant, a trial judge" should deny collateral estoppel. *Parklane Hosiery*, 439 U.S. at 323. **This first part of this general rule** (cited by

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[5] *See* Restatement (Third) of Foreign Relations Law § 481, cmt. c (1987) ("[N]o rule prevents a court in the United States from giving greater preclusive effect to a judgment of a foreign state than would be given in the courts of that state."). *Simmtech Co. v. Citibank, N.A.*, 2016 WL 4184296, at *8 (S.D.N.Y. Aug. 3, 2016), *aff'd* 2017 WL 3887984 (2d Cir. Sept. 6, 2017) ("[T]he prevailing practice appears to be follow[ing] domestic rules of preclusion [to a foreign judgment], whether they apply those of the applicable federal or state court[;] [and] [r]egardless of the mechanisms utilized by a foreign court to achieve its objectives [regarding preclusion], a United States court should not be confined to using the foreign court's mechanisms or else forgo achieving its own objectives.") (citations omitted).

[6] *See* Exhibit 4 to Plaintiffs' reply memorandum, RHC, Order 1, ¶2("these rules shall have effect in relation to all proceedings in the High Court.").

Defendants particularly at ¶¶35-36 of their PFFCL) **is inapplicable here** because (as discussed *supra* at 6.-7.) **Plaintiffs *could not as a matter of law* have joined in the Hong Kong Liability Action** because they have no viable claim against the HAD Interests.

Likewise, Defendants contention under the second part of the "general rule" - i.e. that collateral estoppel would be "unfair" because the Hong Kong proceedings did "not hav[e] anything to do with cargo issues" (PFFCL at ¶37) - **is blatantly incorrect.**[7] Cargo claims resulting from the Collision **are absolutely and have always been an issue in Hong Kong** because Defendants are actively seeking indemnity from the HAD Interests in those proceedings for any cargo damages they (Defendants) pay out to cargo claimants. *See* Exhibit 2 to Plaintiffs' reply memorandum, at PDF p. 9, ¶31.A(vii). The suggestion that Defendants agreed to entry of a binding judgment against them of 70% fault without their giving any consideration of cargo claims arising from the Collision is simply not true. And even more utterly contradictory, **Defendants themselves stated in a *sworn affidavit* submitted to this Court** (re-quoted here not merely for repetition, but to reiterate the profoundly contrary positions Defendants have taken in these proceedings) **that cargo claimants in Hong Kong would participate in distribution of any Hong Kong limitation fund *pursuant to the Hong Kong Fault Order*:**

> "Claims that were filed by the deadline [in the Hong Kong Limitation Action] will be adjudicated upon . . .before being admitted to participate in the Limitation Fund [posted in Hong Kong Limitation Action] which I expect **will be distributed in accordance with [the Hong Kong Fault Order], recording the apportionment of liability agreed on settlement by the parties thereto. . .** Had Plaintiffs [in these RMI proceedings] filed their claims in Hong Kong as other claimants have done, **they would have been able to participate in the distribution of the Limitation Fund in**

[7] Also, the *Flowers* decision is not on point. *See* Plaintiffs' reply memorandum, p. 6 n.20.

accordance with the Court-ordered apportionment of liability [in the Hong Kong Fault Order]."

Declaration of James Robert James (April 25, 2016), ¶¶20-21, attached to Motion for Summary Judgment filed by ELENI Defendants on April 29, 2016.

See Plaintiffs' PFFCL, ¶13, pp. 6-8. Defendants' contention that the Hong Kong Fault Order was agreed in a vacuum entirely incognizant of cargo claim considerations **is patently false on their own prior sworn statements.**

Finally, Defendants also assert (PFFCL ¶¶32-34) that Plaintiffs cannot meet the first three elements of collateral estoppel (i.e. (1) full/fair opportunity to litigate the issue; (2) actual litigation of the issue; (3) final judgment on the issue) because the issues in this case are different from those in the Hong Kong Liability Action that resulted in the Hong Kong Fault Order. **This, again is wrong** (*see supra* at 6.-7.) because Plaintiffs' Fault MSJ seeks entry of judgment **on the exact same issue** as the Hong Kong Fault Order (i.e. Defendants' 70% fault for the Collision). Defendants themselves have injected the extraneous/irrelevant issues of comparative fault/claim specific quantum - all of which concern *their own affirmative defense* for which they bear the burden of proof - into this motion practice in an effort to muddy the otherwise crystal clear waters regarding **fault for the Collision**. In short, the Fault MSJ **seeks entry of judgment on the same exact terms as the Hong Kong Fault Order**, nothing less and nothing more, such that all elements of collateral estoppel are met. And again, as noted earlier, Defendants' incessant complaint about the absence of the HAD Interests ignores the practical reality that Defendants had years and incentive (given their indemnity claims) to develop/discover evidence from the HAD Interests *in the Hong Kong proceedings* - all of which would be equally relevant in these proceedings - regarding any supposed comparative

fault of the HAD Interests. Defendants' complaints about the supposedly problematic absence of the HAD Interests from these proceedings ring hollow.

40.-55. (Re Judicial Estoppel)

Defendants' arguments against application of judicial estoppel have effectively all been addressed in Plaintiffs Incorporated Materials. *See* reply memorandum, §§B.2, pp. 9-10; Plaintiffs' PFFCL, ¶¶47-52, pp. 20-23. Plaintiffs, however, respond specifically to several specific, continued misrepresentations by Defendants relative to the judicial estoppel elements.

Defendants claim the first element (clear inconsistency with prior position) is not met because "Defendants never have taken the position that the liability apportionment in Hong Kong means that the Court should proceed to judgment [here]" (PFFCL ¶49). This is true only in the most disingenuous hyper-technical sense, because Defendants **unequivocally stated to this Court in a sworn affidavit** that cargo claimants in Hong Kong *would be bound by* the Hong Kong Fault Order, and also acquiesced in a stay of these proceedings pending entry of the Hong Kong Fault Order *on the basis that the fault order would bind these proceedings*. *See supra* block quote at p. 8; Plaintiffs' PFFCL, ¶13, pp. 6-8. Defendant's position now is **squarely contrary** to their prior position and submissions to this Court.

Defendants claim the second element (convincing the Court to accept their earlier position) is not met because this Court denied their prior motion for summary judgment (PFFCL, ¶50). This **ignores** that the Court relied on Defendants' affirmative sworn confirmations that the Hong Kong Fault Order would bind cargo claimants, as well as their acquiescence in the stay pending that binding order, to stay this case *for three years*, during which no discovery proceeded (while it continued apace in Hong Kong, although Defendants

have *refused to provide* any of the Hong Kong discovery in response to Plaintiffs' discovery here) and interest continued to accrue on Plaintiffs' claims. *See* Plaintiffs' PFFCL, ¶45, p. 20; ¶50, pp. 22-23.

Defendants finally claim the third element (unfair advantage) does not apply because Plaintiffs allegedly forum shopped and did not file their claims in Hong Kong (PFFCL, ¶53); and that Plaintiffs would actually be unfairly advantaged because Defendants would not be able to defend themselves properly (*id.* at ¶54). This ignores that **Defendants themselves forum shopped** by filing both the Hong Kong Liability and Limitation Actions **in an unnatural forum *with no nexus whatsoever* to the Collision,** all in an effort to avoid the higher limitation amount of their own flag state/state of incorporation; and then **attempted to forum "shoplift"** (by entering a private side limitation agreement with the HAD Interests viz. the India Agreement, and seeking to invalidate the South Africa Security *they themselves agreed to* as being responsive to an RMI judgment by later seeking to have these RMI proceedings dismissed, *see* Reply Memorandum in support of Clash of Conventions MSJ, pp. 9-10, filed April 22, 2016 RMI Date). And as to the supposed "unfairness" due to Defendants' supposed inability to present their defense, again, **they had ample time, opportunity and incentive** to develop any evidence viz. the HAD Interests comparative fault *in the Hong Kong proceedings.* The legally necessary absence of the HAD Interests (because Plaintiffs *have no claim* against them) will not as a practical matter prevent the affirmative defense Defendants claim they have.

56.-76. (Re: Innocent Cargo Rule/Choice of Law)

Again, Defendants' arguments regarding the "innocent cargo" rule and choice of law have effectively all been addressed in Plaintiffs Incorporated Materials. *See* reply memorandum, §§C, pp. 10-13; Plaintiffs' PFFCL, ¶¶64-82, pp. 28-33. Plaintiffs, however, respond specifically to several specific, continued misrepresentations/errors by Defendants on the choice of law issue.

First, Defendants **have not responded** (at least in briefing) to the initial, dispositive argument that Marshall Islands Revised Code Title 47, Chap. 1, Section 113 **prescribes that choice of law in maritime cases shall be the US GML for Defendants as Marshall Islands corporations running a Marshall Islands-flagged vessel;** and, thus, the "innocent cargo" rule. *See* Plaintiffs' reply memorandum, §C.2, pp. 11-12; Plaintiffs' PFFCL, ¶¶60-63, pp. 27-28. For this statutory reason *alone*, the US GML "innocent cargo" rule applies as surrogate RMI maritime law, and the jurisprudential choice-of-law inquiry is irrelevant.

Even if this statutory conclusion were not dispositive, Defendants are also wrong on their choice-of-law analysis. Defendants again state at ¶¶68-71 a supposed "black letter" choice of law rule that the littoral state's law applies in a collision in territorial waters. But this supposed "black letter" law **is not a mandatory, black-and-white proposition.** Rather, pursuant to the more recent Supreme Court maritime law choice-of-law *Lauritzen-Rhoditis* test, the rule of *lex loci delicti* is just one of eight factors to be considered, and is not on its own dispositive as to the applicable law *even in* a collision in foreign waters. *See* Plaintiffs' reply memorandum, §C.3, pp. 12-13; Plaintiffs' PFFCL, ¶¶72-79, pp. 30-33. Indeed, the very academic authorities cited by Defendants (and provided to the Court via Defendants' supplement of October 24, 2017) acknowledge as much, noting that nearly eight-decade old *lex*

loci delicti rule of *The Mandu* is only "a **general** rule" (emphasis added), and is thus subject to exceptions/deviation (*see* 2 Thomas J. Schoenbaum, Admiralty & Maritime Law §14-9 .4th Ed. 2004). Moreover, other academics confirm that the *lex loci delicti* rule is not absolute. *See* Plaintiffs' reply memorandum, p. 12-13, n. 40; Plaintiffs' PFFCL, ¶74 (citing MARSDEN ON COLLISIONS AT SEA, §17-13, p. 566 (Simon Gault, *et al.* eds. 12th ed. 1998)). And perhaps most importantly, **more recent jurisprudence** recognizes that *lex loci delicti* is not absolute for foreign territorial water collisions and does not even cite to *The Mandu* or its progeny. *Id.* at n. 41 (citing *Kriti Filoxenia Special Mar. Enter. v. YASA H. MEHMET Motor Vessel*, 442 F. App'x 167, 168–69 (5th Cir. 2011)).[8]

Defendants also incorrectly suggest (¶72) that the *Lauritzen-Rhoditis* test should only apply in personal injury cases. **This is objectively wrong:** courts apply *Lauritzen-Rhoditis* in collision/allision cases.[9]

Finally, Defendants rely on *Man Ferrostaal* to suggest the *Lauritzen-Rhoditis* factors weigh against application of the "innocent cargo" rule as RMI surrogate maritime law (¶¶73-76). Notably, however, their analysis of *Lauritzen-Rhoditis* **does not even suggest** support applicability of Vietnamese law - the only law for which they have offered any proof, but which **they themselves have previously disparaged and sought to avoid at every turn** since the Collision occurred (*see* Plaintiffs' reply memorandum, §C pp. 10-11; Plaintiffs'

[8] Notably, the *Man Ferrostaal, Inc.* case cited by Defendants themselves applies *Lauritzen-Rhoditis* **without regard** to the purportedly "black letter" law of *The Mandu*.

[9] *Kriti Filoxenia Special Mar. Enter. v. YASA H. MEHMET Motor Vessel*, 442 F. App'x 167 (5th Cir. 2011); *Cotemar S.A. De Cv. v. Motor Vessel BEAUFORT*, 2014 WL 1330203, at *3 (E.D. La. Apr. 3, 2014) ("[T]he choice-of-law factors for determining which nation's law governs a maritime action [such as an allision between a supply vessel and oil rig]were set forth by the Supreme Court of the United States in [*Lauritzen/Rhoditis*].")

PFFCL, ¶¶22-28, pp. 11-12; ¶¶68-71, pp. 29-30). Rather, their analysis merely seeks to offer reasons why RMI law *should not* apply, without any proposal for what law *should* apply. Indeed, they effectively **concede** (¶74) that only 1 of the 8 *Lauritzen-Rhoditis* factors - namely *lex loci delicti* - tends to favor the Vietnamese law they now seek to invoke after **actively and affirmatively discounting it and avoiding it at every stage.** In short, they offer no alternative proof as to what law should apply, and instead invoke the law they have always sought to avoid.

Moreover, they attempt to rely on *their own* inequitable forum shopping/"shoplifting" resort to the entirely unnatural venue of Hong Kong (where they sought lower limits and a side limitation deal with the HAD Interests) as somehow weighing against RMI law. And they also suggest that Plaintiffs should have known their cargo would sail through the waters of non-"innocent cargo" rule countries and should accordingly bear the burden of its non-application. This pointedly **ignores that the Defendants are RMI-incorporated entities, running an RMI-flagged vessel;** their efforts to avoid the law *of their own flag state and country of incorporation* is inequitable and against the interest of the RMI as a sovereign nation. Finally, Defendants passing, unsupported reference to the laws of Vietnam, Hong Kong, Greece, Korea and China - **all without any proof/evidence of what those countries' laws actually provide** - does nothing to supplant application of RMI law.

Ultimately, Defendants have failed to offer any proof of any other country's law that should supposedly apply (other than Vietnam, which is inapplicable under *Lauritzen-Rhoditis* and which they themselves have actively avoided and criticized as "not experienced" and "[un]established," *See* Plaintiffs' PFFCL, ¶24, p. 11). This necessarily renders **RMI law**

applicable by default: "[w]hen the parties have failed to conclusively establish foreign law, a court is entitled to look to its own forum's law in order to fill in any gaps."[10] *See* Plaintiffs' PFFCL, ¶¶80-82, p. 33.

Moreover, as Plaintiffs have shown, the balance of the *Lauritzen-Rhoditis* factors (**four of which favor application of RMI law**, one of which is not applicable, and only the first of which favors Vietnam),[11] and in the "particular context" of this case where the RMI-incorporated Defendants, responsible for an RMI-flagged vessel, have (inequitably) sought to avoid application of RMI law by resort to the entirely unnatural jurisdiction of Hong Kong in an effort to gain the benefit of a lower limitation regime, and *have themselves disclaimed* Vietnamese law all along, the equities all favor application of the "innocent cargo" rule under US GML *qua* Marshall Islands maritime law. This is particularly true because *even with* application of the "innocent cargo" rule, the ELENI Defendants' should (at the end of the day) not be liable for more than their 70% share of Cargo Plaintiffs' damages, as they can set off the extra 30% against the HAD Interests' claims via their Hong Kong indemnity action (including as against the extra-judicial "side limitation" fund). Defendants' reliance on *Man Ferrostaal, Inc.* is inapposite, as the *Lauritzen-Rhoditis* factors *did not favor* any country other than the littoral state.[12]

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[10] *Banco de Credito Indus., S.A. v. Tesoreria Gen.*, 990 F.2d 827, 836 (5th Cir. 1993)

[11] (1) wrongful act = Vietnam; (2) law of flag = Marshall Islands (ELENI); (3) Cargo Plaintiffs = various nations; (4) allegiance of ELENI Defendants = Marshall Islands (as non-resident RMI corporations; (5) place of contract = N/A; (6) inaccessibility of foreign forum = favors Marshall Islands law (because limitation proceedings are closed); (7) law of the forum = Marshall Islands; (8) ELENI Defendants' base of operations = Greece.

[12] In particular, the court in *Man Ferrostaal, Inc.* concluded that there was no consensus under the 8 factors: "Clearly the concatenation of factors set out in *Lauritzen* is confusing and inconclusive. The interests of many countries are potentially implicated, without any clear path to resolving the confusion." *MAN Ferrostaal, Inc. v. M/V VERTIGO*, 447 F. Supp. 2d 316, 323 (S.D.N.Y. 2006). Only after determining that there was no clearly appropriate venue under the

FINAL NOTE REGARDING ATTORNEY'S FEES

As a final note in response/opposition to Defendants' PFFCL, Plaintiffs point out that Defendants have yet again doubled (perhaps tripled)-down on their multiple, blatantly, objectively contradictory sworn affidavits and other sworn submissions to this Court espousing diametrically opposed positions on the issue of the preclusive/estoppel effect of the Hong Kong Fault Order. For all the reasons set forth in Plaintiffs' PFFCL (*see* ¶¶13-18, pp. 6-10; ¶¶83-86, pp. 33-35), Plaintiffs seek an award of costs, charges, expenses and attorney's fees incurred in responding to Defendants' opposition to the Fault MSJ.

CONCLUSION

For all the reasons set forth herein, and in the Incorporated Materials, Plaintiffs pray for entry of summary judgment as set forth in their PFFCL.

various factors did the court turn to the *lex loci delicti* factor. Likewise, the court found that applying Danish law under the *lex loci delicti* factor would be appropriate because "Denmark [has a predominant interest] in regulating the conduct of ships within its territorial waters." *Id.* In this case, to the contrary, the balance of the *Lauritzen-Rhoditis* factors (4 out of 8) clearly point to the law of the RMI as the appropriate applicable law; and moreover, the interest of Vietnam in regulating conduct in its territorial waters *has been satisfied* given that the Vietnamese National Maritime Bureau investigated the Collision (and presumably took any enforcement proceedings necessary to ensure safe navigation in its territorial waters) after the Collision. *See* Plaintiffs' PFFCL, ¶78 n. 50.

Dennis Reeder Majuro Date
Attorney for Plaintiffs

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IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

Chubb Insurance (Thailand) Company Ltd, Tokio Marine & Nichido Fire Insurance Co Ltd, *et al.*	**H.Ct. Civil No. 2014-110** **H.Ct. Civil No. 2014-050** **H.Ct. Civil No. 2015-194**
Plaintiffs, **v.**	
ELENI Maritime Limited *in personam* and Empire Bulkers Limited	**CERTIFICATE OF SERVICE**
Defendants	

CERTIFICATE OF SERVICE

I hereby certify that on January 26, 2018, RMI Date (January 25, 2018, USA mainland date), a true and correct copy of the Plaintiffs' Response/Opposition to Proposed Findings of Fact & Conclusions of Law Submitted by Defendants was served on Tatyana Cerullo and David Lowe, Attorneys for Defendants, by sending to them via email transmission in pdf.format to: TC.LAW.llc@gmail.com and TC.LAW.llc@gmail.com and davidloweesq@gmail.com.

Dated: January 26, 2018 (Majuro date).

Dennis Reeder
Attorney for Plaintiffs

4830-6626-3888 v1

2900428-000007 09/18/2017
4837-0671-8810 v1
2900428-000007 01/23/2018
4837-0671-8810 v2

2900428-000007 01/24/2018

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

Chubb Insurance (Thailand) Company Ltd, Tokio Marine & Nichido Fire Insurance Co Ltd, *et al.*	**H.Ct. Civil No. 2014-110** **H.Ct. Civil No. 2014-050** **H.Ct. Civil No. 2015-194**
Plaintiffs, **v.**	
ELENI Maritime Limited *in personam* and Empire Bulkers Limited	**CERTIFICATE OF SERVICE**
Defendants	

CERTIFICATE OF SERVICE

I hereby certify that on February 7, 2018, RMI Date, pursuant to the courts Deficiency Notice dated February 7, 2018, I served a true and correct copy of the Plaintiffs' Response/Opposition to Proposed Findings of Fact & Conclusions of Law Submitted by Defendants was served on Tatyana Cerullo and David Lowe, Attorneys for Defendants, by sending to them via email transmission in pdf.format to:

TC.LAW.llc@gmail.com and TC.LAW.llc@gmail.com and davidloweesq@gmail.com.

Dated: February 7, 2018 (Majuro date).

Dennis Reeder
Attorney for Plaintiffs

4830-6626-3888 v1

2900428-000007 09/18/2017
4837-0671-8810 v1
2900428-000007 01/23/2018
4837-0671-8810 v2

2900428-000007 01/24/2018

FILED

FEB 07 2018

ASST. CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO LTD, a Korean corporation Plaintiff, vs. FOCUS INVESTMENTS LTD, a Marshall Islands corporation, and MEHMET EMIN KARAMEHMET, Defendants	CIVIL ACTION NO. 2017-081 **ORDER DENYING REQUEST FOR FURTHER ORAL ARGUMENT**

TO: James McCaffrey, counsel for plaintiff
Dennis Reeder, counsel for defendants

Having considered "Plaintiff's Request for Further Oral Argument on Defendant's Karamehmet's Motion to Dismiss" filed February 7, 2018, the Court denies the request. On Friday, January 26, 2018, when the Court asked counsel if the parties' desire further oral argument, counsel committed to get back to the Court at the beginning of the following week. When the Court received no request by January 30, 2018, the Court reread the moving papers and commenced drafting its decision. The Court intends to issue its decision by the end of the week.

Ordered and Entered: February 7, 2018.

Carl B. Ingram
Chief Justice

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

Samsung Heavy Industries Co Ltd., a Korean Corporation
Plaintiff
v
Focus Investments Ltd, and Mehmet Emin Karamehmet
Defendant

Civil Case No. 2017-081

CERTIFICATE OF SERVICE

I, Tanya Lomae, Asst. Clerk of the Courts, hereby certify that on 2/7/18

I served the Order Denying Request For Further Oral Argument

filed 02/07/2018 in the above captioned matter on:

1. James McCaffrey by ☑ Email ☐ Fax ☐ Personal Hand Delivery
2. Dennis Reeder by ☑ Email ☐ Fax ☐ Personal Hand Delivery
3. _____ by ☐ Email ☐ Fax ☐ Personal Hand Delivery
4. _____ by ☐ Email ☐ Fax ☐ Personal Hand Delivery

Attached is a copy of my ☒ Sent Email / ☐ Fax Confirmation.

Tanya Lomae
Asst. Clerk of the Courts
Marshall Islands Judiciary

FILED: FILED
FEB 07 2018
ASST. CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

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FILED
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ASST. CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

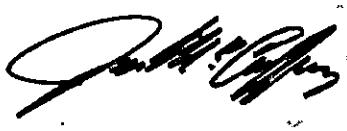
IN THE HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO LTD, a Korean corporation Plaintiff, vs. FOCUS INVESTMENTS LTD, a Marshall Islands corporation, and MEHMET EMIN KARAMEHMET Defendants	Civil Action 2017-081 CBJ PLAINTIFF'S REQUEST FOR FURTHER ORAL ARGUMENT ON DEFENDANT KARAMEHMET'S MOTION TO DIMISS; and CERTIFICATE OF SERVICE

After the parties filed their supplemental replies on 26 January 2018, the Court held a telephone status conference with attorneys James McCaffrey and Dennis Reeder. The Court asked whether the parties desired further oral argument on Defendant's Motion to Dismiss. Mr. Reeder provided a preliminary response and Mr. McCaffrey stated that he would need to consult with his client in Korea and client's other counsel.

Plaintiff's hereby request oral argument on the pending motion. Defendant Karamehmet has raised new issues in his supplemental material and Plaintiff believes it would be helpful to the court for those issues to be elucidated at oral argument.

For the court's information, on 27 January 2018 Mr. Reeder emailed Mr. McCaffrey saying that his clients would waive oral argument.



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Date: 2018.02.06 15:29:58 -08'00'

Dated: 6 February 2018
Baja California

By: _____
JAMES McCAFFREY
Attorney for Plaintiff

Civil Action No. **2017-081 CBJ**

METHOD OF FILING

The foregoing

PLAINTIFF'S REQUEST FOR FURTHER ORAL ARGUMENT ON DEFENDANT KARAMEHMET'S MOTION TO DIMISS; and CERTIFICATE OF SERVICE

was filed with the High Court in Majuro on the date below-written with

Clerk of Courts – High Court
P.O. Box 378
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Marshall.Islands.Judiciary@Gmail.com

CERTIFICATE OF SERVICE

I hereby certify that an exact duplicate of the document(s) filed above was duly served upon the below-named person(s) on the date below written by sending him a copy by

(x) by Email to the address listed below his name
( ) by Mail to the address below his name
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Baja California

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FILED
JAN 16 2018
ASST. CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

IN THE HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO LTD, a Korean corporation

Plaintiff,

vs.

FOCUS INVESTMENTS LTD, a Marshall Islands corporation, and

MEHMET EMIN KARAMEHMET

Defendants.

Civil Action 2017-081

PLAINTIFF'S SUPPLEMENTAL REPLY OPPOSITION TO DEFENDANT MEHMET EMIN KARAMEHMET'S MOTION TO DISMISS; SECOND DECLARATION OF SEGUN OKUNTOKUN; and CERTIFICATE OF SERVICE

INTRODUCTION

Having ignored proceedings duly brought and prosecuted against him in England, Defendant Karamehmet has been adjudged by the English court to be liable to Plaintiff for $44.3 million. Plaintiff asks this Court's assistance in obtaining justice from Defendant Karamehmet by recognizing this judgment and enforcing it against the value of a Marshall Islands company he owns. The merits of the original claims against Defendant Karamehmet are not at issue here, nor has Defendant Karamehmet suggested that he had any defense to those claims or that the entry of the English Judgment against him was in any way improper. Defendant Karamehmet is seemingly seeking to evade his obligation to pay a debt.

The motion before the Court raises only two questions: (1) does the Court have jurisdiction to recognize the English Judgment and enforce it by directing the sale or other liquidation of a Marshall Islands company owned by Defendant Karamehmet, and (2) if the answer to that question is yes, has Defendant Karamehmet shown that there is another available forum that would also have jurisdiction to direct such sale or liquidation, and where it would be substantially more convenient to do so. Defendant Karamehmet's attempt to show that the Court lacks jurisdiction fails because it is based on a manifestly incorrect reading of 100 years of Supreme Court jurisprudence. His request that the Court decline to exercise its jurisdiction fails because he has not shown that there is any other forum that would have jurisdiction over the parties or could grant the relief sought by Plaintiff here. Dismissing the present action will leave Plaintiff with no apparent avenue for seeking satisfaction of the English Judgment against Defendant Karamehmet's shareholding in the Marshall Islands company.

LEGAL ARGUMENT

I. THE EXERCISE OF JURISDICTION COMPLIES WITH THE CONSTITUTIONAL REQUIREMENT OF DUE PROCESS.

U.S. due process jurisprudence distinguishes between two types of jurisdiction that a court may exercise over a defendant outside the forum. First, if a nonresident defendant's activities in the forum are sufficiently regular, continuous, and systematic to make the defendant "at home" in the forum, the forum gains "general" jurisdiction over that defendant. General jurisdiction means that the court has the power to adjudicate any claim against that defendant, including a claim that arose elsewhere and is not related to the defendant's activities in the forum. Second, a nonresident defendant whose forum-related contacts are not sufficiently broad in scope to give the court general jurisdiction may nevertheless be subject to "specific" jurisdiction, i.e. jurisdiction to adjudicate claims that arise from or are related to the defendant's

actual contacts with the jurisdiction. *See generally* Arthur T. von Mehren & Donald T. Trautman, *Jurisdiction to Adjudicate: A Suggested Analysis*, 79 Harv. L. Rev. 1121, 1136 (1966).

U.S. due process jurisprudence also distinguishes between jurisdiction to decide the merits of a plenary action against a defendant and jurisdiction in the very different landscape of a judgment enforcement action. *See* Linda J. Silberman & Aaron D. Simowitz, *Recognition and Enforcement of Foreign Judgments and Awards: What Hath Daimler Wrought?*, 91 N.Y.U. L. Rev. 344, 345 (2016) ("[A]lthough the Supreme Court in *Shaffer v. Heitner* rejected the presence of assets as a basis of jurisdiction for asserting an initial claim against a defendant, it was clear that assets continued to suffice as a basis of jurisdiction for enforcing foreign judgments and awards.").

Defendant Karamehmet's jurisdictional arguments miss the mark because they fail to distinguish between these distinct requirements and forms of jurisdiction. In *Shaffer v. Heitner*, 433 U.S. 186 (1977), the Supreme Court held that ownership of stock in a company incorporated in the forum did not, by itself, give rise to general jurisdiction over a nonresident stockholder. However the Court noted that ownership of stock in a local corporation could give rise to specific jurisdiction, i.e. jurisdiction over a claim that arises from or is related to such share ownership. The Court also noted that ownership of property could give rise to jurisdiction in the judgment enforcement context. Indeed, the Supreme Court expressly stated that there would appear to be "no unfairness" in exercising jurisdiction over a claim to execute a foreign judgment against such shares, i.e. the specific scenario presented here. *Id.* at 210 n.36; *see also* Silberman & Simowitz, *supra* at 361 ("[T]he lesson of *Shaffer* is that although property of the defendant is

insufficient to justify an action with respect to a claim unrelated to it, property still supports an action to enforce a previously rendered judgment or award.").

Defendant Karamehmet's reliance on *Pennoyer v. Neff*, 95 U.S. 714 (1877), to argue that jurisdiction cannot be exercised without physical seizure of local property is similarly misguided. The requirement of physical seizure pertained to nineteenth century legal doctrine according to which such seizure was held to support jurisdiction by providing constructive notice of the proceedings to a non-resident property owner. Modern jurisprudence rejects this doctrine, and focuses on the adequacy of service of process in order to satisfy the notice element of jurisdiction. Service has been duly made here.

A. The Presence of a Foreign Judgment Debtor's Property in the Jurisdiction Satisfies the Constitutional Due Process Requirement in a Case Where the Only Relief Sought is Execution of a Judgment Against That Property.

Defendant Karamehmet asserts that the exercise of jurisdiction under the circumstances presented here "has already been found to be unconstitutional" under the Supreme Court's decision in *Shaffer*. (Def. Supp. Br. at 1.) This is nonsense.

The *Shaffer v. Heitner* decision concerned the constitutionality of a Delaware statute that authorized a Delaware court to exercise general jurisdiction to adjudicate claims against a nonresident defendant by sequestering any property of the defendant that could be found in the state of Delaware. 433 U.S. at 189. The plaintiff in *Shaffer* was a shareholder of Greyhound, a Delaware company, who had commenced a derivative action against 28 officers or directors of Greyhound, asserting that they had breached their duties to the corporation. None of these individual defendants was a resident of Delaware, nor had any of the conduct that gave rise to the claims taken place in that state. However, each of the individual defendants owned shares of Greyhound stock. Pursuant to Section 169 of the Delaware Corporations Law, these shares were deemed to be located in Delaware. A Delaware statute – Section 366 of the Delaware Code –

allowed the Delaware courts to exercise plenary jurisdiction over claims against a nonresident defendant based on the sequestration of any of his or her property in Delaware. The purpose of sequestration was "to compel the personal appearance of the nonresident defendant to answer and defend a suit brought against him in a court of equity." *Id.* at 193 (*quoting Sands v. Lefcourt Realty Corp.*, 117 A.2d 365 (Del. 1955)).

In *Shaffer*, the Supreme Court held that the Delaware sequestration statute could not survive scrutiny under the modern "minimum contacts" analysis that had been articulated by the Court in *International Shoe.* The Court held that the exercise of general jurisdiction to adjudicate the merits of claims against a nonresident defendant based on nothing more than his or her ownership of property in the forum, and sequestration of that property, would offend the constitutional principle of due process. However, the Court did not hold that a nonresident defendant's ownership of property in the forum is irrelevant to jurisdiction. On the contrary, the Court expressly noted that ownership of property in the jurisdiction could be one factor relevant to determining whether the nonresident's contacts with the forum are sufficient to provide a basis for exercising jurisdiction, depending on the nature of the claim at issue. Thus the Court observed that "when claims to the property itself are the source of the underlying controversy between the plaintiff and the defendant, it would be unusual for the State where the property is located not to have jurisdiction." *Shaffer*, 433 U.S. 207-08.

Most importantly, in *Shaffer* the Court expressly acknowledged that there would be a sufficient basis for exercising jurisdiction over a claim to execute a judgment against local property of a nonresident judgment debtor:

> Once it has been determined by a court of competent jurisdiction that the defendant is a debtor of the plaintiff, there would seem to be no unfairness in allowing an action to realize on that debt in a State where the defendant has property, whether or not that State

> would have jurisdiction to determine the existence of the debt as an original matter.

Id. at 210 n.36.[1]

Not only did the Supreme Court note that there was "no unfairness" in courts using a property-based nexus in to enforce foreign judgments, the Court observed that holding otherwise would create injustice: "a wrongdoer 'should not be able to avoid payment of his obligations by the expedient of removing his assets to a place where he is not subject to an in personam suit.'" *Id.* at 210 (quoting Restatement (Second) of Conflict of Laws § 66 cmt. a (Am. L. Inst. 1971)).

Lower courts since *Shaffer* have taken the above-quoted footnote at face value and have consistently held that presence of a nonresident defendant's property in the forum provides a sufficient nexus for exercising jurisdiction in a judgment enforcement action. *See, e.g., Office Depot Inc. v. Zuccarini*, 596 F.3d 696, 700 (9th Cir. 2010) ("In an action to execute on a judgment, due process concerns are satisfied, assuming proper notice, by the previous rendering of a judgment by a court of competent jurisdiction.") (citing *Shaffer*, 433 U.S. at 210 n.36); *Arbor Farms, LLC v. GeoStar Corp.*, 853 N.W.2d 421, 427 (Mich. Ct. App. 2014); *Lenchyshyn v. Pelko Elec., Inc.*, 723 N.Y.S.2d 285, 289-90 (N.Y. App. Div. 2001); *Abu Dhabi Commercial Bank PJSC v. Saad Trading, Contracting & Fin. Servs. Co.*, 986 N.Y.S.2d 454, 458 (N.Y. App. Div. 2014); *Stichting Maharishi Glob. Fin. Research v. Joh. Enschede Stamps B.V.*, No. 4:15-cv-00466-SMR-SBJ, 2016 WL 6674986, at *3 (S.D. Iowa Jan. 7, 2016); *Haaksman v. Diamond Offshore (Bermuda) Ltd.*, 260 S.W.3d 476, 480 (Tex. App. 2008); *Electrolines, Inc. v. Prudential Assurance Co.*, 677 N.W.2d 874, 884 (Mich. Ct. App. 2003); *Pure Fishing, Inc. v. Silver Star*

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[1] Defendant Karamehmet's failure to mention or acknowledge this footnote, which Plaintiff cited in its original opposition papers (Pl. Opp. at 3), approaches bad faith.

Co., 202 F. Supp. 2d 905, 910 (N.D. Iowa 2002); *see also*, Silberman & Simowitz, *supra*, at 345, 378 ("For the most part, recognition and enforcement are usually sought in the forum where assets are located. . . . To the extent a jurisdictional nexus is required for recognition and enforcement actions, it has long been accepted that the presence of a defendant's assets is a sufficient basis for jurisdiction.").

The Restatement (Third) of Foreign Relations Law also confirms that an action to enforce a judgment may be brought wherever a defendant's property is found, "without any necessary connection between the underlying action and the property, or between the defendant and the forum." Restatement (Third) of Foreign Relations Law § 481 cmt. h (Am. L. Inst. 1987).

In addition to *Shaffer*, Defendant Karamehmet cites a single Third Circuit case–*U.S. Indus, Inc. v. Gregg*, 540 F.2d 142 (3d Cir. 1976)–as holding that it is unconstitutional to base jurisdiction on a nonresident defendant's ownership of stock in a company incorporated in the forum. But like *Shaffer*, *Gregg* concerned an attempt to use the Delaware sequestration statute to gain general *in personam* jurisdiction over a nonresident defendant to decide an unrelated plenary action, not enforcement of a judgment.

B. Seizure/Attachment is Not Required in Order to Provide a Basis for Exercising Personal Jurisdiction.

While he admits that *Pennoyer v. Neff*, 95 U.S. 714 (1877), has been overruled and supplanted by *Shaffer v. Heitner* and other modern Supreme Court cases, Defendant Karamehmet nevertheless tries to rely on this case to argue that jurisdiction cannot be based on a nonresident's ownership of local property without "seizure or some equivalent act." (Def. Supp. Br. at 3-4) Citing discussions in *Pennoyer*, he argues that seizure or attachment is necessary in order to (1) provide a basis for asserting jurisdiction; (2) as a means to give defendants notice of

the proceedings; and (3) for administrative convenience of assuring control over the property. None of these rationales holds water.

Modern constitutional jurisprudence distinguishes between two separate elements that must be satisfied in order for the exercise of jurisdiction to comport with requirements of due process: basis and notice. The well-known "minimum contacts" analysis addresses the question of whether a nonresident defendant's forum-directed activities provide an adequate basis for the court to exercise jurisdiction. Due process also requires that a nonresident defendant be given adequate notice of the action against him, so that the defendant has the opportunity to appear in the action and defend his or her interests.

Many state statutes have provided for seizure or attachment of a nonresident defendant's property at the outset of an action, either as an anachronistic means of gaining jurisdiction over a nonresident defendant or as a means of providing security for payment of an eventual judgment. No such statute applies here. Nor does Defendant cite any case supporting the proposition that seizure is constitutionally required in order to provide a basis for exercising jurisdiction. Under modern jurisprudence, whether there is a basis for jurisdiction depends on examining the connections between the defendant, the forum, and the subject matter of the litigation. As demonstrated by the cases cited in the preceding section, the presence of a foreign judgment debtor's property in the jurisdiction provides a constitutionally sufficient basis to exercise jurisdiction in an action to execute a judgment against that property. *Cf.* 4A Charles Alan Wright, Arthur R. Miller & Adam N. Steinman, *Federal Practice and Procedure* § 1070 (4th ed. 2015) (explaining that "it is the presence of the property within the jurisdiction and not its seizure that endows he court with jurisdiction over it").

Neither are courts required to seize or attach local property to provide constitutionally sufficient notice to nonresident defendants. *Pennoyer* belongs to an outdated line of authorities in which seizure of local property was held to provide constructive notice of proceedings to a nonresident property owner. Modern Supreme Court jurisprudence rejects this idea of "constructive notice." *See Shaffer*, 433 U.S. at 206 ("[W]e have held that property cannot be subjected to a court's judgment unless reasonable and appropriate efforts have been made to give the property owners actual notice of the action.") (citing *Schroeder v. City of New York*, 371 U.S. 208, 211 (1962), *Walker v. City of Hutchinson*, 352 U.S. 112, 114-16 (1956), and *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 318-20 (1950)). Defendant Karamehmet does not dispute that he has received actual notice of these proceedings by way of service of process.

The cases Defendant Karamehmet relies on do not demonstrate that seizure of property is constitutionally required. Both *Odyssey Marine Expl., Inc. v. Unidentified, Shipwrecked Vessel*, 675 F. Supp. 2d 1126 (M.D. Fla. 2009), and *Odyssey Marine Expl., Inc. v. Unidentified, Wrecked & Abandoned Sailing Vessel*, 727 F. Supp. 2d 1341, 1345-46 (M.D. Fla. 2010), concerned *in rem* claims under admiralty law to title of shipwreck artifacts sunken in and remaining beyond the territorial waters or contiguous zone of any nation. The court in *Pacific Employers Ins. Co. v. M/V GLORIA*, 767 F.2d 229 (5th Cir. 1985), concluded that the district court lacked jurisdiction to enter judgment against the vessel *in rem* because the plaintiffs never effected service, the vessel was not arrested, and no answer was filed on its behalf. The court in *United States v. One Oil Painting Entitled Femme en Blanc by Pablo Picasso*, 362 F. Supp. 2d 1175 (C.D. Cal. 2005), considered a court's seizure of property to be a relevant factor in a situation in which two courts were attempting to assert *in rem* jurisdiction over the same property.

Nor is seizure necessary in order to give the Court the practical ability to enter the relief sought herein. As discussed in Plaintiff's opening Supplemental Brief, the Enforcement of Judgments Act gives the Court broad powers to execute the English Judgment against Defendant's interest in Focus, including by appointing a receiver to take control over Focus's property and liquidate that property in order to satisfy Defendant Karamehmet's debt to Plaintiff. (Pl. Supp. Br. at 4-7.) Seizure of the actual share certificates is not required in order to exercise these powers.

C. At Common Law, Situs of Stock is the State of Incorporation.

Defendant Karamehmet once again mischaracterizes Plaintiff's argument with respect to the law governing the situs of shares. Plaintiff does not assert that Section 169 of the Delaware General Corporation Law is, or should be, directly applicable in the Marshall Islands. Rather, Plaintiff has noted that Section 169 codifies a principle of U.S. common law that was followed throughout the United States until it was modified in most states by the Uniform Commercial Code and other statutes. Pursuant to the Marshall Islands Constitution, U.S. common law applies with respect to issues not addressed by Marshall Islands statutory or customary law.[2]

Plaintiff has previously referred the Court to a lengthy list of cases demonstrating that, at common law, the U.S. courts consistently treated the place of incorporation as the proper situs of shares. (Pl. Supp. Br. at 2-3.) Defendant Karamehmet does not attempt to distinguish these cases and, although he suggests that "[t]hose courts that had considered the question ... did not

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2. *See Linkinbod v. Keljat*, S. Ct. Civ. No. 94-03 (April 21, 1995) (the 1979 Marshall Islands Constitution established a legal framework that "continued the common law in effect as the governing law, in the absence of customary law, traditional practice or constitutional or statutory provisions to the contrary"); *Republic of the Marsh. Is. V. Waltz*, S. Ct. Crim. No. 86-03 (Marsh. Is. Mar. 2, 1987) (to the same effect).

necessarily find that the shares were located in the place of incorporation," he cites no cases that reached a contrary result. (Def. Supp. Br. at 5.)[3]

II. Plaintiff Pleads Facts Showing Defendant Karamehmet is the 100% Beneficial Owner of Focus.

The Marshall Islands Rules of Civil Procedure, which are based on the U.S. Federal Rules of Civil Procedure, adhere to the principle of "notice pleading." Thus Rule 8 requires only that the complaint contain "a short and plain statement of the claim showing that the pleader is entitled to relief." Marsh. Is. R. Civ. P. 8(a). It is well settled that, at the pleading stage, a plaintiff is not required to refer to or provide specific evidence supporting each of his allegations, but only to "give the defendant fair notice of what the ... claim is and the grounds upon which it rests." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)). The allegations in the complaint need only provide sufficient detail to "raise a right to relief above the speculative level." *Id* at 555-56.

Plaintiff's allegations with respect to Defendant Karamehmet's ownership of Focus more than meet the "notice pleading" standard. In its complaint, Plaintiff alleges that Defendant Karamehmet is the 100 per cent beneficial owner of Defendant Marshall Islands corporation, Focus Investments. (Compl. ¶¶ 6-7.) Specifically, Plaintiff alleges that, in a prospectus issued by Genel Energy plc, ("Genel") on 17 June 2016, Genel disclosed that, upon the completion of the proposed listing of shares:

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3. Defendant Karamehmet quotes a law review article as stating that "[m]ost courts found that the situs of the intangible rights represented by the shares of stock could be found in two places: (a) the location of the shareholder, or (b) on the books of the corporation at its headquarters." (Def. Supp. Br. at 5-6 (*quoting* Eric A. Chiappinelli, *The Underappreciated Importance of Personal Jurisdiction in Delaware's Success*, 63 DePaul L. Rev. 911, 937 (2014)). However, the quoted language does not appear in that law review article, nor does the article otherwise rebut Plaintiffs showing that at common law the state of incorporation was considered to be the situs of shares.

> (4) Mehmet Karamehmet's beneficial interest in New Vallares [former name of Genel] Ordinary Shares will be held solely through Focus Investments, in which he will hold a 100 per cent beneficial interest.

(Compl. ¶ 8.) This is corroborated by a 21 April 2015 Notice of Annual General Meeting issued by Genel, in which Genel disclosed to its investors that "[t]he only business interest of Focus is the holding of shares in the Company. [Genel]," and that:

> (i) *Mehmet Emin Karamehmet*
> Mehmet Emin Karamahmet indirectly owns 17.26 per cent of the Voting Ordinary Shares and 23.21 per cent of the Ordinary Shares through his 100 per cent indirect ownership interest in Focus...

(Compl. ¶¶ 9-10.)

The supporting documentary evidence is attached to the complaint as Exhibits 2 and 3. And, at the Court's request, Plaintiff has now provided more recent documentation, which confirm that Defendant Karamehmet continues to be the beneficial owner of Focus. (Osuntokun Decl. ¶ 16 & Ex. E.)

By suggesting that the Court should dismiss this action on the ground that "there is no evidence that Karamehmet owns the shares of Focus" (Def. Supp. Br. at 7), Defendant Karamehmet is asking the Court to make a determination that should only be made by way of Motion for Summary Judgment, after discovery. Inasmuch as Plaintiff has plainly met the standard that applies at the pleading stage, this attempt to obtain premature summary judgment should be rejected.

III. There is No Available Alternative Forum.

Forum non conveniens is "an exceptional tool to be employed sparingly," and not a "doctrine that compels plaintiffs to choose the optimal forum for their claim."[4] *Dole Food Co. v. Watts*, 303 F.3d 1104, 1118 (9th Cir. 2002). According to the Supreme Court, unless the public and private factors are "strongly in favor of the defendant, the plaintiff's choice of forum should rarely be disturbed." *Gulf Oil v. Gilbert*, 330 U.S. 501, 508 (1947). *See also Reid-Walen v. Hansen*, 933 F.2d 1390, 1394 (8th Cir. 1991) (explaining that a court's discretion "must not overshadow the central principle of the *Gilbert* doctrine that 'unless the balance is strongly in favor of the defendant, the plaintiff's choice of forum should rarely be disturbed'") (internal citation omitted).

As the party seeking dismissal pursuant to the doctrine of *forum non conveniens*, Defendant Karamehmet bears the heavy burden of showing that an adequate alternative forum is available. This burden includes a requirement that the defendant substantiate his claims of evidentiary difficulties "by way of affidavit or other information." *Reid-Walen*, 933 F.2d at 1396 (concluding that defendants failed to carry their burden because they "have not submitted any information or affidavits to support their conclusory allegations"); *Baris v. Sulpicio Lines, Inc.*, 932 F.2d 1540, 1550 n.14 (5th Cir. 1991) ("we require a defendant to put forth unequivocal, substantiated evidence presented by affidavit testimony"); *Lacey v. Cessna Aircraft Co.*, 862

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4. This is consistent with the fundamental principle that a court with jurisdiction over a matter has a duty to exercise that jurisdiction. *See Cohens v. Virginia*, 19 U.S. 264, 404 (1821) ("It is most true that this Court will not take jurisdiction if it should not: but it is equally true, that it must take jurisdiction if it should. . . With whatever doubts, with whatever difficulties, a case may be attended, we must decide it, if it be brought before us. We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. . . Questions may occur which we would gladly avoid; but we cannot avoid them. All we can do is, to exercise our best judgment, and conscientiously to perform our duty.").

F.2d 38, 44 (3d Cir. 1988) (holding that when defendants failed to submit affidavits, the district court had insufficient information to undertake a *forum non conveniens* analysis). *See also Piper Aircraft Co. v. Reyno*, 454 U.S. 235, 258 (1981) ("[D]efendants must provide enough information to enable the District Court to balance the parties' interests.").

If a defendant seeking dismissal fails to prove that there is an adequate alternative forum, his motion must be denied. *See Halo Creative & Design Ltd. v. Comptoir Des Indes Inc.*, 816 F.3d 1366, 1370 (Fed. Cir. 2016) ("The first requirement for an alternative forum is availability, i.e., that all parties are amenable to process and are within the forum's jurisdiction.") (internal quotation omitted); *Stroitelstvo Bulgaria Ltd. v. Bulgarian-American Enterprise Fund*, 589 F.3d 417, 421 (7th Cir. 2009) ("A threshold requirement for any *forum non conveniens* dismissal is the existence of an alternative forum that is both 'available' and 'adequate.'"); *Adelson v. Hamanel*, 510 F.3d 43, 52 (1st Cir. 2007) ("[T]he party moving for dismissal bears the heavy burden of establishing that an adequate alternative forum exists."); *see also DiFederico v. Marriott Intern., Inc.*, 714 F.3d 796, 800-02 (4th Cir. 2013); *Fireman's Fund Ins. Co. v. Thyssen Min. Const. of Canada, Ltd.*, 703 F.3d 488, 495-96 (10th Cir. 2012); *Eurofins Pharma US Holdings v. BioAlliance Pharma SA*, 623 F.3d 147, 160 (3d Cir. 2010); *Norex Petroleum Ltd. v. Access Industries, Inc.*, 416 F.3d 146, 159-60 (2d Cir. 2005).

To demonstrate that an alternative forum is "available," the moving party must first show that the proposed alternative forum would have jurisdiction over all relevant parties. "For a case to be dismissed for *forum non conveniens*, the alternate forum must be available as to all defendants." *Galustian v. Peter*, 591 F.3d 724, 731 (4th Cir. 2010) (citing *Alpine View Co. v. Atlas Copco AB*, 205 F.3d 208, 221 (5th Cir. 2000) (vacating district court's dismissal because parties offered no evidence regarding availability of alternative forum to one defendant)); *see*

also Deb v. SIRVA, Inc., 832 F.3d 800, 810 (7th Cir. 2016) (district court erred in dismissing action without requiring defendants to show that India would have jurisdiction over two defendants); *TGI Sys. Corp. v. Jens Giessler and Neumann & Muller GmbH & Co. KG*, No. 15 C 4341, 2016 WL 878264, *7 (N.D. Ill. Mar. 8, 2016) (denying motion to dismiss when defendants failed to show proposed alternative forums would accept their waiver of an expired statute of limitations); *Poly-Med, Inc. v. Novus Scientific Pte. Ltd.*, No. 8:15-cv-01964, 2016 WL 695625, *9 (D.S.C. Feb. 22, 2016) (denying *forum non conveniens* motion brought by two defendants when they failed to establish that alternate forum is available to all defendants); *Taylor v. Tesco Corp. (US)*, No. H-11-00517, 2013 WL 361826, *2 (S.D. Tex. Jan. 29, 2013) (Mexico is not an available alternative forum when not all defendants agreed to submit to its jurisdiction); *Celta Agencies, Inc. v. Denizciliksanayi Ve Ticaret, A.S.*, 269 F. Supp. 2d 1 (P.R. 2003) (denying *forum non conveniens* motion when not all parties were amenable to Turkish jurisdiction).

Here, while the English courts might regard themselves as having personal jurisdiction over Defendant Karamehmet in the post-judgment context, it is far from clear those courts would regard themselves as having substantive jurisdiction over a claim to enforce the judgment, where the object of such enforcement would be outside their territory. (Second Decl. of Segun Osuntokun at ¶¶ 7, 13.) It is notable that Defendant Karamehmet, who is not in England and has heretofore ignored the English proceedings against him, has chosen not to confirm to this Court that he would either (1) submit to English jurisdiction, (2) actually appear in English proceedings to enforce the English Judgment, or (3) comply with orders of the English courts directing him to dispose of Focus or other property in order to satisfy the English Judgment. Nor has Defendant Karamehmet carried his burden of demonstrating that the English court would even have jurisdiction over Defendant Focus, which is a necessary party for obtaining the relief sought

herein. Defendant Karamehmet has submitted no affidavit, document, or any other evidence providing the Court with enough information to engage in *forum non conveniens* analysis. *Cf. Reid-Walen*, 933 F.2d at 1396; *Lacey*, 862 F.2d at 44.

Furthermore, Defendant Karamehmet's motion cannot be granted unless he has demonstrated that Plaintiff will be afforded at least some remedy in the proposed alternative forum. "[I]f the remedy provided by the alternative forum is so clearly inadequate or unsatisfactory that it is no remedy at all . . . the district court may conclude that dismissal would not be in the interests of justice." *Piper Aircraft Co. v. Reyno*, 454 U.S. 235, 254 (1981). *See also Halo Creative & Design Ltd. v. Comptoir Des Indes Inc.*, 826 F.3d 1366 (Fed. Cir. 2016) (district court erred in granting dismissal when no evidence indicated Canada would redress U.S. IP infringement claims); *Bhatnagar v. Surrendra Overseas Ltd.*, 52 F.3d 1220, 1228 (3d Cir. 1995) (proposed alternative forum was inadequate when excessive delays in that forum's legal system rendered the prospect of judicial remedy meaningless); *Ceramic Corp. of Am. v. Inka Mar. Corp. Inc.*, 1 F.3d 947, 949-50 (9th Cir. 1993) (district court abused its discretion in granting *forum non conveniens* dismissal when remedies provided in the alternative forum are "clearly unsatisfactory"); *Parex Bank v. Russian Sav. Bank*, 116 F. Supp. 2d 415, 426-27 (S.D.N.Y. 2000) (denying motion to dismiss when Russia lacked "any avenue of relief" for plaintiffs); *Shonac Corp. v. Marquesa Int'l Corp.*, CIV. A. No. 87-2756, 1988 WL 50601, at *3 (D.N.J. May 19, 1988) (finding "remedies in the Brazilian courts appear inadequate, if not illusory").

Plaintiff has commenced the present action for the sole purpose of having the English Judgment recognized and enforced against Defendant Karamehmet's interest in Focus, a Marshall Islands company. This is the only claim asserted and the only remedy sought.

Granting such remedy is plainly within the power of this Court. Yet the evidence indicates that the English court would not have jurisdiction to provide this remedy because neither Focus, Genel, nor any other property of Defendant Karamehmet is found in England. (Second Decl. of Segun Osuntokun ¶¶ 13, 16; Buss Letter at 1, 3.)

In short, the record shows that leaving Plaintiff to seek enforcement in England against Defendant Karamehmet's shares in Focus will leave Plaintiff with no remedy whatsoever. So far as the record shows, Defendant Karamehmet has no assets subject to English jurisdiction. Further, because he cannot be found within its jurisdiction, the English court cannot effectively (1) compel him to disclose his assets, wherever they might be found, or (2) freeze and liquidate assets outside England. Defendant Karamehmet therefore has not carried his burden of demonstrating that there is an adequate alternative forum, and his *forum non conveniens* motion must be denied.

IV. IF DEFENDANT KARAMEHMET'S FORUM NON CONVENIENS MOTION IS GRANTED, STRICT CONDITIONS SHOULD BE IMPOSED, AND THE ACTION SHOULD BE STAYED, NOT DISMISSED.

Plaintiff respectfully submits that Defendant Karamehmet has not come close to carrying the burden he must bear in order to successfully invoke the doctrine of *forum non conveniens*. In the event the Court comes to a different conclusion, Plaintiff respectfully submits that (1) the grant of Defendant's motion should be subject to strict conditions designed to ensure that Plaintiff can pursue an effective enforcement action in England, and (2) the present action should be stayed, rather than dismissed, so that Plaintiff can continue this action in the event there is any breach of the conditions or Plaintiff is not otherwise able to execute against Defendant's shares of Focus in England.

Courts granting *forum non conveniens* motions commonly impose conditions designed to ensure that the plaintiff will obtain jurisdiction and appropriate relief in the alternative forum.

Indeed, failing to impose conditions can be an abuse of discretion when there is a justifiable reason to doubt that a party will cooperate with the foreign forum. *See Carijano v. Occidental Petroleum Corp.*, 643 F.3d 1216, 1235-37 (9th Cir. 2011) (concluding district court abused its discretion by failing to condition its *forum non conveniens* dismissal on defendant's waiver of statute of limitations defenses, defendant's submission to satisfy any Peruvian judgment, and defendant's cooperation with discovery requests pursuant to the Federal Rules of Civil Procedure); *Baris v. Sulpicio Lines, Inc.*, 932 F.2d 1540, 1551 (9th Cir. 1991) ("Thus, courts must take measures, as part of their dismissals in forum non conveniens cases, to ensure that defendants will not attempt to evade the jurisdiction of the foreign courts. Such measures often include agreements between the parties to litigate in another forum, to submit to service of process in that jurisdiction, to waive the assertion of any limitations defenses, to agree to discovery, and to agree to the enforceability of the foreign judgment.").

The conditions courts impose in conjunction with granting *forum non conveniens* motions should be appropriately tailored to protect the party opposing dismissal. *See Staz v. McDonnell Douglas Corp.*, 244 F.3d 1279, 1283-84 (11th Cir. 2001) (conditioning dismissal on defendant consenting to any Argentine judgment against it, agreeing to conduct all discovery in accordance with the Federal Rules of Civil Procedure, and voluntarily producing documents and witnesses within the U.S.); *Blanco v. Banco Indus. De Venezuela, S.A.*, 997 F.2d 974, 983-84 (2d Cir. 1993) (conditioning dismissal on alternative court's appointment of bankruptcy trustee responsive to intervenors' interests); *Borden, Inc. v. Meiji Milk Prods. Co., Ltd.*, 919 F.2d 822, 829 (2d Cir. 1990) (affirming dismissal conditioned on Japanese court's action on plaintiff's request for preliminary injunction within specified time frame); *Stangvik v. Shiley Inc.*, 819 P.2d 14 (Cal. 1991) (affirming grant of *forum non conveniens* stay on seven conditions).

Plaintiff respectfully requests that any dismissal here be subject to at least the following conditions necessary to protect its right to proceed in England: (1) that Defendant Karamehmet agrees to accept personal service, submit to jurisdiction, and waive limitations or other procedural defenses in England; (2) that Defendant Karamehmet agrees to appear in an English proceeding, provide information about his assets in accordance with English procedures, and follow all interim orders of the English court with respect to those assets; (3) that the preliminary injunction entered by this Court be maintained until the conclusion of proceedings in England; and (4) that Defendant Karamehmet will not dispute the English court's power and jurisdiction to make orders executing the English Judgment against Focus or any other property that belongs to him, and will promptly comply with such orders.

It is also well-settled that a court granting a *forum non conveniens* motion has inherent authority to stay the case in the interest of justice, rather than dismiss it, particularly where this is necessary in order to ensure that the moving party complies with conditions imposed by the court. *See, e.g.*, *Veba-Chemie A.G. v. M/V Getafix*, 711 F.2d 1243 (5th Cir. 1983); *Perusahaan Umum Listrik Negara Pusat v. M/V Tel Aviv*, 711 F.2d 1231, 1241 n.31 (5th Cir. 1983); *Martinez v. White*, 492 F. Supp.2d 1186 (N.D. Cal. 2007); *Stangvik v. Shiley Inc.*, 819 P.2d 14 (Cal. 1991).

Given that there are, at the very least, considerable doubts about whether Defendant Karamehmet will submit to English jurisdiction for the purposes of enforcement of the English Judgment and otherwise honor the conditions enumerated above, a stay would be appropriate here.

Dated: 25 January 2018 (US date)

By:
Digitally signed by James McCaffrey
DN: cn=James McCaffrey, o=McCaffrey Firm, ou, email=James@McCaffreyFirm.com, c=MH
Date: 2018.01.25 17:16:20 -08'00'

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IN THE HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO LTD, a Korean corporation Plaintiff, vs. FOCUS INVESTMENTS LTD, a Marshall Islands corporation, and MEHMET EMIN KARAMEHMET Defendants.	Civil Action 2017-081 **SECOND DECLARATION OF SEGUN OSUNTOKUN IN OPPOSITION TO PLAINTIFF'S MOTION TO DISMISS**

I, Segun Osuntokun, declare under penalty of perjury of the laws of the Republic of the Marshall Islands that the following is true and correct to the best of my knowledge and belief:

1. I am a solicitor qualified to practice law in England and Wales, and am a partner of Berwin Leighton Paisner LLP, English solicitors for the Plaintiff. I qualified as a solicitor in 1993 and have twenty-four years' experience, of which fourteen years as a partner, in civil and commercial litigation before the English courts. I specialize in complex disputes, and cases involving fraud, corruption and asset tracing.

2. My firm and I acted for the Plaintiff in the English proceedings leading to entry of the judgment (the "**English Judgment**") whose recognition and enforcement is sought in these

proceedings, i.e. Samsung Heavy Industries Co. Ltd v Value Shipping and others, High Court claim number CL-2015-000622.

3. I make this Declaration in support of the Plaintiff's opposition to the Defendant Mehmet Emin Karahmemet's ("**Mr Karahmemet's**") Motion to Dismiss, to clarify, amend and expand upon certain aspects of my first Declaration dated 21 December 2017, as well as to address certain matters raised in Mr Karamehmet's Initial Supplemental Brief dated 22 December 2017 and the evidence of Mr Buss of Watson Farley Williams at Exhibit B to that Brief. I am competent to make this Declaration and, except as otherwise indicated, have personal knowledge of the matters stated herein.

A. Post-Judgment Disclosure and Enforcement Procedures Under English Law

4. In my first Declaration, and further to the Court's inquiry, I gave evidence as to the availability under English law of procedures to obtain disclosure about Mr Karamehmet's assets, and to enforce the English Judgment against those assets. I deal with each of these aspects in turn below.

5. In relation to the power under CPR 71 to require a judgment debtor to attend court for oral examination as to his assets, I referred in paragraph 5 of my first Declaration to English authorities to the effect that this power is limited to individuals physically within the jurisdiction of the court.[1] In preparing this Second Declaration, I have considered these cases and earlier authorities[2] in more detail, and have identified that those cases can be distinguished from the present facts on the basis that they concerned applications for orders for examination of officers

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1 i.e. *Masri v Consolidated Contractors International (UK) Ltd* (No 4) [2009] UKHL 43 and *CIMC Raffles Offshore (Singapore) Pte Ltd v Schahin Holdings SA* [2014] EWHC 1742 (Comm).

2 Including *Union Bank of Finland* v *Lelakis* [1997] 1 WLR 590 and *Interpool v Galani* [1998] 1 QB 738, cited by Mr Buss in his letter to Mr Karamehmet's counsel.

of companies, and not individual judgment debtors. In those cases the court was not prepared to construe its jurisdiction so as to include orders for oral examination against officers resident abroad. It appears, however, that the courts are, in appropriate cases, prepared to make orders for examination against individual judgment debtors in spite of their being out of the jurisdiction.[3] There is limited authority on the point, which could be partly ascribed to the limited practical value of an order for examination of an uncooperative defendant who is abroad and, as in this instance, may have to be served through slow and laborious processes such as under the Hague Convention and who, even after service, may ignore the court order. In this sense, an order for an oral examination of a debtor who is out of the jurisdiction is akin to a freezing injunction against such a debtor. As I pointed out in my First Declaration and as Mr Buss appears to agree: such an order would only have real teeth if the judgment debtor can be found within the jurisdiction and brought before the court.

6. As I noted in my first Declaration, Mr Karamehmet is (so far as we are aware) resident in Turkey. As he has refrained from appointing English solicitors to represent him in the English proceeding (he has chosen not to participate at all) or to accept any direct form of service, it has been necessary to serve all papers arising out of the English proceedings through international channels, in this case the Hague Service Convention. Service of English proceedings in Turkey under the Hague Service Convention cannot be undertaken by informal means, e.g. by post or personally, but must be through formal channels, namely the Turkish Central Authority, which in this case is the Turkish Ministry of Justice. This renders the process inherently uncertain and prone to delay. Further, the English court rules require that an order for

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[3] *Masri* at [16]-[17]; *Interpool v Galani* at pages 742-743.

examination be served personally on the recipient at least 14 days before the court's scheduled hearing.[4] This poses a real practical obstacle in cases where the method and timing of service is uncertain and not within the control of the Claimant – for instance, service of the Claim Form in the English proceedings on Mr Karamehmet was only effected after two months, whilst service of the English Judgment was only effected after four months. In both instances, service was effected by the Turkish Central Authority on a representative of Mr Karamehmet and not on him personally. As such, the Claimant would have to take a chance on fixing a court hearing date many months ahead (assuming the court were agreeable) and then hope that the order was served in time and personally. If it was not served in time and personally, one would have to reschedule the court date, seek an order dispensing with personal service and attempt service afresh, once again through the Hague Service Convention.

7. Assuming that service could be made on a timely basis and personally, it is appropriate to ask what recourse the English court would have in the event Mr. Karamehmet chooses to ignore the order directing him to come to England and give evidence with respect to his assets, as he has chosen to ignore all previous phases of the English proceedings against him. The answer is that the English court would have no practical way to compel Mr. Karamehmet's actual attendance if he is outside of England. At best, the English court could impose monetary penalties against him, which he could ignore in the same manner as he has ignored the very substantial judgment that has already been entered against him.[5]

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[4] CPR 71.3(1). The court may dispense with the requirement for personal service but the rules state that usually there will have to be an attempt at personal service first.

[5] Breach of an order for oral examination is also punishable by committal. However, such proceedings would only be effective if Mr. Karamehmet were to be brought before the English court.

8. On that basis, while I accept that the English court might technically have jurisdiction to make an order for examination against Mr Karamehmet, that option remains of limited or no practical value to the Claimant in this case.

9. Turning to the English court's powers in relation to enforcement, as I said in paragraph 4 of my first Declaration, the English court's jurisdiction to levy execution in satisfaction of its judgments is generally limited to property that is located in England and Wales. Mr Buss appears to agree with this: he confirms that "*the English Judgment may be enforced by the English courts in rem against all assets owned by Mr Karamehmet situated within the territorial jurisdiction of the courts of England and Wales*". Given that the Claimant has not identified any assets that Mr Karamehmet owns in England, this is a central limitation on the powers of the English courts to assist in enforcing the English Judgment.

10. In paragraph 4 of my first Declaration, I said that a contractual consent to English jurisdiction for a claim arising under a contract did not, by itself, extend to jurisdiction over the defendant in post-judgment disclosure or enforcement proceedings. While preparing this Declaration, I became aware of *dicta* in certain English judgments that suggest that, in some cases, the English courts are prepared to regard a submission to the court's *in personam* jurisdiction for the adjudicative stage of proceedings carries with it a submission to *in personam* jurisdiction for the enforcement stage.[6] In the light of those *dicta*, I accept that the statement made in my first Declaration was overbroad, and I am happy to correct the impression given.

11. Again, however, the fact that it may be possible for the Claimant to rely on the jurisdiction clauses in the Guarantees to apply to the English courts for an order for enforcement

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[6] *Lelakis* at [593] quoted with approval in *National Justice Compania Naviera SA v Prudential Assurance Co Ltd (No.3)* Queen's Bench Division, 8 June 2001at page 7.

is of minimal practical benefit to the Claimant given that, so far as we are aware, Mr Karamehmet has no assets in England and Wales and the courts will only exercise their enforcement powers over assets in England and Wales.

B. The freezing injunction

12. It is claimed in Mr Karamehmet's Initial Supplemental Brief[7] that the methods of enforcement available to the English court includes the freezing injunction. That is not strictly correct: as I noted in paragraph 8 of my first Declaration, this is not a method of enforcement as such, and it acts only against the defendant or judgment debtor, and not against the assets themselves. A breach of a freezing injunction can only be punished by way of the contempt of court jurisdiction. And as Mr Buss fairly points out, for such a punishment to be enforced in practice, the judgment debtor would need to be found within the jurisdiction and brought before the court.

13. So again, while the court theoretically has jurisdiction to make such an order in respect of Mr Karamehmet, such an order would be of limited or no practical benefit because it would not necessarily produce assets against which to enforce, he is outside England, and shows no sign of engaging with the proceedings or entering the jurisdiction.

C. Assertions in Mr Karamehmet's Initial Supplemental Brief

14. Mr Karamehmet's Initial Supplemental Brief contains some statements that require clarification or correction.

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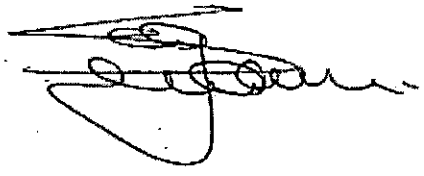
[7] Page 9.

15. First,[8] it is suggested that it is possible for us to serve Mr Karamehmet in England, on the basis that we have served Mr Karamehmet under English law. While we have served Mr Karamehmet with both the proceedings and the Judgment according to the English rules, it was and remains not possible to serve him in England because the Claimant is unaware of, and Mr Karamehmet has not volunteered, an address at which service can be effected in England. It was necessary (at additional cost and considerable delay) to serve Mr Karamehmet through his attorney in Turkey. Of course, it is always open to Mr Karamehmet to confirm that Watson, Farley & Williams, the firm representing him in these proceedings and which has a substantial presence in London, are instructed to accept service on his behalf in England.

16. Secondly,[9] it is suggested that the shares of Genel Energy plc are located or can be found in England. As a matter of English law, that is not correct. Genel is a company incorporated and registered in Jersey. Its registered office is at 12 Castle Street, St Helier, Jersey JE2 3RT. It has a London office, but equally it has an office in Ankara, Turkey.[10] Its share registry is held with the Jersey Financial Services Commission in Jersey and its share registrars are Equiniti (Jersey) Limited.

Dated: 25 January 2018



Segun Osuntokun

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8 Top of page 9.
9 Page 9, second paragraph.
10 Accounts, penultimate page.

Civil Action No. **2017-081 CBJ**

METHOD OF FILING

The foregoing

PLAINTIFF'S SUPPLEMENTAL REPLY OPPOSITION TO DEFENDANT MEHMET EMIN KARAMEHMET'S MOTION TO DISMISS; SECOND DECLARATION OF SEGUN OKUNTOKUN

was filed with the High Court in Majuro on the date below-written with

Clerk of Courts – High Court
P.O. Box 378
Majuro, MH 96960

Marshall.Islands.Judiciary@Gmail.com

CERTIFICATE OF SERVICE

I hereby certify that an exact duplicate of the document(s) filed above was duly served upon the below-named person(s) on the date below written by sending him a copy by

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( ) by Mail to the address below his name
( ) by Hand Delivery to his office

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Attorney for the Defendant
Mehmet Emin KARAMEHMET

Dated: 25 January 2018
Baja California

By: /s/ *James McCaffrey*
JAMES McCAFFREY
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JAN 26 2018
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REPUBLIC OF THE MARSHALL ISLANDS

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IN THE
HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO LTD Plaintiff, vs. FOCUS INVESTMENTS LTD, a Marshall Islands corporation, and MEHMET EMIN KARAMEHMET Defendants.	CIVIL ACTION NO. 2017-081 **DEFENDANT MEHMET EMIN KARAMEHMET'S SUPPLEMENTAL REPLY BRIEF IN SUPPORT OF THE MOTION TO DISMISS; CERTIFICAE OF SERVICE**

Defendant Mehmet Emin Karametmet, by and through counsel Dennis J. Reeder, hereby respectfully submits the attached Supplemental Reply Brief in Support of the Motion to Dismiss.

Dennis J. Reeder – January 26, 2018 (Majuro Date)

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IN THE
HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO LTD, Plaintiff, vs. FOCUS INVESTMENTS LTD, a Marshall Islands corporation, and MEHMET EMIN KARAMEHMET Defendants.	CIVIL ACTION NO. 2017-081 **SUPPLEMENTAL REPLY BRIEF OF DEFENDANT KARAMEHMET IN SUPPORT OF THE MOTION TO DISMISS**

Defendant Mehmet Emin Karamehmet ("Karamehmet") hereby submits this Supplemental Reply Brief in further support of the Motion to Dismiss the Complaint.

Plaintiff Samsung Heavy Industries Co. Ltd. ("Samsung" or "Plaintiff") seeks to use the courts of the Republic of the Marshall Islands ("RMI") to make an end-run around English law. Samsung wants this Court to issue an order naming Samsung owner of RMI nonresident corporation Focus Investments Ltd. ("Focus"), despite the fact that neither Karamehmet nor the shares of Focus are located here. Samsung would then take the order to England or Jersey to execute upon and sell the shares of Genel Energy Plc ("Genel"). This result would not be possible under English law.

However, to make this argument Samsung misrepresents United States common law and the law of England, as demonstrated below.

I. UNITED STATES COMMON LAW

Samsung's assertion that United States common law notionally locates shares in the state of incorporation is not supported by the decisions it has cited.[1] Thus in *State ex rel. N. Am. Co. v. Koerner*, 357 Mo. 908, 915, 211 S.W.2d 698, 700 (1948), the court makes it clear that it is relying on the state's previous statute, and not common law, when it notes that the situs of stock is in the place of incorporation. The court observed "[s]ection 1457 authorizing attachment of shares of stock has been in force in this state since 1860." *Id.* at 916. The *Koerner* court cites to 7 C.J.S., Attachment, § 92(b), to support the proposition that for purposes of attachment the general rule is that the situs of shares of stock is within the state where the corporation resides. *Id.* at 916. However, the current version of C.J.S. addressing attachment of corporate stock expressly states that "[a]t common law, shares of stock were not liable to attachment because they represented only intangible interest which could not be physically seized. And, under the law of some states, an intangible ownership interest in a corporation is not subject to attachment. However, under some statutes, shares of stock in incorporated companies may be attached." 4 C.J.S. Attachment § 86.[2]

Samsung also cites to the Fletcher Cyclopedia of the Law of Private Corporations ("Fletcher's), Section 5101.[3] However, that section does not expressly address the rule at common law, and notably cites to a number of cases from jurisdictions wherein local state statutes have provided for attachment of corporate stock. Notably, the preceding Section 4759 of Fletcher's provides:

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[1] See Plaintiff's Supplemental Opposition brief ("Samsung Suppl. Opp.") at 2-3 for cited cases.

[2] At first glance, a subsequent section 101 (Necessity of presence of property – Corporate stock) appears to contradict this summary of common law; however, the cases cited regarding the situs of corporate stock turn on the application of local state statutes.

[3] *See* Samsung Suppl. Opp. at n.2.

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IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO LTD, a Korean corporation Plaintiff, vs. FOCUS INVESTMENTS LTD, a Marshall Islands corporation, and MEHMET EMIN KARAMEHMET, Defendants	CIVIL ACTION NO. 2017-081 **ORDER FOR CONFERENCE**

TO: James McCaffrey, counsel for plaintiff
Dennis Reeder, counsel for defendants

Setting aside all other matters, you are ordered to appear before the undersigned at 2:00 p.m. on February 9, 2018, for a conference regarding "Plaintiff's Motion for Clarification as to Continuing Preliminary Injunction . . ." filed February 9, 2018. Off-island counsel may appear by telephone.

Ordered and Entered: February 9, 2018.

Carl B. Ingram
Chief Justice

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

Samsung Heavy Industries Co Ltd
Plaintiff
v
Focus investments Ltd & Mehmet Emin Karamehmet
Defendant

Civil Case No. 2017-081

CERTIFICATE OF SERVICE

I, Item I. Note, Asst. Clerk of the Courts, hereby certify that on 2/9/2018

I served the Order for Conference

filed 02/09/2018 in the above captioned matter on:

1. James McCaffrey by ☑ Email ☐ Fax ☐ Personal Hand Delivery
2. Dennis Reeder by ☑ Email ☐ Fax ☐ Personal Hand Delivery
3. _____ by ☐ Email ☐ Fax ☐ Personal Hand Delivery
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Attached is a copy of my ☒ Sent Email / ☐ Fax Confirmation.

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Marshall Islands Judiciary

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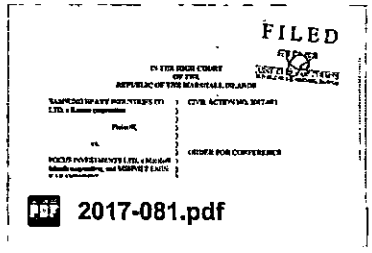
to James, Dennis

Iakwe Counsels,

I have attached an Order regarding the above case. Please confirm receipt.

Regards,

Item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IN THE HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO LTD, a Korean corporation Plaintiff, vs. FOCUS INVESTMENTS LTD, a Marshall Islands corporation, and MEHMET EMIN KARAMEHMET Defendants.	Civil Action **2017-081** CBJ PLAINTIFF'S MOTION FOR CLARIFICATION AS TO CONTINUING FORCE OF PRELIMINARY INJUNCTION OR IN THE ALTERNATIVE AN ORDER TO EXTEND PRELIMINARY INJUNCTION PENDING APPEAL FROM FEBRUARY 7, 2018 ORDER DISMISSING ACTION; - [Proposed] ORDER TO EXTEND PRELIMINARY INJUNCTION PENDING APPEAL; and CERTIFICATE OF SERVICE

Comes now Plaintiff SAMSUNG HEAVY INDUSTRIES CO LTD ("Samsung"), by and through its attorney, JAMES McCAFFREY, and hereby moves this Court for an order clarifying and confirming that its May 18, 2017 preliminary injunction (the "Preliminary Injunction") against Defendant FOCUS INVESTMENTS LTD ("Focus"), a Marshall Islands corporation, and MEHMET EMIN KARAMEHMET ("Karamehmet") remains in effect until (i) the time to file a notice of appeal or seek other relief from the Court's February 7, 2018 Order has expired, without Samsung having filed such a notice or sought such relief; or (ii) the issuance of a final, non-appealable decision at the conclusion of any appeal and/or subsequent proceedings. In the alternative, if the Court finds that the Preliminary Injunction has been dissolved as a result of its

February 7, 2018 Order, Samsung hereby moves this Court to enter an order extending the Preliminary Injunction, until (i) the time to file a notice of appeal or seek other relief from the Court's February 7, 2018 Order has expired, without Samsung having filed such a notice or sought such relief; or (ii) the issuance of a final, non-appealable decision at the conclusion of any appeal and/or subsequent proceedings. *Cf.* Marshall Islands Rule of Civil Procedure 62(c) (injunction pending appeal).

This action has been brought to enforce an English money judgment against property of Defendant Karamehmet located in the Republic, to wit Defendant Karamehmet's shares in Defendant Focus. On May 18, 2017, this Court entered an Order granting a Preliminary Injunction that, in summary, (i) enjoined and prohibited the transfer or sale of Defendant Karamehmet's shares in Focus, and (ii) enjoined and prohibited the transfer or sale of any assets of Focus other than in the ordinary course of business including, without limitation, the shares of Genel Energy plc held by Focus. The Order provided that the Preliminary Injunction would remain in effect "until the conclusion of the matter or modified upon noticed motion." (May 18, 2017 Order at 2.) By subsequent Order dated and entered February 7, 2018, the Court granted Defendant Karamehmet's motion to dismiss this action for lack of jurisdiction, holding that Defendant Karamehmet's shares in Focus, a Marshall Islands company, are not considered to be property located in the Marshall Islands.

Plaintiff is currently reviewing the February 7, 2018 Order with respect to whether to appeal or pursue other options in this forum. Inasmuch as the time for appeal or to seek other relief from the February 7, 2018 Order has not yet expired, it seems apparent that the matter is not yet concluded and the Preliminary Injunction therefore remains in effect. However, Defendant Karamehmet's counsel has informed Plaintiff's counsel that Plaintiff would need to

seek clarification from the Court before he would accept this. Accordingly, the present motion seeks clarification that the Preliminary Injunction remains in effect or, in the alternative, the entry of a new preliminary injunction maintaining the status quo pending the expiration of Samsung's time to appeal or, if appeal is taken, the issuance of a final, non-appealable order at the conclusion of the appeal and any further proceedings herein.

FACTUAL BACKGROUND

The Court is familiar with the background of this matter.[1] The salient allegations in the Complaint may be summarized as follows:

Defendant Focus is a non-resident, domestic corporation organized under the laws of the Republic of the Marshall Islands on November 28, 2008 as Entity Number 33290. Its registered address is Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro Atoll.

Defendant Karamehmet is an individual, a resident of Turkey, and absent from the Marshall Islands.

In the underlying claim, Plaintiff seeks to enforce a judgment (the "English Judgement") entered against Defendant Karamehmet in England in the High Court of Justice on February 8, 2016 for the payment of USD $44,332,413 (Forty-Four Million Three Hundred Thirty-Two Thousand and Four Hundred Thirteen United States Dollars) plus interest in favor of Samsung.

Defendant Karamehmet was properly served with a Claim Form (the equivalent of a Complaint under the MIRCP). He did not defend the claim and a default judgment was entered

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1. Samsung incorporates by reference the Declaration of Marcus Birch and exhibits that Samsung filed with its April 19, 2017 Motion for Temporary Restraining Order and Preliminary Injunctive Relief.

against him on February 8, 2016. Subsequently, he was served with the default judgment on June 17, 2016.

Defendant Karamehmet is the 100 percent beneficial owner of Defendant Focus, whose sole asset consists of shares in a Jersey company called Genel Energy plc.

Samsung brought this action to enforce the English Judgment against Defendant Karamehmet's shares in Defendant Focus. On June 30, 2017, Defendant Karamehmet filed a motion to dismiss for lack of jurisdiction, and in connection with that motion, the parties filed multiple rounds of briefing. The Court granted Defendant Karamehmet's motion to dismiss in its February 7, 2018 Order.

ARGUMENT

I. The Court Should Clarify that the Preliminary Injunction Remains in Effect Pending Appeal.

On May 18, 2017, the Court entered an order for a preliminary injunction against Defendants Karamehmet and Focus prohibiting them from transferring any shares in Defendant Focus and from transferring or selling any assets of Defendant Focus, including the shares it holds in Genel Energy plc. The Court's May 18, 2017 Order stated that the Preliminary Injunction remains in effect "until the conclusion of the matter or modified upon noticed motion." (May 18, 2017 Order at 2.)

While the Court granted Defendant Karamehmet's motion to dismiss on February 7, 2018, Samsung understands that the Preliminary Injunction remains in effect because the matter will not have been concluded until either (i) the time to file a motion for re-argument or notice of appeal has expired, without Samsung having filed such a motion or notice; or (ii) the issuance of

a final, non-appealable decision at the conclusion of any re-argument, appeal, and/or other subsequent proceedings.[2] However, Defendant Karamehmet's counsel has informed Plaintiff's counsel that he does not agree that the Preliminary Injunction remains in effect and has suggested that Plaintiff seek clarification on this point. Accordingly, Samsung requests that the Court issue an order confirming the continuing effect of the Preliminary Injunction. For the reasons set forth below and in the original application, Plaintiff will be irreparably harmed, and this action will be rendered nugatory, if Defendant Karamehmet is permitted to transfer the assets that are the subject of this proceeding.

II. In the Alternative, the Court Should Enter an Order Extending the Preliminary Injunction in Order to Maintain the Status Quo Pending a Potential Appeal.

In the alternative, if the Court finds that the Preliminary Injunction is no longer in effect, Samsung hereby requests that the Court issue an order extending the Preliminary Injunction in order to maintain the status quo pending resolution of Samsung's possible appeal of the February 7, 2018 Order and any other subsequent proceedings herein. The Court's February 7, 2018 Order created new law on matters of first impression regarding, *inter alia*, jurisdiction to enforce a foreign money judgment and the legal situs of shares in a Marshall Islands corporation. The Preliminary Injunction should remain in place until Plaintiff has had an opportunity to consider seeking re-argument or appellate review and, if such review is sought, until the Supreme Court has had the opportunity to address the novel legal questions presented here. Lifting the Preliminary Injunction and allowing Defendant Karamehmet to remove his shares in

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2. This measure of when a matter is concluded is also contemplated by the structure of the Marshall Islands procedural rules. Civil Procedure Rule 59(e) allows parties to file a motion to alter or amend a judgment within 14 days of a judgment and Appellate Procedure Rule 4(a) provides parties 30 days to appeal; in the meantime; Civil Procedure Rule 62(a) prevents the judgment from taking effect by generally prohibiting the execution or enforcement of the judgment for 30 days.

Focus from the Court's jurisdiction would cause Samsung irreparable harm in light of Defendant Karamehmet's persistent efforts to avoid satisfying the English Judgment and to shield and hold his assets outside the reach of judicial process.

A. The Injunction Standard

The Marshall Islands Supreme Court, in a one judge decision by Chief Justice Cadra, laid out the standard for a motion for stay or injunction pending appeal. *See Nuka v. Morelik*, S. Ct. Case No. 2006-008 (2007). In its June 8, 2015 Order Denying "Motion for Stay," *Niedenthal v. CEO*, S. Ct. Case No. 2015-001 (2015), the entire Supreme Court cited *Nuka* with approval. In both cases, the "traditional test" was applied, to wit:

The moving party must show:

1. the moving party will suffer "irreparable injury" if the relief is not granted,
2. the moving party will probably prevail on the merits or has "a substantial likelihood of success on the merits";
3. the balance of hardships favors the moving party; and
4. the public interest favors granting relief.

See Nuka at 41; *Niedenthal* at 3.

Similarly, the determination of preliminary injunctive relief in the non-appeal context requires consideration of three factors: (1) whether the plaintiff has a substantial likelihood of success on the merits; (2) the threat of irreparable harm to the plaintiff if the injunction is not imposed; and (3) the relative balance of potential hardships to the plaintiff, defendant, and the public. *See State of Alaska v. Native Village of Venitie*, 856 F.2d 1384, 1388 (9th Cir. 1988). These three factors have been incorporated into a test under which the moving party may meet its burden by demonstrating either: (1) a combination of probable success on the merits and the possibility of irreparable injury; or (2) that serious questions are raised and the balance of

hardships tips sharply in its favor. *See American Tunaboat Assoc. v. Brown*, 67 F.3d 1404, 1411 (9th Cir. 1995); *Los Angeles Memorial Coliseum Comm'n v. National Football League*, 634 F.2d 1197, 1202 (9th Cir. 1980). The standard for issuing a temporary restraining order is identical to the standard for issuing a preliminary injunction. *See Lockheed Missile & Space Co., Inc. v. Hughes Aircraft Co.*, 887 F. Supp. 1320, 1323 (N.D. Cal. 1995).

B. Plaintiff has a Substantial Likelihood of Success on Appeal.

In the event Plaintiff elects to appeal from the Court's February 7, 2018 Order, such appeal will have a substantial likelihood of success. As the Court itself recognized, its February 7, 2018 Order addressed matters of first impression and created new legal principles. On a potential appeal, Plaintiff anticipates addressing the following issues as to which there is substantial ground for disagreement with the Court's Order:

In its February 7, 2018 Order, the Court found that "when the Republic's constitution came into effect there was no United States '*common law in effect*' regarding the situs of shares in corporations" because all 50 states had adopted statutes expressly addressing the situs of shares. (February 7, 2018 Order at 9 (italics in original).) In so finding, the Court appears to have regarded the adoption of such statutes as having extinguished the common law rule regarding situs of shares. But the adoption of a statutory modification to a common law rule merely suspends the application of that rule. If, for example, the relevant statute were to be repealed, the common law rule will automatically come back into application again. *See, e.g.*, *Taylor v. State*, 969 So.2d 583, 584 (Ct. App. Fl. 2007) ("[T]he repeal of a rule which modifies the common law operates to reinstate the common law rule, absent contrary legislative intent."). Thus the rule established in the early 20th Century cases remained the common law of the U.S.

The Court recognized that the relevant question for jurisdictional purposes is where the shares of Focus are deemed to be located. However, the February 7, 2018 Order does not answer

this question. Instead, purporting to apply the broad powers accorded to it under the Enforcement of Judgments Act, the Court adopted the rule in Section 8-112 of the Uniform Commercial Code (the "UCC") requiring actual seizure of certificated shares a predicate to enforcing a judgment against them. (February 7, 2018 Order at 9-10.) But the powers given to the Court under the Enforcement of Judgments Act only come into play once there is a Marshall Islands Judgment. (30 MIRC Ch.1, Title ("AN ACT to provide for the enforcement of judgments of the Courts of the Republic." (emphasis added).) Nor does Section 8-112 of the UCC address the situs of shares for jurisdictional purposes. Rather, it provides the procedure for executing a judgment against shares (i.e. by seizure of the shares) once there is a judgment. The effect of the Court's decision is to require the seizure of share certificates by a court officer in order to establish jurisdiction at the very outset of a judgment enforcement case.[3] Nothing in the Rules of Procedure suggests that such seizure is either required or even feasible in order to commence a judgment enforcement action in the Republic.

Had the Court addressed the actual question of situs, it would have found good reasons for following the U.S. common law rule, which remains the express law of Delaware pursuant to Section 169 of the Delaware General Corporations Law.[4] Determining where shares should be deemed to be located requires a balancing of the interests of judgment creditors, who require an effective means of executing against shares, with the interests of transferees of stock, who desire

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3. A rule requiring seizure of property in order to obtain jurisdiction over a foreign defendant would harken back to the antiquated jurisdictional concepts and procedures discussed at pages 6-8 of Plaintiff's Supplemental Reply Opposition to Defendant Karamehmet's Motion to Dismiss.

4. Section 13 of the Marshall Islands Business Corporations Act (the "BCA"), instructing Marshallese courts to harmonize the Marshall Islands law with the laws of Delaware and other U.S. states that have similar corporate codes, provides a sufficient basis by itself to adopt the rule of Section 169 of the Delaware General Corporations Law. *See* 52 MIRC § 13.

certainty that a transfer will not be subject to collateral attack. For reasons made plain by the facts in this case, a rule that requires the physical seizure of shares in order to execute a judgment against the shareholder's interest effectively renders shares immune from execution. In the international sphere, the tools simply do not exist to compel a judgment debtor to disclose the location of his or her shares, or to prevent him or her from moving them at will, let alone for actually seizing them. On the other hand, a rule that requires enforcement proceedings to be brought in the place of incorporation provides potential stock transferees with a foolproof way to ascertain whether there are any claims against shares, i.e. by simply searching the court docket in the place of incorporation.

Finally, although it does not affect the current analysis, the Court's determination as to the applicability of U.S. common law in the Marshall Islands does not appear to be on firm ground. The Court noted that the framework established by the 1979 Marshall Islands Constitution "continued the common law in effect as the governing law, in the absence of customary law, traditional practice or constitutional or statutory provisions to the contrary." (February 7, 2018 Order at 8 (quoting *Linkinbod and Alik v. Kejlat,* 2 MILR 65, 66 (1995).) The Court construed this to reflect the adoption of U.S. common law as it stood on May 1, 1979, when the Constitution came into force.

The Court's interpretation ignores the word "continued" in the beginning of the language quoted from *Linkinbod*, as well as the broader policy reasons for applying U.S. common law to fill gaps in Marshallese law. During the trust period, courts of the Trust Territory were required to apply U.S. common law in effect at the time of decision. *See* 1 TTC § 103 ("The rules of the common law, as expressed in the restatements of the law approved by the American Law Institute and, to the extent not so expressed, as generally understood and applied in the United

States, shall be the rules of decision in the courts of the Trust Territory in applicable cases ....").
The most natural reading of the Supreme Court's statement in *Linkinbod* is that this continues to be the case. As a policy matter, harmonizing Marshallese law with current U.S. law provides commercial parties with certainty and predictability. Section 13 of the Business Corporations Act, requiring that the Act be construed so as to make it uniform with the laws of Delaware and other U.S. states that have similar legislative provisions, is presumably based on the same policy considerations.

C. Samsung Faces Irreparable Injury.

Defendant Karamehmet has made it plain by his behavior that he has no intention of paying the money he owes Plaintiff and will take all available steps to avoid doing so. There is every reason to believe that, if permitted to do so, Defendant Karamehmet will cause the transfer of Focus or its assets so as to place them beyond the reach of enforcement by this Court. Inasmuch as enforcement of the English Judgment against those assets is the sole purpose of this proceeding, such a transfer will irreparably harm Plaintiff by depriving it of execution against the sole known assets available to satisfy a duly-entered judgment and by rendering the present action futile before Plaintiff has had its day in Court.

To demonstrate irreparable injury, it is not essential to show that the injury is beyond the possibility of repair or possible compensation in damages. It is sufficient to show that the injury is one to which the complainant should not be required to submit or the other party permitted to inflict, and is of such nature that no reasonable redress can be had in a court of law. *See Crosland Ardrey Woods, LLC v. Beazer Homes Corp.*, COA09-880 (N.C. App. Ct. Aug. 17, 2010) (unpublished opinion) (citing *Hooks v. Int'l Speedways, Inc.*, 263 N.C. 686, 691, 140 S.E.2d 387, 391 (1965)).

Nor does the fact that the injury relates to money damages establish that Samsung has an adequate remedy at law. In *Nuka*, the Supreme Court stated that irreparable harm may be shown when the moving party may have difficulty collecting a judgment. *See* S. Ct. Case No. 2006-008 (citing *Tri-State Generation and Transmission Assoc., Inc. v. Shoshone River Power, Inc.*, 805 F.2d 351 (10th Cir. 1986)); *see also Cattle Fin. Co. v. Boedery, Inc.*, 795 F. Supp. 362, 364 (D. Kan. 1992) ("The court must ensure that a plaintiffs' victory in this case would not be an empty one."); *Central States, Southeast & Southwest Areas Pension Fund v. Merchants Motor Freight, Inc.*, 511 F. Supp. 38, 42 (D. Minn. 1980) (finding plaintiffs lack adequate remedy at law when defendants continued to breach their obligation to make payments), *aff'd per curiam sub nom., Central States, Southeast & Southwest Areas Pension Fund v. Jack Cole-Dixie Highway Co.*, 642 F.2d 1122 (8th Cir. 1981); *Philipp Bros. Div. of Engelhard Minerals & Chems. Corp. v. El Salto, S.A.*, 487 F. Supp. 91, 95 (S.D.N.Y. 1980) (difficulty in collecting money judgment is irreparable harm).

Consistent with these principles, courts have long recognized that preliminary injunctions serve the crucial purpose of preserving "the court's ability to render a meaningful decision on the merits." *United States v. Stinson*, 661 F. App'x 945, 952 (11th Cir. 2016) (internal quotation mark omitted); *see also, e.g., Tri-State Generation and Transmission Ass'n, Inc.*, 805 F.2d at 355 ("In issuing a preliminary injunction, a court is primarily attempting to preserve the power to render a meaningful decision on the merits."); *Compact Van Equipment Co., Inc. v. Leggett & Platt, Inc.*, 566 F.2d 952, 954 (5th Cir. 1978) ("A preliminary injunction may be issued to protect the moving party from irreparable injury and to preserve the power of the trial court to render a meaningful decision on the merits.").

Despite being served, Defendant Karamehmet did not appear and defend in the English proceeding. With significant expense and time Karamehmet was served with the English Judgment in Turkey and again with originating process in the current enforcement action. To date, Karamehmet has made no effort to satisfy the English Judgment and has ignored or resisted all demands for payment and attempts to collect on it.

There is no legitimate business reason for hiding one's ownership in a company through an offshore holding company. However, such deception is frequently used to hide assets from creditors. With difficulty, Samsung has found assets of Defendant Karamehmet here in the Marshall Islands and has brought the present action seeking to execute against these assets.

As this Court recognized when it granted the Plaintiff's Motion for Preliminary Injunction, if the transfer of Defendant Karamehmet's shares in Focus is not enjoined and the transfer of Focus's shares in Genel Energy plc is not enjoined, then Karamehmet could liquidate these assets and render any relief this Court might ultimately order a nullity. Following this Court's February 7, 2018 Order, these same dangers threaten to eliminate any meaningful opportunity for review by the Supreme Court. The preliminary injunction is thus necessary to "preserve the court's ability to render a meaningful decision on the merits." *Stinson*, 661 F. App'x at 952.

D. The Balance of Harms Favors Samsung.

The balance of harms favors Plaintiff. The relevant harms considered for determining this prong of the test is the harm that (a) occurs to the parties' legal interests and (b) cannot be remedied after a final adjudication, whether by damages or a permanent injunction. *See Salinger v. Colting*, 607 F.3d 68, 81 (2nd Cir. 2010) ("Harm might be irremediable, or irreparable, for many reasons, including that a loss is difficult to replace or difficult to measure, or that it is a loss that one should not be expected to suffer.").

Samsung's interests here are its legal interests in enforcing a valid foreign judgment against Defendant Karamehmet. Defendant Karamehmet has no legal interest in evading a properly entered foreign judgment. Having previously agreed to entry of the May 18, 2017 Preliminary Injunction, Defendants cannot legitimately claim that they will be irreparably harmed by an extension of that same injunction. In contrast, allowing a recalcitrant debtor to evade enforcement of a USD $44,332,413 judgment may render that judgment a nullity for Samsung, a very substantial harm indeed.

E. The Public Interest

The final consideration in the preliminary injunction analysis is whether the issuance of a preliminary injunction furthers the public interest. *See Pappan Enter., Inc. v. Hardee's Food Sys., Inc.*, 143 F.3d 800, 807 (3rd Cir. 1998). The United States Court of Appeals for the Third Circuit has noted that as a practical matter, "if a plaintiff demonstrates both a likelihood of success on the merits and irreparable injury, it almost always will be the case that the public interest will favor the plaintiff." *Am. Tel. & Tel. Co. v. Winback & Conserve Program, Inc.*, 42 F.3d 1421, 1427 n.8 (3rd Cir. 1994). In addition the public interest would be served by (i) ensuring the practical enforceability of judgments, (ii) maintaining the principle of comity and cooperation between the courts of the Marshall Islands and courts in other jurisdictions, and (iii) having the matters of first impression addressed in the February 7, 2018 Order reviewed and confirmed or otherwise resolved by the Supreme Court as a matter of controlling precedent for all courts of the Marshall Islands.

CONCLUSION

For the reasons set forth above, Plaintiff respectfully requests that the Court either (i) enter an Order clarifying and confirming that the May 18, 2017 Preliminary Injunction remains in effect until the later of (a) the expiration of Plaintiff's time to file a notice of appeal

from the February 7, 2018 Order or (b) the conclusion of any appeal or subsequent proceedings in this matter by final, non-appealable order, or (ii) enter an Order for a new preliminary injunction in the proposed form submitted herewith.

Dated: 8 February 2018
Baja California

By:
Digitally signed by James McCaffrey
DN: cn=James McCaffrey, o=McCaffrey Firm, ou, email=James@McCaffreyFirm.com, c=MH
Date: 2018.02.08 14:38:17 -08'00'

JAMES McCAFFREY
Attorney for Plaintiff

IN THE HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO LTD, a Korean corporation Plaintiff, vs. FOCUS INVESTMENTS LTD, a Marshall Islands corporation, and MEHMET EMIN KARAMEHMET Defendants.	Civil Action 2017-081 [Proposed] ORDER TO EXTEND PRELIMINARY INJUNCTION PENDING APPEAL

After considering the motion of Plaintiff SAMSUNG HEAVY INDUSTRIES CO LTD for an order extending the preliminary injunction issued on May 18, 2017 against Defendants FOCUS INVESTMENTS LTD ("Focus") and MEHMET EMIN KARAMEHMET ("Karamehmet") pending appeal, as well as the pleadings, declarations, and all other proceedings had herein, the Court finds and orders as follows:

1. Plaintiff has a substantial likelihood of success in an appeal from the Court's February 7, 2018 Order; may suffer irreparable harm if the May 18, 2017 Order granting preliminary injunction is not extended; the public interest would be served by such extension; and the balance of harms favors Plaintiff.

2. The Court's May 18, 2017 Order granting preliminary injunction remains in effect and therefore:

a) Defendant Karamehmet, his agents, servants, employees, attorneys and all persons acting in concert or participation with him are enjoined and prohibited

> Shares of stock in a corporation, being intangible property incapable of manual seizure, were held not subject to attachment or execution at common law, nor could they be subjected to garnishment process. Today, the seizure under process of shares of stock and making them subject to execution, attachment and garnishment is generally governed by statute . . .

10 Fletcher Cyc. Corp. § 4759 (Shares of stock and interests of shareholder—In general).

Samsung also cites to *Haughey v. Haughey*, 305 Mich. 356, 9 N.W.2d 575 (1943), where again it is clear that the court is citing to a statute governing the attachment of shares. Indeed, the *Haughey* court states that "at common law, certificates of stock were generally held to be merely evidence of the right to participate in the earnings of the corporation and not to embody the shares." *Id.* at 359. The *Haughey* court then cites to *Gundry v. Reakirt*, 173 F. 167, 169 (C.C.E.D. Pa. 1909), also cited by Samsung, wherein the court stated:

> A share of stock is, the nature of a chose in action, and at common law a chose in action could not be reached by or made subject to a levy of execution. Consequently it has been uniformly held by the courts that at common law a levy of execution could not be made on shares of stock. Unless, therefore, the process of execution has been extended by statute, so as to reach such property, the stock of a judgment debtor cannot be made subject to the payment of his debts by means of an execution. An attachment, being entirely statutory, can be levied on shares of stock only when the words of the statute declare that an attachment may be levied upon such property.

Id. at 169 (*quoting* section 480 of 2 Cook on Corporations (5th Ed.)).

Samsung also cites to *Mills v. Jacobs*, 333 Pa. 231, 4 A.2d 152, 153 (1939), wherein the Supreme Court of Pennsylvania specifically explained:

> At common law shares of stock of a corporation, whether foreign or domestic, were not subject to attachment. In an attempt to enable creditors to reach this type of property, the Pennsylvania legislature passed statutes making stock subject to attachment.

Id. at 23.

Samsung's argument that at common law the shares of stock were located in the state of incorporation for attachment purposes is belied by the very cases it has cited, which uniformly

provide that common law is otherwise. Indeed, the cited cases make it clear that in the absence of statutory authority, common law views shares as incorporeal and not subject to attachment or execution. Of those cases that mention that stock is located at the place of incorporation, it is clear that they are referring to historical statutory law, not common law. The law of the RMI directs this Court to look only to the common law of the United States to explain or supplement similar RMI statutes, not to adopt statutory law, and so Samsung's argument should be rejected. *See* RMI Business Corporations Act, § 13.

II. REMEDIES AVAILABLE UNDER THE LAW OF THE RMI ARE INAPPLICABLE

Samsung spends much of its brief discussing possible remedies for the execution on property located in the RMI. But Samsung itself has admitted that in order for the Court to have jurisdiction to recognize the English judgment, there must be property of the Defendant in the RMI.[4]

When the debtor does not have assets in the jurisdiction courts have refused judgment recognition and enforcement. *See Electrolines, Inc. v. Prudential Assurance Co.,* Ltd., 260 Mich. App. 144, 161, 677 N.W.2d 874, 884 (2003) ("[I]n an action brought to enforce a judgment, the trial court must possess jurisdiction over the judgment debtor or the judgment debtor's property"); *Glencore Grain Rotterdam B.V. v. Shivnath Rai Harnarain Co.*, 284 F.3d 1114, 1127–28 (9th Cir. 2002) ("[B]y the very terms of its argument, the sine qua non of basing jurisdiction on a defendant's assets in the forum is the identification of some asset. Glencore Grain fails to identify any property owned by Shivnath Rai in the forum... Indeed, the best Glencore Grain can say is that it believes in good faith that Shivnath Rai has or will have assets located in the forum. This is simply not enough. Given the record before us, we must reject Glencore Grain's argument for jurisdiction based on property in the forum."); *Arbor Farms, LLC v. GeoStar Corp.*, 305 Mich. App. 374, 382, 853

[4]See Opposition to Motion to Dismiss of Samsung Heavy Industries Co. Ltd. at 4-5.

N.W.2d 421, 427 (2014) ("When a party seeks enforcement of a foreign judgment in Michigan, there exists a foundational jurisdictional requirement that must be satisfied with regard to the judgment debtor's person or property."); *UMS Partners, Ltd. v. Jackson,* No. 94J-12-159H-17-076, 1995 WL 413395, at *2 (Del. Super. Ct. June 15, 1995).

Permitting recognition and enforcement of a foreign country judgment where there is no debtor property present to identify, seize, and transfer is impractical, illogical and can result in grave injustice. Indeed, the judgment debtor may have to appear in a forum where it has no connection, halfway around the globe, to defend such an action, which is exactly what has occurred here. While the mere recognition of an English judgment in a place where there are no assets of the defendant appears unlikely to do much harm, it is clear that Samsung is seeking to lever such recognition elsewhere, all in an effort to escape the strictures of the English law it chose in the guarantees.

Samsung picked the RMI, an admittedly inconvenient forum, to obtain an *ex parte* restraining order on scant facts and a clear misinterpretation of U.S. common law. Samsung has requested an additional order from this Court requiring the shares of Focus to be turned over to it. *See* Samsung's Supplemental Brief in Opposition at 7 ("With the Court's order designating Plaintiff as the new owner of Focus Investments, Plaintiff could then seek to sell the company's shares in Genel at market prices....").

Samsung knows it cannot enforce such an order in the RMI, as neither the shares nor anyone controlling the shares is here. Instead, Samsung hopes to take this Court's order to England or Jersey for enforcement. *Id.* ("Armed with the Court's order, the receiver will be able to direct the sale of the Genel shares at market prices, and transfer the proceeds of the sale to Plaintiff....."). As detailed below and in the declarations of Charles Buss, courts in these jurisdictions would never issue such an order. Samsung's attempt to obtain recognition of the English court judgment in the

absence of jurisdiction over Karamehmet or the presence of any of his property here is a clear attempt to avoid the English forum and law which the parties agreed would govern. Such forum shopping is an abuse of the RMI Recognition Act, international comity and would constitute a severe violation of Karahmehmet's due process rights.

In summary, in an action brought to enforce a judgment the court must possess jurisdiction over the judgment debtor or the judgment debtor's property. This prevents "gaming" the system by obtaining recognition of a judgment in a far-flung jurisdiction, and related "turnover" orders, that would not be obtainable in the jurisdiction that issued the judgment or where the assets are located. Neither RMI nor any other law mandates this result.

III. ENGLAND IS AN ADEQUATE ALTERNATIVE FORUM

Samsung incorrectly represents English jurisdictional law in an effort to show that the United Kingdom is an inappropriate forum. However it is not a lack of jurisdiction which is the problem for Samsung in England, it is the fact that Samsung would be required to pierce the corporate veil of Focus and its owner before executing on the shares of Genel. As explained in previous submissions, veil piercing is very difficult under English law and would not be permitted in this case. *See, FR8 Singapore Pte. Ltd. v. Albacore Mar. Inc.*, 794 F. Supp. 2d 449, 459–60 (S.D.N.Y. 2011).

As set forth in the supplemental declaration of Charles Buss, attached hereto as Exhibit A ("Suppl. Buss Decl."), Samsung's solicitor, Mr. Osunkotun, incorrectly interprets English law in an effort to enhance Samsung's argument. In his opinion, Mr. Osunkotun states that the power of the English courts to obtain an order requiring a judgment debtor to attend court for oral examination is "*limited to individuals physically within the jurisdiction of the court*" citing to the decision in *Masri v Consolidated Contractors International Co SAL* [2009] UKHL 43. However, as explained

by Mr. Buss, the decision in *Masri* only applies when a *company* is the judgment debtor. When a company is the debtor, officers of the company outside of the jurisdiction cannot be compelled to appear. It is a different story if the judgment debtor is an individual, as is the case here.

As explained by Mr. Buss, the *Masri* court specifically differentiated individual judgment debtors, stating "[i]t must be possible to obtain an order for examination of an individual when he or she is the judgment debtor. Service out of the jurisdiction on such an individual will be possible with leave under, or without leave by implication from, the terms of CPR 6.30(2)...." Suppl. Buss Decl. at 1.

This position is confirmed by the Court of Appeal decision in *Union Bank of Finland Ltd. v Lelakis* [1997] 1 WLR 590 (attached as Exhibit B). The factual similarities and legal questions raised in *Lelakis* are remarkably similar to those involved in this matter, and the decision clearly demonstrates that Samsung's restatements of English law are misleading and incorrect. Defendant Lelakis, a Greek shipowner, provided personal guarantees to the plaintiff bank to secure a loan to purchase a vessel. Lelakis's personal guarantees contained an English submission to jurisdiction clause essentially indistinguishable from those in the guarantees at issue in this matter. The plaintiff bank obtained a default judgment against Lelakis and then sought to serve an order outside of England requiring Lelakis to appear for a post-judgment examination. Lelakis had argued in the court below that such an order could not be served outside of the jurisdiction, and that the submission to jurisdiction clause was ineffective post-judgment – the same position that Samsung has represented is the law of England. The Court of Appeal,[5] however, disagreed.

[5] The Court of Appeal is the highest court within the Senior Courts of England and Wales.

The Court of Appeal in *Lelakis* first examined the question of whether the submission to jurisdiction clause was applicable to post-judgment enforcement actions. In that regard the court stated:

> Before the [trial] judge the first point raised on behalf of the plaintiff was that clause 13.02 [the submission to jurisdiction clause in the guarantee] only gave jurisdiction to the English courts to adjudicate upon the dispute, but was not a submission to the jurisdiction of the court for the purposes of enforcement. This distinction has been drawn in cases relating to the sovereign immunity of states, but the judge was rightly to find that the considerations that led to that distinction in those cases were not applicable to a commercial agreement between lender and borrower. He was satisfied that clause 13.02 was a *submission both to the adjudicative and enforcement jurisdiction of the court.* In this he was clearly right, and Mr. Gee realistically no longer relies on this ground of appeal.

Id. at 593 (emphasis added) (decision attached as exhibit B). Thus, Samsung's statement that "[u]nder English law, a contractual consent to English jurisdiction for a dispute that arises under the contract does not extend to post-judgment enforcement proceedings" is simply wrong. Samsung Suppl. Opp. at 9. The *Lelakis* court went on determine that the post-judgment order for examination could be served outside the jurisdiction on the judgment debtor. This again contradicts Samsung's representation of English law.

Notably, Samsung tacitly concedes that it would be required to pierce corporate veils under English law in order to execute on the shares of Genel. Nor does Samsung disagree that it would be almost impossible to pierce the corporate veils to reach the Genel shares in this case. This, however, is not a sufficient reason to find England is not an adequate forum. *Loya v. Starwood Hotels & Resorts Worldwide, Inc.*, 583 F.3d 656, 666 (9th Cir. 2009) ("[T]hat the law, or the remedy afforded, is less favorable in the foreign forum is not determinative" in the considering whether the foreign forum is adequate for *forum non conveniens* purposes.).

IV. CONCLUSION

Samsung filed suit in the RMI knowing that neither the Defendant nor his property were located here. Samsung clearly hoped to obtain a judgment and order before Defendant had appeared, just as it obtained its temporary restraining order *ex parte*. With no opposition it might have cajoled the Court to issue an order allowing it to execute on the Genel shares, something that it could not do in England, despite the indubitable jurisdiction of the English courts. Now, however, Samsung must resort to misrepresenting both United States common law and English law in order to argue its position.

In summary, there is no jurisdiction over the Defendant nor any of his property in the RMI. In contrast, the English courts continue to have jurisdiction over this matter and the shares that Samsung wants to execute upon are located either in England or Jersey. It is only the fact that English law is unfavorable that made Samsung abandon England, the forum it chose in the guarantees. Accordingly, this action should be dismissed.

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Exhibit A

Watson, Farley & Williams LLP,
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USA

By **courier** and by email to: Mr John Kissane (jkissane@wfw.com)

Your reference: S/6.380
Our reference: BUSC1/32264.50000/61337433v1

23 January 2018

Dear Sirs,

Samsung Heavy Industries Co., Ltd. (the "Plaintiff") –v- Focus Investments Ltd. ("Focus") and Mehmet Emin Karamehmet ("Mr K") – English legal opinion and sworn statement in reply

I give this supplemental opinion further to my legal opinion dated 20 December 2017 (**"my 1st Opinion"**) and in reply to the declaration of Mr Segun Osunkotun made on behalf of the Plaintiff on 21 December 2017. I wish to make the following points in reply:

1. *The English court does have jurisdiction over Mr K post-judgment*

In his declaration, Mr Osunkotun states that the power of the English court to require a judgment debtor to attend court for oral examination is *"limited to individuals physically within the jurisdiction of the court"*. Mr Osunkotun does not make clear that the territoriality principle to which he refers applies to individuals who are officers of judgment debtor companies but not to individuals who are themselves judgment debtors. In this case, the individual concerned (Mr K) is himself the judgment debtor and is liable to be orally examined in that capacity. As I stated in my 1st Opinion, an order for Mr K's oral examination may therefore be served on Mr K out of the jurisdiction. This is confirmed at paragraph 17 of the Supreme Court's judgment in the *Masri* judgment to which Mr Osunkotun refers:

"It must be possible to obtain an order for examination of an individual when he or she is the judgment debtor. Service out of the jurisdiction on such an individual will be possible with leave under, or without leave by implication from, the terms of CPR 6.30(2), stating:

"…. where the permission of the court is required for a claim form to be served out of the jurisdiction the permission of the court must also be obtained for service out of the jurisdiction of any other document to be served in the proceedings".

O 11, r 9(4) (the differently worded predecessor to CPR 6.30(2)) was, rightly, held to authorise service out with leave in such a situation in Union Bank of Finland Ltd. v Lelakis [1997] 1 WLR 590".

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Accordingly, what Mr Osunkotun states at paragraph 6 of his declaration is incorrect. The correct position is that the English courts may make an order for Mr K's oral examination and may grant permission for such an order to be served on Mr K out of the jurisdiction, just as the English court previously allowed such an order to be served out of the jurisdiction on Captain Antonios Lelakis, a Greek ship-owner, in the *Lelakis* case, cited by the Supreme Court (and by me in my 1st Opinion) and in which case I assisted as a junior lawyer and in which my firm acted for the plaintiff bank. Indeed, in the *Lelakis* case, the court held both at first instance (unreported) and on appeal (*Union Bank of Finland v Lelakis* [1997] 1 WLR 590 at p. 593) that the jurisdiction clause in the relevant contract (which was, like in the present case, a personal guarantee of a commercial shipping loan) was a submission to both the adjudicative and the enforcement jurisdiction of the English courts.

The jurisdiction clause in the *Lelakis* case (quoted in a report of a different aspect of that case (*Union Bank of Finland v Lelakis* [1995] CLC 27 at p. 29)), provided as follows:

"In relation to any dispute arising out of or in connection with this guarantee, and for the exclusive benefit of the lender, the guarantor hereby irrevocably and unconditionally:

(a) submits to the jurisdiction of the High Court of Justice in England and waives any objection to proceedings with respect to this agreement in such court on the grounds of venue or inconvenient forum...."

It can be seen that the clause in the *Lelakis* case, like in the present case, drew no distinction between the English court's jurisdiction at the adjudicative stage and at the later enforcement stage. I can therefore see no reason why the English court would construe the jurisdiction clause in the present case any differently or more narrowly in this respect. Indeed, for a jurisdiction clause to be construed so as not to confer jurisdiction on the court at the enforcement stage, I would expect such a clause to include wording that so expressly restricted its application.

2. *The real impediments to enforcement in England of the Plaintiff's English judgment against Mr K's interest in shares of Genel Energy plc ("**Genel**")*

In paragraph 14 of his declaration, Mr Osunkotun states that the Plaintiff is aware that Mr K *"through the Defendant Focus Investments Ltd....owns a considerable proportion of the shares in Genel...."*. Mr Osunkotun does not explain how Mr K is interested in Genel's shares. The Plaintiff is aware, however, that Mr K does not hold shares directly in Focus Investments Ltd. (**"Focus"**). Mr Osunkotun goes on to say that Genel's shares are registered in Jersey, which he notes is an English Crown dependency but not part of the UK, and to say that for this reason, as well as the fact that Mr K is not subject to the English court's jurisdiction: *"it is not possible for the Plaintiff to seek to enforce its judgment against that interest in the English courts"*.

I disagree with these statements. First, for the reasons explained above, Mr K is subject to the English court's jurisdiction. Secondly, as I explained in my 1st Opinion, if Mr K himself owned shares in Genel, they could be charged in England (if the register of the relevant shares is maintained here) or attached in Jersey (if the relevant register is maintained there). Although I am not a Jersey qualified lawyer, I am, as an English lawyer, aware that there are reciprocal enforcement treaties between all English Crown dependencies and the UK. For example, I am aware that English judgments are enforceable in Jersey under the Judgments (Reciprocal Enforcement) (Jersey) Law 1960. I am also aware that moveable assets such as shares can be enforced against in Jersey by a process known as distraint by *arrêt* or *arrêt entre mains*, depending on whether the asset is in the possession of the debtor or a third party.

The real impediment, therefore, to the Plaintiff enforcing its English judgment against Mr K's indirect interest in Genel shares, whether in England or Jersey, is that the Plaintiff would need to pierce the corporate veil of such companies through which such indirect interest were held in order to do so. So, for example, were England the *situs* of Focus's shares, the Plaintiff would, in order to enforce its judgment

against an indirect interest held by Mr K in Focus's shares, need to pierce the corporate veil of the company or companies through which such shares were held.

I hereby swear under penalty of perjury of the laws of the Republic of the Marshall Islands that the above is true and correct.

Yours faithfully,

Charles Buss,
Watson Farley & Williams LLP
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Exhibit B

official vested with authority who not only directed them negligently as to what was required to achieve compliance with the statutory provisions, but also gave them inaccurate information about the true extent of his authority and omitted any reference to their own rights under the statutory provisions. It would be neither just nor fair nor reasonable to hold that a duty of care did not exist or that liability could not be established.

I, too, would dismiss this appeal.

Appeal on liability dismissed.
Damages reduced to £34,000.
Leave to appeal refused.

Solicitors: Blake Lapthorn for Stephens & Scown, Truro; Frank & Caffin, Truro.

[Reported by ISOBEL COLLINS, Barrister]

[COURT OF APPEAL]

*UNION BANK OF FINLAND LTD. v. LELAKIS

1996 April 29; May 13

Henry and Saville L.JJ.

Practice—Order for examination—Service out of the jurisdiction—Defendant domiciled in Greece—Writ served within jurisdiction although service outside permissible without leave—Plaintiff obtaining judgment and order for examination of defendant as to assets—Order for examination served on defendant personally outside jurisdiction—Whether service effective—R.S.C., Ord. 11, rr. 1, 9(4)

The defendant, a Greek national domiciled in Greece, entered into two personal guarantees in relation to loans from the plaintiff totalling U.S.$10m. The terms of the guarantee agreements provided that they should be governed by English law and subject to the jurisdiction of the High Court of Justice in England. The plaintiff issued a writ for recovery of sums outstanding and due for payment under the guarantees. Although the writ could have been served on the defendant outside the jurisdiction under R.S.C., Ord. 11, r. 1(2),[1] it was served on his agent in the United Kingdom and the form used was not one which was suitable for service out. The plaintiff obtained judgment in default of acknowledgement of service for a sum in excess of $8m. and an order under R.S.C., Ord. 48, r. 1 that the defendant attend before the court in London to be examined as to his assets. The order

[1] R.S.C., Ord. 11, r. 1(2): see post, p. 594D–F.
R. 9(4) provides: "service out of the jurisdiction of any ... order ... made in any proceedings is permissible with leave ... but leave shall not be required for such service in any proceedings in which the writ ... may ... be served out of the jurisdiction without leave."

A was served personally on the defendant while he was in Greece in relation to one appointment and when he was in New York in relation to a further appointment. The defendant applied to set aside the order on the ground that it had not been lawfully served out of the jurisdiction under Ord. 11, r. 9(4) or otherwise. The master refused the application and the judge upheld his decision.

On appeal by the defendant:—

Held, dismissing the appeal, that R.S.C., Ord. 11 contained B the entire code authorising service out of the jurisdiction and any gaps in that code had to be filled by express provision; that the "proceedings" covered by Ord. 11, r. 9(4) included both the adjudicative proceedings leading to the judgment and the enforcement proceedings consequent upon that adjudication; that since the defendant was domiciled in a country to which the Civil Jurisdiction and Judgments Act 1982 applied the writ could have C been served upon him without leave of the court under Ord. 11, r. 1(2); that Ord. 11, r. 9(4) was concerned with the substance of the process and not with mere form and contemplated the possibility of service within the jurisdiction, and if the proceedings were appropriate for service of the writ outside the jurisdiction without leave the validity of the service of subsequent orders did not depend on whether the writ had in fact been served within the jurisdiction or outside it, nor did it matter that the writ, D legitimately used for service in, was not in the requisite form for service out; and that, accordingly, the order under Ord. 48, r. 1 had been effectively served on the defendant outside the jurisdiction (post, pp. 593G–H, 594A–B, F–595B, C–D).

Per curiam, A contractual term requiring a defendant to submit to the jurisdiction of the English court applies for both adjudicative and enforcement purposes (post, p. 593E–F).

Decision of Thomas J. affirmed.

E

The following cases are referred to in the judgment of Henry L.J.:

Anglo-African Steamship Co., In re (1886) 32 Ch.D. 348, C.A.
Busfield, In re; Whaley v. Busfield (1886) 32 Ch.D. 123, C.A.
Tucker (R.C.) (A Bankrupt), In re, Ex parte Tucker (K.R.) [1990] Ch. 148; [1988] 2 W.L.R. 748; [1988] 1 All E.R. 603, C.A.

F

No additional cases were cited in argument.

APPEAL from Thomas J.

The plaintiff, Union Bank of Finland Ltd., obtained default judgment against the defendant, Antonios Lelakis, for payment of sums due under a loan for which he was guarantor. The plaintiff also obtained an order G under R.S.C., Ord. 48, r. 1 that the defendant attend before a court examiner in London to be questioned as to his assets, which was served on the defendant outside the jurisdiction. The defendant sought to set aside the order by summons dated 6 February 1995. The master refused the application and the defendant's appeal was dismissed by Thomas J. on 15 February 1996. The defendant appealed on the sole ground that the H enforcement jurisdiction of the court had not been effectively invoked by the purported service of the order on the defendant outside the jurisdiction.

The facts are stated in the judgment of Henry L.J.

Steven Gee Q.C. and *Vasanti Selvaratnam* for the defendant.
Andrew Hochhauser for the plaintiff.

Cur. adv. vult.

13 May. The following judgments were handed down.

HENRY L.J. Captain Lelakis is, in the words of Thomas J., "an experienced Greek shipowner." He is the defendant in this action, and the appellant before us. In 1992 he wished to build a new ship. A company, of which he was the principal shareholder and sole beneficial owner, borrowed a total of U.S.$10m. from the plaintiff bank. He entered into two personal guarantees in relation to that loan. In August 1994 the plaintiffs served notices of default and demands for payment under the guarantees on the defendant. On 14 September 1994 they issued a writ for recovery of the sums due. That writ was purportedly served in the United Kingdom under submission to jurisdiction clauses contained in the guarantees. Judgment in default of acknowledgement of service was obtained on the first available day, for a sum in excess of $8m. The defendant applied to set aside that judgment, first on the ground that he had not been properly served, and second on the merits. That application was heard by Clarke J. and failed. A stay was refused. The single judge (Saville L.J.) refused leave on paper, but the full court (Aldous and Hutchison L.JJ.) granted leave to appeal. However, by order made on 31 July 1995 they refused a stay of execution save in respect of a sum deposited by way of cash collateral.

That is all by way of background. This appeal stems from the purported service out of the jurisdiction of an order made under R.S.C., Ord. 48, r. 1 that the defendant attend before a court examiner in London to be questioned as to his assets. By summons dated 6 February 1995 the defendant sought to set aside this order on the basis that it could not lawfully be served out of the jurisdiction. Master Miller refused that application in a full and carefully reasoned judgment. Various points were taken before him—but the only one which survives is the broad proposition that there was no jurisdiction in the court to approve such service. That in its turn was appealed, the appeal coming before Thomas J. He dismissed the appeal by judgment delivered on 15 February. This appeal is launched against that dismissal. We heard the appeal on 29 April, the appointed day for the examination of the judgment debtor as to his assets being 1 May. The proximity of those two dates is caused by what seemed to Thomas J. as attempts by the defendant to achieve delay by "playing the system." However, as the points before us are pure points of law, we do not find it necessary to say any more on this score.

The starting point for consideration of this problem lies in the contractual submission to the jurisdiction to be found in clause 13 of the agreements of guarantee, which reads:

> "13. Law and jurisdiction. 13.01 This guarantee shall be governed by, and construed in accordance with, English law. 13.02 In relation to any dispute arising out of or in connection with this guarantee, and for the exclusive benefit of the lender, the guarantor hereby irrevocably and unconditionally: (a) submits to the jurisdiction of the High Court of Justice in England and waives any objection to proceedings with respect to this agreement in such court on the grounds of venue or inconvenient forum; and (b) appoints Internav (Chartering) Limited present of Suite 2, Telford Yard, 6–8, The Highway, London E1 0BQ as his agent for service of process in respect of proceedings before such court and undertakes that, throughout the term of this guarantee, he will maintain an agent in

A England for such purpose. Nothing in this clause shall affect the right of the lender to serve process in any manner permitted by law or limit the right of the lender to take proceedings with respect to this guarantee against the guarantor in any jurisdiction nor shall the taking of proceedings with respect to this guarantee in any jurisdiction preclude the lender from taking proceedings with respect to this guarantee in any other jurisdiction, whether concurrently or not."

B

Captain Lelakis is domiciled in Greece.

The significance of that provision is that it brings into operation article 17 of the Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters 1968, as set out in Schedule 1 to the Civil Jurisdiction and Judgments Act 1982:

C "If the parties, one or more of whom is domiciled in a Contracting State, have agreed that . . . the courts of a Contracting State are to have jurisdiction to settle any disputes which have arisen or which may arise in connection with a particular legal relationship . . . those courts shall have exclusive jurisdiction."

The preamble to the Convention indicates that it operates within the D European Community: "to secure the simplification of formalities governing the reciprocal recognition and enforcement of judgments" it being necessary "to determine the international jurisdiction of their courts, to facilitate recognition and introduce an expeditious procedure for securing the enforcement of judgments." In purported performance of clause 13.02(b) the writ was served at Internav's office in London.

E Before the judge the first point raised on behalf of the plaintiff was that clause 13.02 only gave jurisdiction to the English courts to adjudicate upon the dispute, but was not a submission to the jurisdiction of the court for the purposes of enforcement. This distinction has been drawn in cases relating to the sovereign immunity of states, but the judge was rightly to find that the considerations that led to that distinction in those cases were not applicable to a commercial agreement between lender and borrower. F He was satisfied that clause 13.02 was a submission both to the adjudicative and enforcement jurisdiction of the court. In this he was clearly right, and Mr. Gee realistically no longer relies on this ground of appeal.

The question therefore is whether the enforcement jurisdiction of the court was effectively invoked by the purported personal service of the Ord. 48, r. 1 order on Captain Lelakis, in Greece for one appointment, G and in New York for another. It is not necessary for us to consider whether service of the order might not have been validly achieved under clause 13.02, because that was not done. The actual service was either authorised by the rules, or it was not good service.

I have no problem in uncritically accepting Mr. Gee's initial propositions: first, that Order 11 contains the entire code authorising H service out of the jurisdiction, and second, that any gaps in that code cannot be filled by the court's inherent powers, but require statutory authority (i.e. express provision in the R.S.C., Ord. 11) to permit such service: see *In re Busfield; Whaley v. Busfield* (1886) 32 Ch.D. 123, 132, 133 and *In re Anglo-African Steamship Co.* (1886) 32 Ch.D. 348, 350.

The scheme of Order 11 is that rule 1 applies to the service of writs out of the jurisdiction and rule 9(1) extends Order 11 beyond writs to the service out of other sorts of originating process: "originating summons,

notice of motion or petition as it applies to service of a writ." Those rules do not cover the service of this order.

Ord. 11, r. 9(4) deals with the service out of certain formal documents ancillary to the process: "any summons, notice or order issued, given or made in any proceedings." The order made under Order 48 for the judgment debtor to attend for examination is clearly such an "order . . . made in any proceedings," as Mr. Gee accepts. Nor does he contend (as counsel for Captain Lelakis did before the judge) that the "proceedings" in question finished with the signing of judgment. The word covers both the adjudicative proceedings leading to judgment and the enforcement proceedings consequent upon that adjudication.

The rule then goes on to provide the two circumstances in which such ancillary orders may be served out of the jurisdiction. First, with the leave of the court. That was neither sought nor obtained in this case. Second, the second limb of the rule provides that "leave shall not be required for [service out of the jurisdiction of, e.g. Ord. 48, r. 1 orders] in any proceeding in which the writ . . . may by these rules or under any Act be served out of the jurisdiction without leave."

The competing arguments may be shortly stated. The plaintiff's first contention is that the writ here could have been served out of the jurisdiction without leave under Ord. 11, r. 1(2):

> "Service of a writ out of the jurisdiction is permissible without the leave of the court provided that each claim made by the writ is either:—(*a*) a claim which by virtue of the Civil Jurisdiction and Judgments Act 1982 the court has power to hear and determine, made in proceedings to which the following conditions apply—(i) no proceedings between the parties concerning the same cause of action are pending in the courts of any other part of the United Kingdom or any other Convention territory, and (ii) either—the defendant is domiciled in any part of the United Kingdom or in any other Convention territory, or the proceedings began by the writ are proceedings to which article 16 of Schedule 1, 3C or 4 refers, or the defendant is a party to an agreement conferring jurisdiction to which article 17 of Schedule 1, 3C or 4 to that Act applies . . ."

That submission is right in so far as it goes. The Act applies, Captain Lelakis is domiciled in a Convention territory, and there is an agreement conferring jurisdiction to which article 17 applies. That much is clear.

But Mr. Gee argues that, while the writ in this case might have been served out of the jurisdiction without leave, in fact it was not. It was served within the jurisdiction and the writ actually used was not suitable for service out in that (1) the time for acknowledgement of service was 14 days (the normal time in relation to service within the jurisdiction) and not 21 days (as required by Ord. 11, r. 1(3)), and (2) the writ actually served did not carry the endorsement required by Ord. 6, r. 7(1)(*b*). Therefore it is submitted that Ord. 11, r. 9(4) is not complied with.

The point of construction at issue then is whether this limb of Ord. 11, r. 9(4) comes into play where the nature of the process complies with the rule, or only where the writ on its face complies with the rule, i.e. was a writ in proper form for service out of the jurisdiction (even though it was to be served within the jurisdiction)?

I am in no doubt as to the answer. The rule is concerned with the substance (the nature of the process) and not with mere form. The use of the word "may" recognises that the writ might not be served out of the

jurisdiction, and will not be in article 17 cases. If the proceedings are appropriate proceedings (i.e. compliant with Ord. 11, r. 9(4)) which permit the writ to be served out of the jurisdiction without leave, then when it comes to the service of subsequent orders (such as Ord. 48, r. 1 orders) it matters not whether the service of the writ was in fact made within the jurisdiction under e.g. article 17 or without. Nor does it matter that the writ, legitimately used for service in, was not in the requisite form for service out. Not only does it not matter, but there is no reason why it should matter.

Our attention was drawn to a note to Ord. 48, r. 1 in *The Supreme Court Practice 1995*, vol. 1, p. 783, para. 48/1–3/6 which reads:

> "Although the court has express powers in specified circumstances to give leave for service of process out of the jurisdiction (see, e.g. Ord. 11, rr. 1 and 9), it has no general power to do so, and accordingly, the court will not make an order under rule 1 for the examination of a person who is outside the jurisdiction (see *In re Tucker (A Bankrupt), Ex parte Tucker* [1990] Ch. 148 . . .)."

I have no quarrel with that passage down to and including the words "no general power to do so." What follows seems to me to be plainly wrong: the court can give leave for service out under the first limb of Ord. 11, r. 9(4), and no such leave is required under the second limb. And nor is *In re R. C. Tucker (A Bankrupt), Ex parte K. R. Tucker* [1990] Ch. 148 relevant to the construction of Ord. 11, r. 9. That case turned on the construction of and jurisdictional limitations contained in section 25 of the Bankruptcy Act 1914, and did not touch on the question we had to consider.

Accordingly, I would dismiss this appeal.

SAVILLE L.J. I agree.

Appeal dismissed with costs.
Leave to appeal refused.

Solicitors: Watson Farley & Williams; Holman Fenwick & Willan.

B. L. S.

Status: Positive or Neutral Judicial Treatment

Union Bank of Finland Ltd v Lelakis

Court of Appeal (Civil Division)

13 May 1996

Case Analysis

Where Reported

[1997] 1 W.L.R. 590; [1996] 4 All E.R. 305; [1996] C.L.C. 1821; (1996) 146 N.L.J. 305;

Case Digest

Subject: Civil procedure

Keywords: Jurisdiction; Service of process

Summary: service of process; service out of the jurisdiction; writ capable of proper service beyond jurisdiction without leave

L, a Greek national resident in Greece, entered into personal guarantees of loans granted by UBF to a company. The guarantees provided that they were to be governed by English law and, in the event of a dispute, L would submit to the jurisdiction of the English High Court. UBF served notices of default and then a writ for recovery of the sums due on L and his London agent. Judgment in default was obtained and UBF applied for an order under RSC Ord.48 r.1 requiring L to attend before the court in London to be examined as to his assets. The order was granted and served on L in Greece. L applied to set aside the order on the grounds that it was incapable of being served outside the jurisdiction. The master refused the application and the judge dismissed his appeal. L appealed.

Held, dismissing the appeal, that service out of the jurisdiction of orders ancillary to execution after judgment was valid if the proceedings were appropriate for service out of the jurisdiction without leave under the RSC Ord.11 r.9(4). As the writ in the present case was capable of service outside the jurisdiction without leave it followed that the service of the master's order could be served outside the jurisdiction, *Tucker (A Bankrupt) Ex p. Tucker, Re [1990] Ch. 148* not followed.

Judge: Henry LJ; Saville LJ

Counsel: For the defendant: Stephen Gee Q.C. and Vasanti Selvaratnam. . For the plaintiff: Andrew Hochhauser.

Solicitor: For the defendant: Holman Fenwick & Willan. . For the plaintiff: Watson Farley & Williams.

Appellate History & Status

Queen's Bench Division (Commercial Court); 15 February 1996

Union Bank of Finland Ltd v Lelakis

Unreported, February 15, 1996

Affirmed

Court of Appeal (Civil Division); 13 May 1996

Union Bank of Finland Ltd v Lelakis

[1997] 1 W.L.R. 590; [1996] 4 All E.R. 305; [1996] C.L.C. 1821; (1996) 146 N.L.J. 305

Related Cases

Union Bank of Finland Ltd v Lelakis

[1995] C.L.C. 27; QBD (Comm); 03 November 1994

Union Bank of Finland v Lelakis

Unreported, July 31, 1995; CA (Civ Div); 31 July 1995

Union Bank of Finland Ltd v Lelakis

[1997] C.L.C. 20; Independent, July 15, 1996; QBD; 11 June 1996

Significant Cases Cited

Tucker (A Bankrupt) Ex p. Tucker, Re

[1990] Ch. 148; [1988] 2 W.L.R. 748; [1988] 1 All E.R. 603; [1988] 1 F.T.L.R. 137; (1988) 132 S.J. 497; Official Transcript; CA (Civ Div); 16 November 1987

All Cases Cited

Tucker (A Bankrupt) Ex p. Tucker, Re

[1990] Ch. 148; [1988] 2 W.L.R. 748; [1988] 1 All E.R. 603; [1988] 1 F.T.L.R. 137; (1988) 132 S.J. 497; Official Transcript; CA (Civ Div); 16 November 1987

Anglo African Steamship Co, Re

(1886) L.R. 32 Ch. D. 348; CA; 04 May 1886

Busfield, Re

(1886) L.R. 32 Ch. D. 123; (1886) 34 W.R. 372; (1886) 55 L.J. Ch. 467; (1886) 54 L.T. 220; CA; 03 March 1886

Key Cases Citing

Applied

National Justice Compania Naviera SA v Prudential Assurance Co Ltd (No.3)

Official Transcript; QBD; 08 June 2001

All Cases Citing

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Masri v Consolidated Contractors International Co SAL

[2009] UKHL 43; [2010] 1 A.C. 90; [2009] 3 W.L.R. 385; [2009] 4 All E.R. 847; [2010] 1 All E.R. (Comm) 220; [2009] Bus. L.R. 1269;

[2009] 2 Lloyd's Rep. 473; [2009] C.P. Rep. 47; [2010] B.C.C. 25; [2009] 2 B.C.L.C. 382; [2009] 2 C.L.C. 366; [2009] B.P.I.R. 1029; (2009) 159 N.L.J. 1137; (2009) 159 N.L.J. 1250; Times, August 13, 2009; Official Transcript; HL; 30 July 2009

Mentioned by

Masri v Consolidated Contractors International Co SAL

[2008] EWCA Civ 876; [2009] 2 W.L.R. 699; [2009] Bus. L.R. 246; [2009] 1 Lloyd's Rep. 42; [2008] C.P. Rep. 42; [2008] 2 C.L.C. 126; [2009] I.L.Pr. 9; [2008] B.P.I.R. 1524; Official Transcript; CA (Civ Div); 28 July 2008

Applied

National Justice Compania Naviera SA v Prudential Assurance Co Ltd (No.3)

Official Transcript; QBD; 08 June 2001

Significant Legislation Cited

RSC Ord.11 r.9

RSC Ord.48 r.1

Legislation Cited

Bankruptcy Act 1914 (c.59) s.25

Brussels Convention 1968

Brussels Convention 1968 art.17

Civil Jurisdiction and Judgments Act 1982 (c.27)

Civil Jurisdiction and Judgments Act 1982 (c.27) Sch.1

Civil Jurisdiction and Judgments Act 1982 (c.27) Sch.4

RSC

RSC r.1

RSC Ord.1

RSC Ord.1 r.1

RSC Ord.1 r.9

RSC Ord.1 r.9(1)

RSC Ord.4 r.1

RSC Ord.8

RSC Ord.8 r.1

RSC Ord.11 r.9

RSC Ord.48 r.1

Journal Articles

Practice - order for examination - service out of the jurisdiction - defendant domiciled in Greece

Assets; Foreign jurisdictions; Judgments and orders; Service of process; Valuation.

C.L.B. 1997, 23(3/4), 794-795

Books

Dicey, Morris & Collins on the Conflict of Laws 15th Ed.

Chapter: Chapter 11 - Jurisdiction in Claims in Personam

Documents: A. - Where the Brussels I Regulation and the Lugano Convention do not apply or where the defendant is not domiciled in the United Kingdom or any part thereof or in any other State which is a Member State or a Convention State

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Attorney for Defendant Mehmet Emin Karamehmet

IN THE HIGH COURT OF THE

REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO LTD Plaintiff, v. FOCUS INVESTMENTS LTD, a Marshall Islands Corporation, and MEHMET EMIN KARAMEHMET Defendants.	H. Ct. Civil Action No. 2017-081 CERTIFICATE OF SERVICE

I hereby certify that on January 26, 2018, Majuro date, a true and correct copy of the Defendant Mehmet Emin Karamehmet's Supplemental Reply Brief in Support of the Motion to Dismiss was served on James McCaffrey, Attorney for Plaintiff, by sending to him via email transmission in pdf. format to: James@McCaffreyFirm.com.

Dennis J. Reeder - January 26, 2018 (Majuro Date)

EXHIBIT A

Value

LETTER OF GUARANTEE

Dated 30 June 2011

From: Mehmet Emin Karamehmet
Yapi Kredi Plaza A Blok K.17 34330
Levent Istanbul TURKEY

To: Samsung Heavy Industries Co., Ltd.
Samsung Life Insurance Seocho Tower
1321-15 Seocho-Dong, Seocho-Gu
Seoul, Republic of Korea 137-857

Dear Sirs:

In consideration of Samsung Heavy Industries Co., Ltd. (the "Builder") entering into the US$ 14,000,000.- Accounts Receivable Financing Agreement dated 30 June 2011 (the "Agreement") with Value Shipping Ltd., (the "Buyer"), the undersigned, as primary obligor and not merely as surety, hereby irrevocably, absolutely and unconditionally guarantees the full, prompt and punctual payment when due (whether at stated maturity, by acceleration or otherwise) by the Buyer of the following sums payable by the Buyer in accordance with the Agreement:

(a) The sum of US$ 14,000,000.- to be paid as agreed in Agreement;
(b) The interest on the Loan at the rate of 6% per annum computed on the basis of the actual number of days elapsed and a year of 360 days; and
(c) Any other amounts to be payable by the Buyer under the Agreement.

In the event that the Buyer fails to pay any sum guaranteed hereby on a due date (whether at stated maturity or by acceleration or otherwise) in accordance with the terms of the Agreement, the undersigned will pay to the Builder or any assignee hereof the outstanding principal amount which are then payable and interest (including overdue interest for the period from the due date to the date of actual payment of the full amount demanded by the Builder or any such assignee) accrued thereon as aforesaid immediately upon receipt by us of written demand from the Builder or any such assignee including a statement that the Buyer is in default of payment of the amount claimed in respect of the Agreement and/or interest thereon, without requesting the Builder to take any or further procedure or step against the Buyer.

The undersigned hereby waives the right to interpose any set-off or counterclaim of any nature or description in any action or proceeding arising out of or in any way connected with the Agreement or this Letter of Guarantee.

The undersigned hereby waives diligence, presentment, demand for payment, protest, dishonour, all notice (except for the notice of the Buyer's default) and any requirement that the Builder exhausts any right or remedy whatsoever.

The undersigned hereby consents to any renewals, changes, extensions or partial payments of the indebtedness for which they are given without notice to the undersigned, and consents that no such renewals, changes, extensions or partial payments shall discharge the undersigned from any liability thereon or hereon in whole or in part.

Payments by the undersigned shall be made in Dollars to the "Kookmin Bank", Samsungtown Corporate Banking BR, Seoul, Korea with CITI Bank, New York (BIC : CZNBKRSE, A/C No. : 976268-01-700015) with CITI Bank, New York (BIC: CITIUS33, A/C No. 36-04-9172) in favour of Samsung Heavy Industries Co., Ltd. or to such other account and/or in such place as from time to time instructed by the Builder or any assignee hereof, as the case may be, in favour of the Builder or its assignee without deduction, withholding or set-off of any kind.

In the event that any withholding or deduction is imposed on any payment to be made hereunder by law or by any taxing authority, the undersigned agrees to pay such additional amount as may be necessary in order that the actual amount received after deduction or withholding shall be equal to the amount that would have been received if such deduction or withholding had not been required after allowance for any increase in taxes or charges payable by virtue of the receipt of such additional amount.

The obligations of the undersigned are joint and several with any other guarantee or security and are absolute, unconditional and irrevocable irrespective of any legal limitation, disability, incapacity or other circumstances relating to the Buyer or any other person, or any amendment or supplement to the Agreement or any other document, instrument or agreement contemplated therein or of the genuineness, legality, validity, regularity of such documents, instrument or agreements contemplated therein.

The Builder shall not be obliged to exhaust its recourse against the Buyer or other guarantor or securities for all or any portion of the indebtedness owed by the Buyer to the Builder. The Builder may pursue its rights and remedies under this Letter of Guarantee and any other guarantee of or collateral security for the said indebtedness in whatever order and shall be entitled to payment hereunder notwithstanding any other such guarantee and notwithstanding any action taken by the Builder to enforce any of its rights or remedies against any other guarantor of or collateral security for all or any portion of the said indebtedness or any payment received under any other such guarantee.

This Letter of Guarantee shall come into full force and effect upon its issue and shall continue until all of the obligations of the Buyer under the Agreement shall be paid in full. This shall be a continuing guarantee and shall cover and secure any balance owing under the Agreement. The Builder shall not be obliged to exhaust its recourse against the Buyer or the securities which the Builder may hold before being entitled to payment from the undersigned of the obligation hereby guaranteed.

The undersigned hereby represents and warrants that (a) he has all legal rights, power and authority to execute this Letter of Guarantee and to perform its obligations hereunder, (b) the execution, delivery and performance of this Letter of Guarantee and the covenants herein contain will not violate or contravene any existing law or regulation, judgment, order or decree of any court or governmental agency, or violate or result in a default under any mortgage, indenture, contract or agreement to which the undersigned is a party, (c) this Letter of Guarantee constitutes the legal, valid and binding obligation of the undersigned enforceable in accordance with its terms, and (d) the undersigned has obtained all necessary consents, licenses, approvals and authorizations, registrations or declarations, with any governmental authority required in connection with the validity and enforceability of this Letter of Guarantee and the same are in full force and effect.

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FILED
DEC 27 2017
ASST. CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

Attorney for Defendant Mehmet Emin Karamehmet

IN THE
HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO LTD Plaintiff, vs. FOCUS INVESTMENTS LTD, a Marshall Islands corporation, and MEHMET EMIN KARAMEHMET Defendants.	CIVIL ACTION NO. 2017-081 **DEFENDANT MEHMET EMIN KARAMEHMET'S; INITIAL SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION TO DISMISS; CERTIFICAE OF SERVICE**

Defendant Mehmet Emin Karametmet, by and through counsel Dennis J. Reeder, hereby respectfully submits the attached Initial Supplemental Brief in Support of Motion to Dismiss.

Dennis J. Reeder – December 22, 2017

FILED

DEC 27 2017

ASST. CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

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IN THE
HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO LTD, Plaintiff, vs. FOCUS INVESTMENTS LTD, a Marshall Islands corporation, and MEHMET EMIN KARAMEHMET Defendants.	CIVIL ACTION NO. 2017-081 **INITIAL SUPPLEMENTAL BRIEF OF DEFENDANT KARAMEHMET IN SUPPORT OF THE MOTION TO DISMISS**

Defendant Mehmet Emin Karamehmet ("Karamehmet") hereby submits this Initial Supplemental Brief in support of the Motion to Dismiss the Complaint.

I. The requested relief does not afford Defendant due process

Plaintiff Samsung Heavy Industries Co. Ltd. ("Samsung" or "Plaintiff") urges this court to adopt a Delaware statute and procedure for exercising personal jurisdiction over Defendant Karamehmet by finding that the shares of non-resident Republic of the Marshall Islands ("RMI") corporation Focus Investments Ltd. ("Focus"), are notionally located in the RMI. This procedure, however, has already been found to be unconstitutional and violates due process.

The Supreme Court rejected Samsung's very argument, based on the same statute Samsung wants the court to write into the RMI Business Corporation Act ("RMI BCA"), namely, § 169 of the Delaware General Corporations Law ("DGCL"). Section 169 provides that the situs of shares for the sake of attachment, execution and other actions, such as to quiet title, is the place of incorporation.

In *Shaffer v. Heitner*, 433 U.S. 186, 97 S. Ct. 2569, 53 L. Ed. 2d 683 (1977), the Supreme Court considered the Delaware Chancery Court case in which Heitner, a Greyhound stockholder, filed a derivative suit naming the corporation and twenty-eight nonresident directors and officers as defendants. The plaintiff obtained an order of sequestration against twenty-one of the defendants, seizing over $1.5 million worth of Greyhound stock owned by the non-resident directors and officers. "So far as the record shows, none of the certificates representing the seized property was physically present in Delaware. The stock was considered to be in Delaware, and so subject to seizure, by virtue of Del. Code Ann., tit. 8, § 169 (1975), which makes Delaware the situs of ownership of all stock in Delaware corporations." *Id.* at 192. Despite the lack of physical shares in Delaware, the Chancery Court found *quasi in rem* jurisdiction over the defendants based on the sequestration order. In affirming the Chancery Court, the Delaware Supreme Court similarly held that "the statutory Delaware situs of the stock provided a sufficient basis for the exercise of *quasi in rem* jurisdiction by a Delaware court." *Id.* at 194.

The United States Supreme Court reversed the Delaware Supreme Court, holding, "[t]he Delaware courts based their assertion of jurisdiction in this case solely on the statutory presence of appellants' property [stock of a Delaware Corporation] in Delaware. Yet that property is not the subject matter of this litigation, nor is the underlying cause of action related to the property.

Appellants' holdings in *Greyhound* do not, therefore, provide contacts with Delaware sufficient to support the jurisdiction of that State's courts over appellants." *Id.* at 213.

The Supreme Court went on to state, "[t]he Due Process Clause does not contemplate that a state may make binding a judgment . . . against an individual or corporate defendant with which the state has no contacts, ties, or relations. Delaware's assertion of jurisdiction over appellants in this case is inconsistent with that constitutional limitation on state power. The judgment of the Delaware Supreme Court must, therefore, be reversed." *Id.* at 216-217. Thus, when the only contact the defendant has with the forum state is the location of property as defined by statute in the forum state, the forum lacks personal jurisdiction over the defendant unless the minimum contacts test of International Shoe is satisfied.

Thus, Samsung urges this Court to adopt as RMI law a statute found to be the basis for an unconstitutional assertion of personal jurisdiction by the United States Supreme Court. While the need for jurisdictional contacts is somewhat relaxed in this action to recognize and enforce a judgment, if the Court were to rule that the situs of shares of a Marshall Islands' corporation is in the Republic, it would apply to all actions, not just to the recognition of foreign judgments.

II. There is no *in rem* or *quasi in rem* jurisdiction

Samsung admitted in its Opposition to the Motion to Dismiss that there must be some property of the defendant in the Republic to assert jurisdiction in this case.[1] Indeed, this is key to an assertion of *in rem* or *quasi in rem* jurisdiction. Moreover, that property must be seized, attached or otherwise in control of the court to maintain such jurisdiction.

In *Pennoyer v. Neff*, the United States Supreme Court stated that "seizure or some equivalent act" is necessary to endow a court with this type of jurisdiction. *Pennoyer v. Neff*, 95 U.S. 714,

[1] See Opposition to Motion to Dismiss of Samsung Heavy Industries Co. Ltd. at 4-5.

727, 24 L. Ed. 565 (1877), overruled in part by *Shaffer v. Heitner*, 433 U.S. 186, 97 S. Ct. 2569, 53 L. Ed. 2d 683 (1977)[2]. The *Pennoyer* Court indicated that seizure was essential for several reasons, including: (1) as a formal method to assert jurisdiction over the property within the state; (2) as a means of notice, as it was presumed that the owner would receive notice either directly or through an agent that his property had been seized; and (3) to assure effective control over the property and the enforceability of any judgment otherwise the property might be sold during suit.

This requirement that the *res* must be within the district and actually seized or attached has been consistently applied by the courts. *Odyssey Marine Expl., Inc. v. Unidentified, Wrecked & Abandoned Sailing Vessel*, 727 F. Supp. 2d 1341, 1343 (M.D. Fla. 2010) ("*In rem* jurisdiction requires the presence of the entire *res* within the territorial jurisdiction of the court."); *Odyssey Marine Expl., Inc. v. Unidentified, Shipwrecked Vessel*, 675 F. Supp. 2d 1126, 1137 (M.D. Fla. 2009), *aff'd*, 657 F.3d 1159 (11th Cir. 2011) ("To invoke *in rem* jurisdiction, the *res* must be in *custodia legis*—in the court's possession."); *Pacific Employers Ins. Co. v. M/V GLORIA*, 767 F.2d 229, 234 (5th Cir.1985) (vacating an *in rem* judgment where no *in rem* process was ever issued, the vessel was not arrested); *United States v. One Oil Painting Entitled Femme en Blanc by Pablo Picasso*, 362 F. Supp. 2d 1175, 1182–83 (C.D. Cal. 2005) ("It is essential that the property involved in the litigation be 'in fact and substance' within the district and under the dominion and control of the district court asserting jurisdiction over it. Property is brought under the dominion and control of the court through arrest of the property.") (internal citations omitted); *Hanson v. Denckla*, 357 U.S. 235, 250, 78 S. Ct. 1228, 1238, 2 L. Ed. 2d 1283 (1958).

[2] The *Shaffer* decision overruled *Pennoyer* to the extent that *Pennoyer* had held that the mere attachment of property within the district was sufficient to establish *quasi in rem* jurisdiction without some other minimum contacts between the defendant and the forum.

Samsung never sought the issuance of an attachment or the seizure of any property of Defendant Karamehmet in the RMI. Accordingly, there is nothing for the Court to exercise jurisdiction over in the RMI.

III. Section 169 of the DGCL does not represent current or historic common law

By the nineteenth century, the status of stock had been settled in the United States. The rights of shareholders were intangible rights at common law and not subject to levy or execution. *Gulf Mortg. & Realty Investments v. Alten*, 282 Pa. Super. 230, 238, 422 A.2d 1090, 1094 (1980) citing *Moys v. Union Trust Company*, 276 Pa. 58, 60, 119 A. 738 (1923) ("It is true that at common law, corporate shares of stock were not subject to levy and sale upon execution, for the reason that the property they represented was considered of 'such a shadowy nature there was nothing capable of being physically seized ....'"). *Id.*, 1972 Duke L.J. 947, 949[3] ("At common law the ownership interest in the legal fiction called a corporation was classified as an intangible chose in action and was not subject to legal process.").

It was only when the state legislatures realized the great amount of wealth that was represented by these share certificates that they began enacting laws locating the shares in a specific place for the purposes of attachment and levy. ("The first step leading to the recognition of the certificate of stock as evidence of a corporate ownership interest was the enactment of statutes subjecting the certificate to legal process. This was done in the middle of the nineteenth century by most states."). *Id.* Thus, it was statutory, not common law that sited the shares in a specific location for attachment purposes. Those courts that had considered the question before these statutes were enacted did not necessarily find that the shares were located in the place of incorporation, as urged by Samsung. "Most courts found that the situs of the intangible rights represented by the shares of

[3] Available at: https://scholarship.law.duke.edu/dlj/vol21/iss5/7/

stock could be found in two places: (a) the location of the shareholder, or (b) on the books of the corporation at its headquarters." Eric A. Chiappinelli, *The Underappreciated Importance of Personal Jurisdiction in Delaware's Success*, 63 DePaul L. Rev. 911, 937 (2014)[4].

Because of the confusion caused by the varying state laws concerning the situs of shares for attachment purposes, the Uniform Stock Transfer Act ("USTA") was proposed in 1909 and ultimately adopted by all 50 states in the next 30 years. Pierre R. Loiseaux, *Liability of Corporate Shares to Legal Process*, 1972 Duke L.J. 947, 950. This was followed by the adoption of Article 8 of the UCC, which was promulgated in 1951.[5] Of the forty-nine U.S. states[6] that adopted §8-317(1) [currently §8-112] - dealing with the situs of shares for attachment or levy purposes - only two amended the section. *Id.*, 1972 Duke L.J. 947, 959. California and Delaware made changes to the uniform code. California's change was innocuous. Delaware, however, made UCC § 8-112 subject to various Delaware corporate statutes, including § 169 of the DGCL. Delaware even went so far as to provide that to the extent that Delaware's UCC and DGCL conflict, the DGCL controls. DGCL § 201. Commentators have stated that "[t]he departure of Delaware's version of Article 8 from the provisions of Section 8-112 of the UCC as reflected in the Uniform Act presents numerous complex issues." § 5.18 *Shares of Stock: Nature, Transfer, and Taxation*, Del. L. of Corp. and Bus. Org. (2017). Indeed, it is settled that the use of § 169 of the DGCL when the defendant has no other contacts with Delaware is an unconstitutional deprivation of due process. *U. S. Indus., Inc. v. Gregg*, 540 F.2d 142, 156 (3d Cir. 1976) ("[T]he statutory situs of stock in Delaware under 8 Del.C. §169 was an insufficient contact with the state constitutionally to support the jurisdiction here exercised").

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[4] Available at: http://via.library.depaul.edu/cgi/viewcontent.cgi?article=1032&context=law-review

[5] Available at: http://www.uniformlaws.org/ActSummary.aspx?title=UCC%20Article%208,%20Investment%20Securities%20(1994)

[6] Louisiana did not adopt the UCC until 1990.

Additional problems would arise should the Court follow Samsung's advice and locate the shares of nonresident Marshall Islands companies in the Republic. For example, shares of a corporation are often pledged as security for a debt. Under the UCC 9-203 (b)(3)(a), a creditor can acquire a security interest in a certificated security by taking possession of the certificates. If these same certificates are notionally located in the RMI and can be executed upon and sold by a creditor, the security interest of the creditor holding the shares would be worthless. This is why the UCC specifies that an action to attach certificated shares must be brought where the shares are actually located. UCC §§ 8-112.

In addition, it makes no sense to locate shares of a non-resident RMI corporation in the RMI when these types of entities are prohibited from doing business in the Republic. It is difficult to imagine when there will be sufficient contacts between such an entity and the RMI to satisfy due process concerns.

It is therefore clear that DGCL § 169[7] is an aberration, not a restatement of U.S. common law as urged by Samsung.

IV. There is no evidence that Karamehmet owns the shares of Focus

The most recent filing of Genel Energy Plc ("Genel") mentioning Karamehmet is the 2016 Annual Report, published on April 27, 2017. The report mentions Karamehmet only twice, first stating that he is an "Associate" under a "Relationship Agreement" with Genel, and then stating that certain terms of that agreement will terminate if Focus "ceases to be controlled by Mehmet Emin Karamehmet." 2016 Annual Report, Genel Energy Plc at 70.[8] Nowhere does it state that

[7] Two weeks after the Supreme Court decide *Shaffer v. Heitner*, infra, the Delaware legislature enacted 10 Del. C. § 3114 which provides that non-resident directors and officers of Delaware corporations consent to jurisdiction in Delaware for actions arising against the person for violation of their official duties. http://delcode.delaware.gov/title10/c031/index.shtml. This was done in effort to rectify the constitutional defects of § 169 and to retain jurisdiction over shareholder derivative suits in Delaware courts.

[8] Available at: http://www.genelenergy.com/media/2054/genel-energy-2016-annual-report-final.pdf.

Karamehmet is the beneficial owner of Focus nor does it confirm that Karamehmet still controls Focus.

Even if Karamehmet does control Focus, it is far from clear that he is the beneficial owner of the majority of the shares of Focus. There are numerous possibilities. Focus could have issued voting and non-voting shares pursuant to RMI BCA § 35. The majority of the economic interests could be held by others who have no right to vote and Karamehmet holds the voting shares. Alternatively, there could be a voting trust under RMI BCA § 75 or Karamehmet could hold proxies and does not own any shares of Focus under RMI BCA § 69.

V. <u>There is an adequate alternative forum</u>

Since there is no jurisdiction over the person or the property of Karamehmet in the Republic, this matter should be dismissed on the grounds of lack of personal jurisdiction. Plaintiff has the burden of proving personal jurisdiction is proper. *CollegeSource, Inc. v. AcademyOne, Inc.*, 653 F.3d 1066, 1073 (9th Cir. 2011) ("In opposing a defendant's motion to dismiss for lack of personal jurisdiction, the plaintiff bears the burden of establishing that jurisdiction is proper."). Samsung, however, has failed to show any contacts between Karamehmet or his property and the forum.

This matter could also be dismissed on the grounds of *forum non conveniens* and there is an adequate alternative forum. England is a perfectly acceptable forum in which to enforce the judgment issued by the English courts. First, Karamehmet has already submitted to the jurisdiction of the English courts. The pertinent guarantees from which the judgments arise provide:

> This Letter of Guarantee shall be governed by and construed in accordance with the laws of England. The undersigned hereby irrevocably agrees that any legal action or proceedings arising out of or related to this Letter of Guarantee may be instituted in any English court and the undersigned irrevocably submits to the exclusive jurisdiction of this court in any such action or proceedings.

Letter of Guarantee attached as Exhibit A.

Samsung's claim that they will not be able to serve Karamehmet in England rings hollow. Samsung has stated that they have already served Defendant Karamehmet properly twice under English law. *See* Samsung's Motion for Temporary Restraining Order at 2 ("Defendant Karamehmet was properly served with a Claim Form... and "[s]ubsequently, he was served with the default judgment on 17 June 2016.").

Moreover, the property that Samsung seeks to execute upon are shares of Genel, a Jersey Company with its principal office located at 36 Broadway, Victoria, London. *See* Genel Annual Report last two pages – other information. In addition, Genel provides that its registrar of shares is also located in England in West Sussex. *Id.* It is clearly more likely that Samsung will find property owned by Karamehmet in England than in the RMI.

While Samsung argues no witnesses are required when enforcing a judgment, this is not necessarily the case, particularly when the property of the debtor is not apparent. In this case it appears that there is at least some knowledge of Focus and its ownership of Genel shares in England from the reports published by Genel. The same cannot be said about the RMI.

England also has a wide array of devises to enforce judgments as detailed in the opinion and sworn statement of Charles Buss attached hereto. (Exhibit B, "Buss Declaration"). These include the *Mareva* injunction, an order against the defendant dissipating assets anywhere in the world. *Id.*

It appears that the reason Samsung does not wish to enforce the judgment in England, the forum it chose in the guarantee, is the difficulty it would have piercing the corporate veil of Focus and any intermediate holding companies of the Focus shares. Under English law "the fact that a person engages in the carrying on of a business using a duly

incorporated, yet seemingly artificial, entity is not sufficient to justify piercing that entity's veil. Instead, legal formalisms must be respected even at the risk of abiding a seeming injustice.... Accordingly, veil piercing is quite rare under English law." *FR 8 Singapore Pte. Ltd. v. Albacore Mar. Inc.*, 794 F. Supp. 2d 449, 459–60 (S.D.N.Y. 2011) (internal quotations omitted). (*See also*, Buss Declaration)

Thus, "where a corporate structure is interposed for the purpose of shielding a defendant from liability..., the plaintiff's ability to recover from the defendant on a veil-piercing theory turns on whether the defendant had already incurred some liability to the plaintiff at the time he interposed the corporate structure." *Id.* at 460 (S.D.N.Y. 2011). Thus, only if the structure is put in place after the liability was incurred, in this case the judgment, with a view toward using the corporate form to evade such a judgment will the English courts consider piercing the corporate veil.

The lack of remedy, however, is not a reason to refrain from dismissing the case on the grounds of *forum non conveniens. Loya v. Starwood Hotels & Resorts Worldwide, Inc.*, 583 F.3d 656, 666 (9th Cir. 2009) ("[T]hat the law, or the remedy afforded, is less favorable in the foreign forum is not determinative.").

VI. Conclusion

Samsung has failed to point to any contacts between Karamehmet and the RMI that would support the exercise of personal jurisdiction here. Instead, Samsung urges the court to adopt as RMI law a constitutionally suspect Delaware statute which is unique among the fifty United States. Not only is the DGCL § 169 not a restatement of United States common law, the practical problems that would be created by adopting such a statute are numerous.

The lack of an equivalent RMI statute locating the shares of non-resident RMI corporations here results in the failure of Samsung's *in rem* claims. Samsung did not even attempt to attach the Focus shares when it instituted this action, tacitly acknowledging that there is nothing in the RMI which could form the basis for an *in rem* claim. Without such an attachment, Samsung's asserting of *in rem* jurisdiction clearly fails.

Finally, Samsung chose England as the place to resolve disputes under the guarantees which form the basis of its claim. Karamehmet submitted to the jurisdiction of the English courts in the guarantees. The Genel shares which Samsung wishes to execute are at least potentially located in England. The fact that Samsung may not be able to legally reach those shares is not a sufficient reason to dismiss England as an alternative forum. Samsung did not negotiate a guarantee secured by the Genel shares or other property, and it cannot go back a rewrite its bargain by pretending the shares of Focus are located in the RMI.

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This Letter of Guarantee shall be governed by and construed in accordance with the laws of England. The undersigned hereby irrevocably agrees that any legal action or proceedings arising out of or relating to this Letter of Guarantee may be instituted in any English court and the undersigned irrevocably submits to the exclusive jurisdiction of this court in any such action or proceedings.

IN WITNESS WHEREOF, the undersigned has caused this Letter of Guarantee to be executed and delivered this 30th day of June 2011.

Yours faithfully,

Guarantor

Name: Mehmet Emin Karamehmet

Witnessed by:

Name: A. Tugrul Tokgoz

EXHIBIT B

Watson, Farley & Williams LLP,
250 West 55th Street,
New York,
New York 10019,
USA

By **courier** and by email to: Mr John Kissane
(jkissane@wfw.com)

Your reference: S/6.380
Our reference: BUSC1/32264.50000/61265014v1

20 December 2017

Dear Sirs,

Samsung Heavy Industries Co., Ltd. (the "Plaintiff") –v- Focus Investments Ltd. ("Focus") and Mehmet Emin Karamehmet ("Mr K") – English legal opinion and sworn statement

My background

I am an English qualified lawyer and a partner in the law firm of Watson, Farley & Williams LLP, which is an international law firm with offices in England, France, Spain, Italy, Germany, the USA, Dubai, Singapore, Thailand and Hong Kong. I qualified as a Solicitor of the Senior Courts of England and Wales in 1993. I have been a partner in this international law firm since 2000. I specialise in commercial, maritime and transportation law. I am co-author of *The Law of Ship Mortgages* (Lloyd's Informa, 2016).

Background to your request for my legal opinion

You have asked for my English law legal opinion in connection with the issue, which has arisen in proceedings pending before the courts of the Republic of The Marshall Islands (the "MI") between the above parties, of whether England is an 'adequate' forum in which the Plaintiff may enforce its English judgment against Mr K.

I am informed that, in the MI proceedings, the Plaintiff is seeking to enforce its English monetary judgment against Mr K against an indirect interest which Mr K allegedly holds in Focus, which is an MI incorporated entity. Focus holds shares in Genel Energy Plc ("**Genel**"), which is a company incorporated in Jersey but whose principal trading address is at Fifth Floor, 36 Broadway, Victoria, London SW1H 0BH, England. Certain of Genel's shares are listed on the London Stock Exchange (the "**LSE**"). You have therefore asked me to explain what enforcement steps would be available to the Plaintiff in England.

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Enforcement of English judgments in England

The Plaintiff's English judgment may be enforced by the English courts *in rem* against all assets owned by Mr K situated within the territorial jurisdiction of the courts of England and Wales. Such assets would include real and personal property, chattels, *choses* in action such as shares, as well as earnings and debts, which could be attached in the hands of third parties, directing them to pay such sums directly to the Plaintiff.

The English courts cannot enforce an English judgment *in rem* against assets situated outside their jurisdiction. However, the English courts may appoint a receiver under s. 37 Senior Courts Act 1981 by way of what is known as 'equitable execution of a judgment', such appointments being in aid of enforcement, including against foreign assets (*Masri v Consolidated Contractors International Company SAL and Others* [2008] EWCA Civ 303 at para 69). English courts have the jurisdiction to proceed in this way by reason of the *in personam* jurisdiction which they exercise over the judgment debtor. In other words, such a receivership order will operate by restraining the judgment debtor from receiving property which the receiver is appointed to receive (*Masri v Consolidated Contractors International Company SAL and Others* [2008] EWCA Civ 303 at para 53).

That apart, English courts have the jurisdiction to assist a judgment creditor in execution of an English judgment abroad, for example by injunction to restrain the judgment debtor from dealing with or disposing of his own assets, wherever in the world such assets may be located. Such injunctions, sometimes referred to as global freezing or '*Mareva*' injunctions, are obtainable both pre- and post-judgment, in the latter case in aid of execution. Such an injunction could be served on a judgment debtor out of the jurisdiction, just as the English claim form (writ) and judgment were, in this case, previously both served on Mr K out of the jurisdiction. Such injunctions are granted in exercise of the court's *in personam* jurisdiction over the judgment debtor. Breach of such an injunction would be punishable as a contempt of Court, with a fine or imprisonment. It is fair to point out that for such a punishment to be enforced in practice, the judgment debtor would have to be found within the jurisdiction and brought before the Court.

The English courts may also assist a judgment creditor by ordering the judgment debtor to be examined on oath before an officer of the court as to his assets under Part 71 of the Civil Procedure Rules 1999. In a case such as the present, where the defendant has submitted to the court's jurisdiction, the order for his examination may be served on him out of the jurisdiction (*Union Bank of Finland Ltd. v Lelakis* [1997] 1 WLR 590). Further, in such examination proceedings, a judgment debtor may be examined as to all of his assets, whether situate within or outside the jurisdiction (*Interpool Ltd. v Galani* [1988] 1 QB 738, approved in *Masri v Consolidated Contractors International Company SAL and Others* [2009] UKHL 43 at para 16).

Enforcement of English judgments against shares or other securities

In this case, the alleged asset is Mr K's alleged, indirect, beneficial interest in the shares which Focus holds in Genel.

To answer the question whether the Plaintiff could enforce its judgment in England against the above alleged asset, I shall begin by explaining what English law considers to be the *situs* of shares in a company. The answer is that English law considers shares to be situated in the country where, under the law of the country in which the company is incorporated (the *lex incorporationis*), they can be effectively dealt with as between the owner and the company. Accordingly, the manner in which shares may be transferred, which is determined under the *lex incorporationis*, determines where they are situate. So, where shares may only be lawfully transferred by recordation of the transfer on a register, they will be regarded as situated where the register is kept[1]. If they are transferable on more than one register, they will be situate at the place of

[1] See *Dicey, Morris & Collins on The Conflict of Laws* (15th Ed.) at paragraph 22-044 and the cases referred to at footnote 114 on p. 1295. *Dicey* notes that in *Macmillan Inc. v Bishopsgate Investment Trust (No. 3)* [1996] 1 WLR 387, the Court of Appeal was divided on this question.

the register on which they would ordinarily be dealt with by the relevant registered owner. If their transfer does not depend on registration, their *situs* will be the place of incorporation. If they are transferrable by delivery, such as bearer shares, their *situs* will be where the share certificate is situate (*lex situs cartae*).

In this case, Although this is a question ultimately of Jersey law, being the *lex incorporationis*, Genel's listed shares traded on the LSE are probably situate in England and its unlisted shares, if registered, are likely to be situate in Jersey. In the absence of evidence of Jersey law to the contrary, this is at least how an English court would approach this question.

Enforcement of the Plaintiff's English judgment in England against Focus' shares in Genel

I am now asked to apply the above principles to consider the right of the Plaintiff to enforce its judgment against Focus' shares in Genel. In England, a judgment creditor has a statutory right to enforce a judgment against shares or other securities by way of what is known as a 'charging order' (Charging Orders Act 1979). The charging order may be placed over shares held either (i) legally in the name of the debtor or (ii) beneficially under a trust (i.e. where the debtor is a beneficiary under a trust), provided that the shares are held in either (i) an English incorporated company or (ii) a foreign company whose shares are registered on a register kept at a place within England and Wales (s. 2(2)(b) of the Charging Orders Act 1979). Enforcement against bearer shares would take place using the same procedure as for chattels (known as the 'taking control of goods' or TCG procedure).

Accordingly, the Plaintiff might be able to enforce its judgment in England against shares that Mr K held directly in Genel, i.e. as their legal owner or as their beneficial owner under a trust, provided that such shares were either bearer shares situate in England or shares kept on a register maintained in England. However, Mr K does not hold shares in Genel. It is rather Focus which holds the shares in Genel in which the Plaintiff is interested. For the English court to enforce the Plaintiff's judgment against such indirect beneficial interest as Mr K may have in Genel through Focus, the English court would have to pierce the corporate veil firstly of Focus and next of each link in the chain of corporate shareholders as may exist between Focus and Mr K and through which Mr K may exert indirect, *de facto* control over Focus, as is alleged. The starting point under English law is that a company's independent legal personality will be respected. As the House of Lords held in Salomon v. A. Salomon and Co. Ltd. [1897] AC 22:

"once the company is legally incorporated it must be treated like any other independent person with its rights and liabilities appropriate to itself ..."

The law was reviewed and restated more recently in *Prest –v- Petrodel* [2013] UKSC 34, in which the Supreme Court (the successor court to the House of Lords) confirmed that a court may pierce a company's veil of incorporation to make its shareholders liable, but only in egregious cases of concealment or evasion. The law was summarised by Lord Sumption in *Prest* as follows:

"I conclude that there is a limited principle of English law which applies when a person is under an existing legal obligation or liability or subject to an existing legal restriction which he deliberately evades or whose enforcement he deliberately frustrates by interposing a company under his control.

The court may then pierce the corporate veil for the purpose, and only for the purpose, of depriving the company or its controller of the advantage that they would otherwise have obtained by the company's separate legal personality. The principle is properly described as a limited one, because in almost every case where the test is satisfied, the facts will in practice disclose a legal relationship between the company and "its controller which will make it unnecessary to pierce the corporate veil."

In short, it is only ever in cases where a company structure is deliberately used either to avoid existing obligations/liabilities or to perpetrate a fraud, that such a company's corporate veil is at risk of being pierced. I am not aware of any such evidence existing in this case.

I hereby swear under penalty of perjury of the laws of the Republic of the Marshall Islands that the above is true and correct.

Yours sincerely,

Charles Buss,
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FILED

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REPUBLIC OF THE MARSHALL ISLANDS

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IN THE HIGH COURT OF THE

REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO LTD Plaintiff, v. FOCUS INVESTMENTS LTD, a Marshall Islands Corporation, and MEHMET EMIN KARAMEHMET Defendants.	H. Ct. Civil Action No. 2017-081 CERTIFICATE OF SERVICE

I hereby certify that on December 22, 2017, a true and correct copy of the Defendant Mehmet Emin Karamehmet's Initial Supplemental Brief in Support of the Motion to Dismiss was served on James McCaffrey, Attorney for Plaintiff, by sending to him via email transmission in pdf. format to:

James@McCaffreyFirm.com.

Dennis J. Reeder

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REPUBLIC OF THE MARSHALL ISLANDS

IN THE HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO LTD, a Korean corporation

Plaintiff,

vs.

FOCUS INVESTMENTS LTD, a Marshall Islands corporation, and

MEHMET EMIN KARAMEHMET

Defendants.

Civil Action 2017-081 CBJ

PLAINTIFF'S SUPPLEMENTAL OPPOSITION TO DEFENDANT MEHMET EMIN KARAMEHMET'S MOTION TO DISMISS; DECLARATION OF SEGUN OKUNTOKUN W/EXHIBITS; and CERTIFICATE OF SERVICE

INTRODUCTION

Plaintiff, Samsung Heavy Industries Co. Ltd ("Samsung") has brought this action to enforce an English money judgment (the "English Judgment") against shares of stock held by Defendant Mehmet Emin Karamehmet in the Republic of the Marshall Islands. Plaintiff seeks an order for the sale or transfer of Defendant Karamehmet's shares in Focus Investments Ltd ("Focus Investments"), which is incorporated in the Republic. Defendant Karamehmet has moved to dismiss this action for lack of personal jurisdiction and pursuant to the doctrine of *forum non conveniens*. Plaintiff submits this Supplemental Memorandum, and the

accompanying Declaration of Segun Osuntokun, executed on December 21, 2017, in accordance with the permission granted by the Court at the November 8, 2017 hearing.

LEGAL ARGUMENT

I. THE COURT HAS JURISDICTION.

Plaintiff has demonstrated that the Court has jurisdiction over Defendant Karamehmet for the limited purpose of enforcing the English Judgment against his shares in Focus Investments. Neither in his reply papers, nor at oral argument, has Defendant Karamehmet been able to respond to or rebut Plaintiff's showing of jurisdiction.

Jurisdiction is based on the fact that Defendant Karamehmet owns property in the Marshall Islands, i.e. his shares in Focus Investments. Because there is no Marshallese statute on point, the legal situs of shares in a Marshallese company is governed by U.S. common law.[1] At common law, the situs of stock for the purpose of attachment and execution was at the domicile of the corporation, i.e. its place of incorporation. *See, e.g., State ex rel. N. Am. Co. v. Koerner*, 211 S.W.2d 698, 700 (Mo. 1948); *Haughey v. Haughey*, 9 N.W.2d 575 (Mich. 1943); *Mills v. Jacobs*, 4 A.2d 152, 153, 155 (Pa. 1939); *Thompson v. Terminal Shares*, 89 F.2d 652, 656 (8th Cir. 1937); *La Varre v. International Paper Co.* 37 F. 2d 141, 152 (D.C. Cir. 1929); *Grenada Bank v. Glass* 116 So. 740 (Mo. 1928); *Martin v. Cent. Tr. Co. of Illinois*, 159 N.E. 312, 317-18 (Ill. 1927); *Harris v. Mid-Continent Life Ins. Co.*, 182 P. 85 (Okla. 1919); *Barber v. Morgan*, 80

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[1] *See Linkinbod v. Keljat*, S. Ct. Civil No. 94-03 (April 21, 1995) (noting that the legal framework established by the 1979 Marshall Islands Constitution "continued the common law in effect as the governing law, in the absence of customary law, traditional practice or constitutional or statutory provisions to the contrary"); *Republic of the Marshall Islands v. Waltz*, S. Ct. Criminal No. 86-03 (1987) (to same effect).

A. 791 (Conn. 1911); *Gundry v. Reakirt*, 173 F. 167, 169 (E.D. Pa. 1909); *Cord v. Newlin* 59 A. 22, 23 (N.J. 1904).[2]

The presence of the shares of Focus Investments in the Marshall Islands provides a complete basis for the exercise of jurisdiction, satisfying the constitutional requirement of due process and without the need to resort to the long arm statute. *See Arbor Farms, LLC v. GeoStar Corp.*, 353 N.W.2d 421, 427 (Mich. App. 2014) ("[W]e conclude that, when a judgment debtor owns property in Michigan, jurisdiction is proper in postjudgment enforcement proceedings without the necessity of demonstrating personal jurisdiction over the debtor."); *Lenchyshyn v. Pelko Elec., Inc.*, 723 N.Y.S.2d 285, 289-90 (N.Y. App. Div. 2001) ("Those courts that have cited the *Shaffer* footnote have held uniformly that no jurisdictional basis for proceeding against the judgment debtor need be shown before a foreign judgment will be recognized or enforced in a given state.") (citing decisions from 14 states); *see also Stichting Maharishi Global Fin. Research v. Joh. Enschede Stamps B.V.*, No. 4:15-cv-00466-SMR-SBJ, 2016 WL 6674986, at *3 (S.D. Iowa Jan. 7, 2016); *Abu Dhabi Commercial Bank PJSC v. Saad Trading*, 986 N.Y.S.2d 454, 459 (N.Y. App. Div. 2014); *Haaksman v. Diamond Offshore (Bermuda) Ltd.*, 260 S.W.3d 476, 479-80 (Tex. App. 2008); *Electrolines, Inc. v. Prudential Assurance Co.*, 677 N.W.2d 874,

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[2] *See also Jellenik v. Huron Copper-Mining* Co., 177 U.S. 1, 13 (1900) ("The certificates are only evidence of the ownership of the shares, and the interest represented by the shares is held by the company for the benefit of the true owner. As the habitation or domicil of the company is and must be in the State that created it, the property represented by its certificates of stock may be deemed to be held by the company within the state whose creature it is, whenever it is sought by suit to determine who is its real owner."); *Hynson v. Drummond Coal Co.*, 601 A.2d 570, 576 (Del. Ch. 1991) ("The traditional rule (and still the rule by statute with respect to Delaware corporations) is that stock has its legal situs in the domiciliary jurisdiction."); 11 William M. Fletcher, Fletcher Cyclopedia of the Law of Private Corporations § 5101 ("Historically, the situs of shares was the domicile of the corporation, regardless of the location of the corporation's property and assets."); Robert Pomerance, *Situs of Stock*, 17 Cornell L. Rev. 43, 63 (1931) ("The traditional place for the attachment of stock ... has been the state of incorporation").

884-85 (Mich. Ct. App. 2003); *Pure Fishing, Inc. v. Silver Star Co.*, 202 F. Supp. 2d 905, 910 (N.D. Iowa 2002).[3]

II. MARSHALL ISLANDS STATUTORY LAW GIVES THE COURT THE POWER TO ORDER THE REMEDIES REQUESTED.

In his Reply papers, Defendant Karamehmet has questioned whether the Court has the power to execute any judgment against his shares in Focus Investments. Defendant argues that at common law, in absence of statute, shares were not subject to levy and sale on execution. (Reply at 2.) This argument fails because Marshall Islands statutory law provides the Court with broad authority to enforce a judgment against any and all property of a judgment debtor, including shares in a company.

The Uniform Foreign Money-Judgments Recognition Act, 30 MIRC Ch. 4, provides that a foreign money judgment that meets the requirements of the Act is to be recognized as conclusive. The functioning of the transnational legal system depends upon mutual cooperation and comity between courts in different jurisdictions to ensure that debtors and tortfeasors are not allowed to evade legitimate liabilities by hiding behind national boundaries. In enacting the Uniform Foreign Money-Judgments Enforcement Act, the Marshall Islands Nitijela has directed Marshallese courts to enforce and execute duly-entered judgments of English and other foreign courts with the same vigor and efficacy as judgments of Marshallese courts, and indeed with the same vigor a Marshallese court would hope for and expect in a situation where it needed assistance from an English court in order to effectuate one of its own judgments. *Cf. Hilton v. Guyot*, 159 U.S. 113, 163-64 (1895) (defining "comity" as "the recognition which one nation

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[3] *See generally* Linda J. Silberman & Aaron D. Simowitz, *Recognition and Enforcement of Foreign Judgments and Awards: What Hath Daimler Wrought?*, 91 N.Y.U. L. Rev. 344, 379 (2016) ("Post-Shaffer, conventional wisdom has accepted the distinction between a plenary action and an action to recognize and enforce a judgment.").

allows within its territory to the legislative, executive, or judicial acts of another nation, having due regard both to international duty and convenience, and to the rights of its own citizens or of other persons who are under the protection of its laws.").

If Plaintiff demonstrates that the requirements of the Uniform Foreign Money-Judgments Recognition Act are satisfied, the Court will enter a Marshall Islands judgment in substantially the same form as the English Judgment, i.e. awarding Plaintiff a recovery of $44,332,413, plus costs and interest, against Defendant Karamehmet. The resulting judgment will then be subject to enforcement in the same manner as any other judgment of this Court, utilizing the procedures provided under the Enforcement of Judgments Act, 30 MIRC Ch. 1.

Section 102 of the Enforcement of Judgments Act, which is expressly referred to in the Complaint (Compl. ¶ 4), provides that "[t]he process to enforce a judgment for the payment of the money may be a writ of execution or an order in aid of judgment, as provided in Part II of this Chapter." 30 MIRC § 102 (emphasis added).

Section 108 addresses the scope of writs of execution, providing that all personal property of the judgment debtor is subject to execution. 30 MIRC § 108 ("Every court, at the request of the party recovering any civil judgment in that court for the payment of money, shall issue a writ of execution against the personal property of the party against whom the judgment has been rendered . . . ."). "Personal property" is not defined in the Enforcement of Judgments Act. Although the question of whether shares in a company were considered personal property had been unsettled at common law, it is by now well settled that they are personal property. This is established, for example, in Section 111 of the Wills, Probate and Guardianship law, which provides that "[w]hen a decedent leaves personal property, including but not limited to cash,

bank or other accounts, wages or salary due, shares of stock or other interest in any business enterprise, ..." 25 MIRC § 111 (emphases added).

Other sections of the Enforcement of Judgments Act grant the Court broad additional powers to execute a money judgment. For example, Section 105 (Other Methods of Enforcement) provides:

> Enforcement of judgment may also be affected, if the High Court deems justice requires and so orders by the appointment of a receiver, or receivers, by taking possession of property and disposing of it in accordance with the orders of the Court, or by a civil action on the judgment, or in any other manner known to American common law or in the courts in the United States.

30 MIRC § 105.

The Court's powers are further supplemented by Sections 110-111 of the Act. Section 110 gives the Court the power to hold hearings and hear all pertinent evidence regarding the best way to satisfy the judgment:

> At any time after a finding for the payment of money by one party to another, and before any judgment based thereon has been satisfied in full, either party may apply to the court for an order in aid of judgment. Thereupon the court, after notice to the opposite party, shall hold a hearing on the question of the debtor's ability to pay and determine the fastest manner in which the debtor can reasonably pay a judgment based on the finding.

30 MIRC § 110.

Having held a hearing under Section 110, the Court has broad authority to issue whatever orders justice requires in order to ensure that the judgment is satisfied:

> Upon having heard the evidence or having received the report of the single judge or master, the court shall make such order in aid of judgment as is just for the payment of any judgment based on the finding. . . . This order in aid of judgment may provide for the transfer of particular assets at a price determined by the court, or for the sale of particular assets and payment of the net proceeds to the creditor, or for payments, in specified installments on particular

> dates or at specified intervals, or for any other method of payment which the court deems just.

30 MIRC § 111.

Taken together, these provisions leave no doubt that (i) Defendant Karamehmet's shares in Focus Investments are properly subject to execution, and (ii) the Court has the power to take whatever steps are necessary in order to ensure that the value of Focus Investments can be realized and used to pay the English Judgment. The factual record indicates that the sole asset of Focus Investments consists of shares of Genel Energy plc ("Genel"), a publicly-traded Jersey Company. In this situation, the most effective way to proceed will likely be for the Court to order the appointment of a receiver empowered to take over the shares of Focus Investments and exercise all rights of a sole shareholder. Armed with the Court's order, the receiver will be able to direct the sale of the Genel shares at market prices, and transfer the proceeds of the sale to Plaintiff in partial satisfaction of the English Judgment.

Alternatively, the Court could reach a similar result, without appointing a receiver, by issuing an order in aid of judgment under Section 111, "provid[ing] for the transfer of particular assets at a price determined by the court." 30 MIRC § 111. Specifically, the Court could order the transfer of Defendant Karamehmet's shares in Focus Investments to Plaintiff, at a price that the Court can readily determine based on the market value of Focus Investments' sole asset, its publicly-traded shares in Genel. The Court-determined value of the transfer in ownership would serve to partially satisfy the English Judgment against Defendant Karamehmet. With the Court's order designating Plaintiff as the new owner of Focus Investments, Plaintiff could then seek to sell the company's shares in Genel at market prices and apply the proceeds to reduce the amount owed under the English Judgment.

III. DEFENDANT DOES NOT MEET THE THRESHOLD REQUIREMENT FOR SEEKING DISMISSAL PURSUANT TO THE DOCTRINE OF *FORUM NON CONVENIENS.*

Courts addressing a motion to dismiss pursuant to the doctrine of *forum non conveniens* undertake a two-step analysis: First, the defendant bears the burden of demonstrating that there is an adequate alternative forum in which the dispute can be litigated. *See Carijano v. Occidental Petroleum Corp.*, 643 F.3d 1216, 1224 (9th Cir. 2011). If the defendant has carried his burden over this threshold, the court proceeds to weigh the private and public interest factors that bear on the relative convenience of the two forums and the relative interests of each forum in addressing the subject matter of the dispute. *See Piper Aircraft v. Reyno*, 454 U.S. 235, 241 (1981); *Gulf Oil Corp. v. Gilbert*, 330 U.S. 501, 508-09 (1947); *Carijano*, 643 F.3d at 1224.

In its previous brief, Plaintiff has demonstrated that neither the public nor private interest factors would weigh in favor of dismissal here. For purposes of this Supplemental Memorandum, the most important point is that Defendant Karamehmet has still not crossed the first threshold for seeking dismissal pursuant to the doctrine of *forum non conveniens*, i.e. demonstrating that there is an adequate alternative forum. He does not identify any other forum where the parties and the subject matter would be subject to jurisdiction and service, where appropriate legal remedies are available, where the property at issue – the shares in Focus Investments – would be within the court's jurisdiction, or where witnesses and evidence might be more readily available.

At oral argument, Defendant's counsel suggested that England would be an available alternative forum. Defendant's counsel, who is not an English lawyer, apparently assumed that the English courts would have continuing jurisdiction over the matter based on the forum selection clauses in the contracts upon which Plaintiff originally brought suit. As demonstrated in the accompanying Declaration of Segun Osuntokun, this is not the case. Under English law, a

contractual consent to English jurisdiction for a dispute that arises under the contract does not extend to post-judgment enforcement proceedings. (Osuntokun Decl. ¶¶ 4-6.) Since Defendant Karamehmet does not appear to be present in England, and is not known to own any property there, the English courts would have no jurisdiction to entertain the present action. (*Id.* ¶¶ 7-8.)

Dated: 22 December 2017

By: _____
JAMES McCAFFREY
Attorney for Plaintiff

Digitally signed by James McCaffrey
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IN THE HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO LTD, a Korean corporation Plaintiff, vs. FOCUS INVESTMENTS LTD, a Marshall Islands corporation, and MEHMET EMIN KARAMEHMET Defendants.	Civil Action 2017-081 **DECLARATION OF SEGUN OSUNTOKUN IN OPPOSITION TO PLAINTIFF'S MOTION TO DISMISS**

I, Segun Osuntokun, declare under penalty of perjury of the laws of the Republic of the Marshall Islands that the following is true and correct to the best of my knowledge and belief:

1. I am a solicitor qualified to practice law in England and Wales, and am a partner of Berwin Leighton Paisner LLP, English solicitors for the Plaintiff. I qualified as a solicitor in 1993 and have twenty-four years' experience, of which fourteen years were as a partner, in civil and commercial litigation before the English courts. I specialize in complex disputes, and cases involving fraud, corruption and asset tracing.

2. My firm and I acted for the Plaintiff in the English proceedings leading to entry of the judgment (the "**English Judgment**") whose recognition and enforcement is sought in these

proceedings, i.e. Samsung Heavy Industries Co. Ltd v Value Shipping and others, High Court claim number CL-2015-000622.

3. I make this Declaration in support of the Plaintiff's opposition to the Defendant Mehmet Emin Karamehmet's ("**Mr Karamehmet's**") Motion to Dismiss, and more particularly to provide information to the Court about post-judgment disclosure and enforcement procedures available under English law, as well as other relevant background information, as requested and permitted by the Court at the November 8, 2017 hearing. I am competent to make this Declaration and, except as otherwise indicated, have personal knowledge of the matters stated herein.

A. Post-Judgment Disclosure and Enforcement Procedures Under English Law

4. I understand that the Court has inquired about the availability under English law of procedures to obtain disclosure about Mr Karamehmet's assets, and to enforce the English Judgment against those assets. In summary, the English court's jurisdiction to levy execution in satisfaction of its judgments is generally limited to persons or property that are located in England and Wales. A contractual consent to English jurisdiction for a claim arising under a contract does not, by itself, extend to jurisdiction over the defendant in post judgment disclosure or enforcement proceedings. The powers of the English courts to assist in enforcing the English Judgment are therefore limited by the fact that Mr Karamehmet is not believed to be present in England, nor have we yet identified any assets he owns in England.

5. Once an English court has issued judgment, the court has powers under the English court rules[1] to require a judgment debtor (or, if the judgment debtor is a company, an

[1] CPR 71.1-71.8.

officer of the company) to attend court to provide information for the purpose of enabling a judgment creditor to enforce a judgment or order against him. This is known in English practice as the procedure for oral examination. However, in application of the principle of territoriality, the courts have interpreted this power as being limited to individuals physically within the jurisdiction of the court. In *Masri v Consolidated Contractors International Co SAL* [2009] UKHL 43, the House of Lords held that the rules did not allow an officer of a company to be questioned, because the officer was domiciled in Greece and not present in England. Similarly, in *CIMC Raffles Offshore (Singapore) Pte Ltd v Schahin Holdings SA* [2014] EWHC 1742, [22] (Comm), Mr Justice Field set aside orders made against Brazilian citizens living in Brazil, and explained:

> "*In my judgment, it is clear that the House of Lords held in* Masri *that the court has no power to entertain an application or to make an order in respect of an individual who was outside the jurisdiction. In my view, that means that if the individual is not within the jurisdiction at the time the application was made and at the time the order is made, there is no power in the court to make an order against him.*"

6. This limitation on the court's powers to order an oral examination is unaffected by the fact that a party may have agreed to the jurisdiction of the English courts to resolve disputes under a particular agreement. This is because, as held in the cases to which I refer above, the power to order oral examination is based on the individual (whether judgment debtor or officer) being physically present in the jurisdiction, and not on any submission to the substantive jurisdiction of the court. The English courts will not make an order against a person who is not in the jurisdiction, because such an order would be impossible to enforce.

7. To the best of our knowledge and belief, Mr Karamehmet is a Turkish national residing in Turkey. All papers served on him out of the English proceedings have been served on him, through international channels, at an address in Turkey.

8. With regard to our ability to seek disclosure of Mr Karamehmet's assets from parties other than himself, e.g. from banks or other financial institutions in England, I note that the English court does have power[2] to order third parties to proceedings to provide disclosure of documents. However, there are a number of limitations to this power. The most important for present purposes is that the documents sought must be likely to support the case of the applicant or adversely affect the case of another party to the proceedings, and disclosure must be necessary to dispose fairly of the claim.[3] For this reason, an application for third party disclosure can only be made before proceedings are commenced, or while they are ongoing. A court could not make an order for third party disclosure after the proceedings had concluded, as by definition the documents would by that stage not be necessary to dispose of the claim. Accordingly, third party disclosure is not available at the judgment enforcement stage.

7. In relation to enforcement and execution, the English court does not, of its own volition or initiative, enforce its own judgments or even assist in deciding how they should be enforced. It is a feature of English civil justice that the instigation and conduct of enforcement proceedings is left to the judgment creditor. The English court rules offer a range of enforcement methods to which a judgment creditor can have recourse, including third party debt orders (formerly known as "garnishee orders"), charging orders, attachment of earnings, and the appointment of receivers. However, as with the procedure for oral examination, English court's powers of enforcement are territorially restricted. For example, a third party debt order can only be made against a third party within the jurisdiction,[4] such as a bank or share registrar, and a

---

2 CPR 31.17.
3 CPR 31.17(3).
4 CPR 72.1(1): "*This Part contains rules which provide for a judgment creditor to obtain an order for the payment to him of money which a third party who is within the jurisdiction owes to the judgment debtor.*"

charging order may only be made against property within the jurisdiction,[5] typically land or partnership property.

8. The English court also has a jurisdiction to grant a post-judgment freezing injunction (formerly known as a Mareva injunction).[6] This is not a method of enforcement as such, because it has the effect merely of preventing a person from removing assets from the jurisdiction, or from disposing of or dealing with assets, and therefore protecting those assets should the judgment creditor seek to enforce against them. An order can be sought restraining the party from dealing with assets outside the jurisdiction of the court in limited circumstances. However, such an order acts only against the defendant or judgment debtor, and not against the assets themselves. Such an order would be of no benefit in respect of a judgment debtor who, like Mr Karamehmet, is outside England, did not appear in the proceedings, and shows no sign of ever entering the jurisdiction.

B. Efforts to Enforce the English Judgment

9. The English proceedings arose out of the Claimant not being paid the agreed price for ships it built for Mr Karamehmet's Geden Lines group. The proceedings were brought against nine defendants, including (i) six Maltese companies which were special purpose vehicles for the purchase of the ships; (ii) two holding companies, Genel Denizcilik Naklivati AS and Cukurova Holdings, and (iii) Mr Karamehmet.

10. All of the defendants were served with the proceedings. None of the defendants acknowledged service or submitted any defence to the claims. None of the defendants engaged with us in any manner in relation to the proceedings.

---

5 CPR PD 73.4A.1.
6 CPR 25.1(1)(f).

11. On the application of the Plaintiff, Leggatt J gave judgment in default against the second to sixth defendants on 14 January 2016,[7] and the first, eighth and ninth defendants, including Mr Karamehmet, on 3 February 2016.[8] On the application of the Plaintiff, Popplewell J gave judgment in default against the seventh defendant on 14 June 2016.[9] Under the English court rules,[10] Mr Karamehmet was required to make payment of the judgment sum immediately. Mr Karamehmet failed to make any payment in respect of the judgment or to make any proposals in that regard.

12. On 17 June 2016, Mr Karamehmet was served with the judgment.[11]

13. Since then, we have continued to make consistent efforts to locate assets held by Mr Karamehmet and to research their status in order to identify one or more routes to enforce the judgment. I do not provide details of those efforts, because they are ongoing and I do not want to compromise the asset enquiry or in any way waive the Claimant's legal professional privilege by providing information to Mr Karamehmet's lawyers. I can say, however, that our enquiries to date have not identified any substantial assets owned by Mr Karamehmet in England. Such assets would be the first port of call for enforcement, as it is of course most straightforward to enforce an English judgment against assets held in England. The absence (so far as we are aware) of any assets held by Mr Karamehmet within the jurisdiction of the English courts has required us to pursue assets overseas. Our enquiries have located assets both in Mr

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7 Order of Leggatt J dated 14 January 2016, attached hereto as Exhibit A.

8 Order of Leggatt J dated 3 February 2016, attached hereto as Exhibit B.

9 Order of Popplewell J dated 14 June 2016, attached hereto as Exhibit C.

10 CPR 12.5(2) states: "*...a default judgment on a claim for a specified amount of money obtained on the filing of a request, will be judgment for the amount of the claim (less any payments made) and costs – (a) to be paid by the date or at the rate specified in the request for judgment; or (b) if none is specified, immediately*." CPR 40.7 states that a judgment takes effect from the day it is made.

11 Letter from HM Courts and Tribunals Service, Foreign Process Section dated 22 July 2016 with annexures, and English translation, attached hereto as Exhibit D.

Karamehmet's home country of Turkey and in several jurisdictions in both Europe and America, and, as advised, the Claimant is considering and/or pursuing appropriate enforcement proceedings to realise those assets.

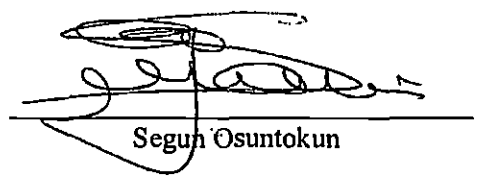
14. We are aware from public filings that Mr Karamehmet, through Defendant Focus Investments Ltd ("Focus Investments"), owns a considerable proportion of the shares in Genel Energy plc ("**Genel**"). That company is listed on the London Stock Exchange but its shares are registered in Jersey, which is an English Crown dependency but not part of the United Kingdom and not subject to the jurisdiction of the English courts. Further, Mr Karamehmet is not in England or Wales. For those reasons, it is not possible for the Plaintiff to seek to enforce its judgment against that interest in the English courts.

C. Recent securities filings of Genel Energy plc

15. In the Complaint in these proceedings, the Plaintiff relied on evidence of Mr Karamehmet's ownership of the shares in Genel from the Notice of Annual General Meeting of 21 April 2015 (Compl. ¶ 9; Compl. Ex. 3) and the prospectus issued by Genel on 17 June 2016 (Compl. ¶ 8; Compl. Ex. 2).

16. Genel's most recent securities filings confirm that Mr Karamehmet continues to own the shares. Genel's audited Accounts filed on 14 June 2017 (Attached hereto as Exhibit E) confirm that Focus Investments is "controlled" by Mr Karamehmet (Ex. E at 70), and that Focus Investments has a "substantial shareholding" in Genel (over 5% of the voting rights in Genel) being 64,589,351 ordinary shares (Ex. E at 71).

Dated: 21 December 2017



Segun Osuntokun

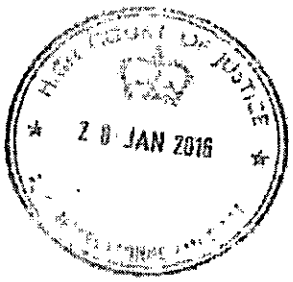
EXHIBIT A

Claim No. CL-2015-000622

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

COMMERCIAL COURT



Before: Mr Justice Leggatt

Dated: 14/1/16

BETWEEN:

SAMSUNG HEAVY INDUSTRIES CO LTD

Claimant

-and-

(1) VALUE SHIPPING LIMITED

(2) BRAVO SHIPPING LIMITED

(3) BARBAROS MARITIME LIMITED

(4) STOCK SHIPPING LIMITED

(5) SHOW SHIPPING LIMITED

(6) HAPPY SHIPPING LIMITED

(7) GENEL DENIZCILIK NAKLIYATI AS

(8) ÇUKUROVA HOLDING AS

(9) MEHMET EMIN KARAMEHMET

Defendants

DRAFT ORDER

UPON the Claimant's application dated 13 January 2016

AND UPON reading those documents recorded on the Court file as having been read

IT IS ORDERED THAT:

1 There be judgment in default for the Claimant's claim against the Second, Third, Fourth, Fifth, and Sixth Defendants in the sum of the amounts specified in the Particulars of Claim, being:

(A) Against the Second Defendant:

(1) US$36,104,655.38 (being US$14,394,288.62 under the Finance Agreements and US$21,710,366.76 under the Termination Agreement);
(2) Interest.

(B) Against the Third Defendant:

(1) US$35,895,679.59 (being US$14,185,312.84 under the Finance Agreements and US$21,710,366.76 under the Termination Agreement);
(2) Interest.

(C) Against each of the Fourth Defendant, the Fifth Defendant and the Sixth Defendant:

(1) US$21,710,366.76 (being amounts due under the Termination Promissory Note or the Termination Agreement);
(2) Interest.

2 The costs of the claim, to be assessed if not agreed, are to be paid by the Defendant to the Claimant.

Claim No. CL-2015-000622

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

COMMERCIAL COURT

Before:

Dated:

BETWEEN:

SAMSUNG HEAVY INDUSTRIES CO LTD

Claimant

-and-

(1) VALUE SHIPPING LIMITED

(2) BRAVO SHIPPING LIMITED

(3) BARBAROS MARITIME LIMITED

(4) STOCK SHIPPING LIMITED

(5) SHOW SHIPPING LIMITED

(6) HAPPY SHIPPING LIMITED

(7) GENEL DENIZCILIK NAKLIYATI AS

(8) ÇUKUROVA HOLDING AS

(9) MEHMET EMIN KARAMEHMET

Defendants

DRAFT ORDER

Ref: SOSU/MBIR/GHEN/34722.00001

BERWIN LEIGHTON PAISNER

EXHIBIT B

Claim No. CL-2015-000622

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

COMMERCIAL COURT

Before: Mr Justice Leggatt

Dated: 3 February 2016

BETWEEN:

SAMSUNG HEAVY INDUSTRIES CO LTD

Claimant

-and-

(1) VALUE SHIPPING LIMITED

(2) BRAVO SHIPPING LIMITED

(3) BARBAROS MARITIME LIMITED

(4) STOCK SHIPPING LIMITED

(5) SHOW SHIPPING LIMITED

(6) HAPPY SHIPPING LIMITED

(7) GENEL DENIZCILIK NAKLIYATI AS

(8) ÇUKUROVA HOLDING AS

(9) MEHMET EMIN KARAMEHMET

Defendants

ORDER

UPON the Claimant's application dated 2 February 2016

AND UPON reading the affidavit of Marcus Murray Birch dated 2 February 2016

IT IS ORDERED THAT:

1 There be judgment in default for the Claimant's claim against the First, Eighth and Ninth Defendants in the sum of the amounts specified in the Particulars of Claim, being:

(A) Against the First Defendant:

(1) US$37,093,527.85 (being US$14,844,980.37 under the Finance Agreements and US$22,248,547.48 under the Termination Agreement); and

(2) Interest.

(B) Against the Eighth Defendant:

(1) US$66,580,960.48 (being US$44,332,413 under the Cukurova Finance Guarantees and US$22,248,547.48 under the Termination Guarantee); and

(2) Interest.

(C) Against the Ninth Defendant:

(1) US$44,332,413 (under the Karamehmet Finance Guarantees); and

(2) Interest.

2 The costs of the claim, to be assessed if not agreed, are to be paid by the Defendants to the Claimant.

Claim No. CL-2015-000622

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

COMMERCIAL COURT

Before: Mr Justice Leggatt

Dated: 3 February 2016

BETWEEN:

SAMSUNG HEAVY INDUSTRIES CO LTD

Claimant

-and-

(1) VALUE SHIPPING LIMITED

(2) BRAVO SHIPPING LIMITED

(3) BARBAROS MARITIME LIMITED

(4) STOCK SHIPPING LIMITED

(5) SHOW SHIPPING LIMITED

(6) HAPPY SHIPPING LIMITED

(7) GENEL DENIZCILIK NAKLIYATI AS

(8) ÇUKUROVA HOLDING AS

(9) MEHMET EMIN KARAMEHMET

Defendants

ORDER

Ref: SOSU/MBIR/GHEN/34722.00001

BERWIN LEIGHTON PAISNER

EXHIBIT C

Claim No. CL-2015-000622

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

COMMERCIAL COURT

Before: Mr Justice Popplewell

Dated: 14 June 2016

BETWEEN:

SAMSUNG HEAVY INDUSTRIES CO LTD

Claimant

-and-

(1) VALUE SHIPPING LIMITED

(2) BRAVO SHIPPING LIMITED

(3) BARBAROS MARITIME LIMITED

(4) STOCK SHIPPING LIMITED

(5) SHOW SHIPPING LIMITED

(6) HAPPY SHIPPING LIMITED

(7) GENEL DENIZCILIK NAKLIYATI AS

(8) ÇUKUROVA HOLDING AŞ

(9) MEHMET EMIN KARAMEHMET

Defendants

ORDER

UPON the Claimant's application dated 8 June 2016

AND UPON reading the affidavit of Marcus Murray Birch dated 8 June 2016

IT IS ORDERED THAT:

1 There be judgment in default for the Claimant's claim against the Seventh Defendant, being:

(a) US$67,899,877.59 (being US$45,278,235.50 under the Genel Finance Guarantees and US$22,621,642.09 under the Termination Agreement); and

(b) Interest to be assessed with liberty to apply for such purpose.

2 The costs of the claim, to be assessed if not agreed, are to be paid by the Defendants to the Claimant.

Claim No. CL-2015-000622

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

COMMERCIAL COURT

BETWEEN:

SAMSUNG HEAVY INDUSTRIES CO LTD

Claimant

-and-

(1) VALUE SHIPPING LIMITED

(2) BRAVO SHIPPING LIMITED

(3) BARBAROS MARITIME LIMITED

(4) STOCK SHIPPING LIMITED

(5) SHOW SHIPPING LIMITED

(6) HAPPY SHIPPING LIMITED

(7) GENEL DENIZCILIK NAKLIYATI AS

(8) ÇUKUROVA HOLDING AŞ

(9) MEHMET EMIN KARAMEHMET

Defendants

ORDER

Ref: SOSU/MBIR/GHEN/34722.00001

BERWIN LEIGHTON PAISNER

EXHIBIT D

HM Courts & Tribunals Service

ROYAL COURTS OF JUSTICE GROUP
Queen's Bench Division
Foreign Process Section
Room E16
Royal Courts of Justice
Strand, London
WC2A 2LL

DX 44450 Strand

T 020 7947 6691/6327/6682/7786
/6488/1741
F 0870 324 0025
E
ForeignProcess.RCJ@hmcts.gsi.gov.uk

Text Phone 18001 020 7947 6691
(Helpline for the deaf and hard of hearing)

www.hmcourts-service.gov.uk

Berwin Leighton Paisner
DX: 92 London

Our ref: RS 2016-172
Your ref:
SOSU/MBIR/GHEN/SMEA/347
22.00001

Date: 22 July 2016

Dear Sirs,

RE: Samsung Heavy Industry Co Ltd -V- Mehmet Emin Karamehmet
REQUEST FOR SERVICE UPON Mehmet Emin Karamehmet in Turkey

Please find enclosed herewith evidence of service of documents in the above matter received from the authorities of Turkey.

You may need to have the evidence provided translated into English, after which the evidence should be lodged with the Queen's Bench Division.

Yours faithfully,

Nazia Uddin
Foreign Process Section

Talepnamenin arka sayfası
Reverse of the request
Tasdikname
Certificate

Aşağıda imzası bulunan makam, Sözleşmenin 6 ncı maddesi uyarınca tasdik etmekle şeref duyar
The undersigned authority has the honour to certify, in conformity with the article 6 of the convention,

(x)1. Evrak Tebliğ edilmiştir.
1.That the document has been served
--- tarihi : the (date) **17/06/2016**
---yer,cadde,sokak,numara : at (place,street,number)

Aşağıda gösterilen ve 5 inci maddede öngörülmüş olan usullerden biri ile.
In one of the following methods authorisied by article 5-
( ) a) Sözleşmenin 5 inci maddesinin birinci fıkrasının (a) bendindeki hükme göre
a) In accordance with the porvisions of sub. paragraph (a) of the first paragraph of article 5 of the convention
( ) Die Zustellung ist gemaess dem Artikel 35 des Zustellungsgesetzes erfolgt
( ) La notification est accomplie d'après l'article 35 du Code de la Notification
( ) The document has been served, according to Article 35 of the Law of the Notification
( ) b) Aşağıdaki özel usul ile
b) In accordance with the following particular method

( ) c) Kendi arzusu ile kabul eden muhataba tevdi suretiyle
c) By delivery to the addressee who accepts it voluntarily

Talepte sözü edilen, evrakın kendisine tevdi edildiği kimse :
The documents referred to in the request have been delivered to :
Şahsın kimliği sıfatı Av. Asiye Seval Çoşar
İdentity and description of person
Bu şahsın muhataba olan yakınlığı (ailevi, iş veya başka) Authorised person
Relationship to the addressee (family, business or other)

~~**( ) 2. Aşağıda belirtilen nedenlerle evrak tebliğ edilememiştir.**~~
~~2.That the document has not been served, by reason of the following facts —~~
~~**Müracaatçının ilişik belgede açıklanan masrafları sözleşmenin 12 nci maddesinin ikinci fıkrası uyarınca ödemesi rica olunur.**~~
~~In conformity with the second paragraph of article 12 of the convention, the applicant is requested to pay or reimburse the expenses detailed in the attached statement.~~

Ekler --- Annexes
İade olunan belgeler --- Documents returned
Documents
Yer Adı **Tarih 30/06/2016**
Done at ANKARA the
Lüzumu halinde tebliğ işlemini tespit eden vesikalar : **İmza ve /veya mühür**
In appropriate cases, documents establishing the service Signature and/or stamp.
Judge 120821

Lüzumsuz yerleri çiziniz.
Delete if inappropriate

UYAP Bilişim Sisteminde yer alan bu dokümana http://vatandas.uyap.gov.tr adresinden WzgxOwt - yU+LPez - AWkS+gW - 1J8xNE= kodu ile erişebilirsiniz.

T.C.
İSTANBUL
CUMHURİYET BAŞSAVCILIĞI
BAKANLIK MUHABERE BÜROSU
(Uluslararası Hukuk Masası)

Sayı : 2016/6151 U.M. **22/06/2016**
Konu : Mehmet Emin KARAMEHMET

ADALET BAKANLIĞINA
(Uluslararası Hukuk ve Dış İlişkiler Genel Müdürlüğü)
ANKARA

İlgi : 11.03.2016 tarih ve 4.5.7823.2015-9153/28090 sayılı yazıları.

İlgide kayıtlı yazılarına konu, Mehmet Emin KARAMEHMET'e tebliğ edilmek üzere İngiltere Merkezi Makamından alınan evrak, vekili Avukat Asiye Seval COŞAR'a tebliğ edilmiş olup bu hususta Cumhuriyet Başsavcılığımızca düzenlenen 17.06.2016 tarihli tutanak ve ekleri ilişikte sunulmuştur.

Arz olunur.

Hasan Turan YAVUZYILMAZ
Cumhuriyet Başsavcı Vekili
e-imza

Ek : **11**

*Bu belge 5070 sayılı Kanun hükümlerine uygun olarak elektronik imza ile imzalanmış olup, fiziki olarak da gönderilecektir.

İstanbul Adalet Sarayı Şişli Gürsel Mah. Çağlayan Meydanı - A1/436 İSTANBUL
Telefon: 0212 375 75 75 Faks:0212 375 78 65 Dahili: 52401 Yazı İşl. Mdr. : Ç. KANAR

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T.C.
İSTANBUL
CUMHURİYET BAŞSAVCILIĞI
BAKANLIK MUHABERE BÜROSU
(Uluslararası Hukuk Masası)

Sayı : 2016/6113- 6151 U.M. **17/06/2016**
Konu :

TUTANAK

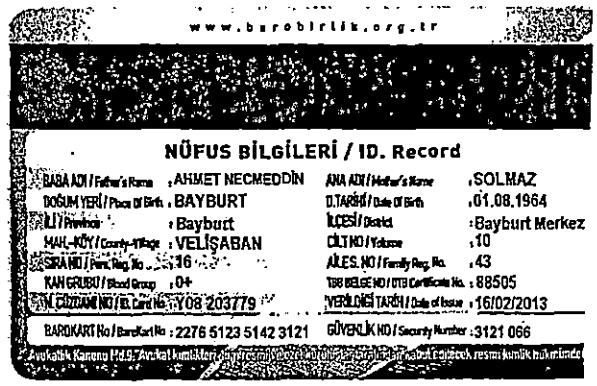
Adalet Bakanlığı Uluslararası Hukuk ve Dış İlişkiler Genel Müdürlüğünün 11.03.2016 tarih ve 28053 ve 28090 sayılı yazıları ekinde Mehmet Emin KARAMEHMET ve Çukurova Holding A.Ş.'ye tebliğ edilmek üzere İngiltere Merkezi Makamından alınan tebligat evrakı ve ekleri, "cevap veya itirazın da evrakta belirtilen süre içerisinde doğrudan ilgili yabancı mahkemeye gönderilmesi gerektiğinin, muhataba hatırlatılmak" suretiyle yasal temsilcisi İstanbul Barosu Avukatlarından Asiye Seval ÇOŞAR'a (Sicil No:15168) elden teslim edildi.

TESLİM EDEN
Çiğdem KANAR
Yazı İşleri Müdürü

TESLİM ALAN
Avukat Asiye Seval ÇOŞAR
Mehmet Emin KARAMEHMET
Çukurova Holding A.Ş.
Vekili

UYAP Bilişim Sisteminde yer alan bu dokümana http://vatandas.uyap.gov.tr adresinden nUCwoT5 - etkewyH - s5gkaI/ - dd8SpQ= kodu ile erişebilirsiniz.

TÜRKİYE BAROLAR BİRLİĞİ
UNION OF TURKISH BARS
AVUKAT KİMLİK BEL
LAWYER IDENTITY CERTIF
İSTANBUL BAROSU
ADI / NAME
ASİYE SEVAL
SOYADI / SURNAME
COŞAR
BARO SİCİL NO / BAR REG. NO
15168
U.T.B. REG. NO
R.O.T. ID NUMBER
16126716



www.barobirlik.org.tr

NÜFUS BİLGİLERİ / ID. Record

BABA ADI / Father's Name	: AHMET NECMEDDİN	ANA ADI / Mother's Name	: SOLMAZ
DOĞUM YERİ / Place Of Birth	: BAYBURT	D.TARİHİ / Date Of Birth	: 01.08.1964
İLİ / Province	: Bayburt	İLÇESİ / District	: Bayburt Merkez
MAH.-KÖY / County-Village	: VELİŞABAN	CİLT NO / Volume	: 10
SIRA NO / Pers. Reg. No	: 16	AİLE S. NO / Family Reg. No.	: 43
KAN GRUBU / Blood Group	: 0+	TBB BELGE NO / DTB Certificate No.	: 88505
N. CÜZDANI NO / ID. Card No.	: Y08 203779	VERİLDİĞİ TARİH / Date of Issue	: 16/02/2013
BARDKART No / BarcKart No	: 2276 5123 5142 3121	GÜVENLİK NO / Security Number	: 3121 066

Avukatlık Kanunu Md.9. Avukat kimlikleri alan resmi yüzeyi kuruluşlar tarafından kabul edilecek resmi kimlik hükmünde

20.01.2015

YETKİ BELGESİ

Yetki Veren : Av. İsmet BARDAKÇI
Teşvikiye Cad. No: 18 Seven Apt. Kat:6 Nişantaşı / İstanbul
TC Kimlik No: 14591411398
Baro Sicil No: 7705

Yetki Verilen : Av. Asiye Seval COŞAR
Levent Mah. Cömert Sok. YKB Plaza A Blok No:1/A K:16 Levent/İstanbul
TC Kimlik No: 70516126716
Baro Sicil No: 15168

Yetki Konusu : Müvekkil Mehmet Emin Karamehmet tarafından Beşiktaş 19. Noterliğinin 06.04.2010 tarih ve 09405 yevmiye nolu vekaletnamede yazılı tüm yetkiler.

İşbu yetki belgesi ile Av. Asiye Seval Coşar, müvekkil Mehmet Emin Karamehmet tarafından yukarıda belirtilen vekaletname ile tarafıma verilen tüm yetkilerle Avukatlık Kanunu'nun 56. maddesi hükmünce yetkilendirilmiştir.

Av. İsmet BARDAKÇI

Ek : Vekaletname örneği

T.C.
BEŞİKTAŞ
19. NOTERLİĞİ
Sayıçınen Sokak Emlak Konutları
2.Blok K:1 D:6 Levent-Beşiktaş/IST.
Tel. : (0212) 325 59 03

SOĞUK DAMGA
VARDIR

06 Nisan 2010

VEKALETNAME

№09405

Leh ve aleyhimde açılmış veya açılacak dava ve takipler ile benim de başkaları aleyhine açtığım veya açacağım dava ve takiplerden dolayı T.C. Mahkemelerinin, meclislerinin, daire ve kurumlarının her bölüm ve derecesinde, her bölüm ve şekilde temsile, haklarımı korumaya, haklarımın temin, müdafaa ve muhafazası için uygun göreceği bütün muameleleri takip, tamamlama ve bitirmeye, yeniden dava açmaya, kendi imzası ile gereken dilekçe ve belgeleri yazıp, ilgili olduğu daire ve kuruma vermeye, tebliğ ve tebellüğe ihtiyati ve icrai haciz ve tedbir kararları almaya, tedbir ve haciz koydurmaya ve kaldırmaya, kararların açıklanmasını ve düzeltilmesini istemeye, temyizden vazgeçmeye, Yargıtay, Danıştay ve diğer duruşma talebinde bulunmaya, karar düzeltilmesi ve yeniden yargılama talebinde bulunmaya, tanıkları dinletmeye, yemin teklif kabul ve reddine, hakimleri ve katipleri redde, bilirkişi, muhasip hakem tayin ve azline, keşif talebine, raporlara itiraza, tespit yaptırmaya, protesto çekmeye ve cevap vermeye, ilamlar ve kararların tamamının uygulanmasını sağlamaya, duruşma dışı tutulması talep etmeye, benim dışımda devam edecek duruşmalara katılmaya ve davadan ve temyizden feragate, davadan ve temyizden feragati kabule veya redde, sulh ve ibraya, ahzu kabza, dava takibinde sarfınazar etme ve sarfınazar etme talebini kabul etmeye, icabında bu salahiyetlerin bir kısmı veya tamamı ile başkalarını tevkil, teşrik ve azle münferiden mezun ve yetkili olmak üzere; İstanbul Barosu avukatlarından 7705 Baro sicil ve Mecidiyeköy Vergi Dairesi, 1420013669 vergi hesap numarasında kayıtlı **Av. İsmet BARDAKÇI**'yı vekil tayin ettim.

Aslı gibidir.

MEHMET EMİN KARAMEHMET
Büyükdere Cad.
Yapı Kredi Plaza A Blok
Kat 16 34330
Levent – İstanbul

T.C. BEŞİKTAŞ YÜZÜNCÜ NOTERLİĞİ 1923

Türkiye Cumhuriyeti

Yev.No :(A)

T.C.
BEŞİKTAŞ
19. NOTERLİĞİ

NOTER

ZEKERİYA DEMİR

ÇAYIR ÇİMEN SOK.
EMLAK KONUTLARI
A-2 BLOK KAT:1D:6
LEVENT-BEŞİKTAŞ/İ
STANBUL
Tel :
0212-3255903-16

06 Nisan 2010

İşbu vekaletname altındaki imzanın gösterdiği, Beşiktaş Nüfus Müdürlüğü'nden verilmiş 05.10.2001 tarih, 6910 kayıt, U07 seri ve 432310 numaralı fotoğraflı Nüfus Cüzdanına göre Mersin ili Tarsus ilçesi Camicedit mahallesi 0007 cilt, 00037 aile sıra, 0029 sıra numaralarında nüfusa kayıtlı olup, baba adı Mehmet Kemal, ana adı Ülcas, doğum tarihi 01.04.1944, doğum yeri Tarsus olan okur yazar olduğunu söyleyen, 31843791770 T.C. kimlik numaralı MEHMET EMİN KARAMEHMET adlı kişiye ait olduğunu ve işlerinin yoğunluğu nedeni ile daireye gelemediğinden Yapı Kredi Plaza A Blok Kat.16 Levent,İSTANBUL adresinde mahallinde huzurumda imzalandığını onaylarım. İkibinon yılı Nisan ayının altıncı günü 06.04.2010

A/Ö

BEŞİKTAŞ 19.NOTERİ
ZEKERİYA DEMİR
vekili başkatip ŞEREF DİNDAR

T.C. BEŞİKTAŞ ONDOKUZUNCU NOTERLİĞİ 1923

KDV, Harç, Damga Vergisi ve Değerli Kağıt bedeli makbuz karşılığı tahsil edilmiştir.
(A/Ö) A/S Ka=655/0, A/S YAZI=1/0, A/S DeK.=1/0, DYNK.Sf,Ka.=,97.9

SOĞUK DA[illegible]A VARDIR

№ 24447

28 EKİM 2013

TÜRKİYE CUMHURİYETİ

T.C.

BEŞİKTAŞ

19. NOTERLİĞİ

NOTER
ZEKERİYA DEMİR
Çayır Çimen sok.Emlak Konutları A-2 Blok Kat.1D.6
Levent/Beşiktaş
İSTANBUL
Tel:0212 3255903

Harç, Damga Vergisi ve Değerli Kağıt Bedeli Nakden Tahsil Edilmiştir.

GENEL VEKALETNAME

Leh ve aleyhimizde açılmış veya açılacak bilumum dava ve takiplerden dolayı T.C. Mahkemelerinin meclislerinin, daire ve kurumlarının her bölüm ve derecesinde her sıfat tarik ve suretle bizi temsile, haklarımız korumayı temin, müdafaa ve muhafazası için uygun göreceği bütün işlemleri takip etmeye sonuçlandırmaya dava açmaya, gerektiğinde yeniden dava açmaya, gereken dilekçe ve belgeleri yazıp imzalayarak ilgili olduğu daire ve kuruma vermeye, tebliğ ve tebellüğe, kararların açıklanmasını ve düzeltilmesini istemeye, davayı temyize, Yargıtay, Danıştay ve diğer idari, mali ve yargı kurumlarında temsile ve duruşma talebinde bulunmağa, karar düzeltilmesi talebinde bulunmaya, tanıkları dinletmeye ve şikayette bulunmaya, Avrupa İnsan hakları Mahkemesinde dava açmaya, bu davaları takip etmeye, sonuçlandırmaya, bilirkişi, muhasip, hakem tayin ve reddine, keşif talebine, raporlara itiraza, tespit yaptırmaya, ihtarname, ihbarname, protesto çekmeye ve cevap vermeye, ilamlar ve kararların tamamının uygulanmasını sağlamaya, duruşma dışı tutulma talebinde bulunmaya, ihtiyati ve icrai haciz ve tedbir kararları almaya, tedbir ve haciz koydurmaya, icra takiplerinde pey sürmeye, bizim dışımızda devam edecek duruşmalara katılmaya, CMUK'nun ilgili maddeleri uyarınca uzlaşmaya, uzlaşmaları kabul veya redde, CMUK gereğince hükmün açıklanmasının geri bırakılmasını ve ertelenmesini talep etmeye, yabancı ülkelerden verilmiş mahkeme kararlarının tanınması ve tenfizini istemeye, adli sicil kaydımı ve arşiv bilgilerimi talep edip almaya, mal beyanında bulunmaya davadan temyizden feragate, feragatı davayı kabule, ahzu kabza, sulh ve ibraya, icra ve mahkeme satışlarına iştirake, pey sürmeye, teminat yatırmaya, arttırmaya, eksiltmeye, yatırılan teminatları geri almaya, , bu yetkilerin bir kısmı veya tamamı ile başkalarını tevkil, teşrik ve azle, birlikte veya ayrı ayrı vekaleti ifaya mezun ve yetkili olmak üzere; **İstanbul Barosu Avukatlarından Levent Mh. Cömert Sokak Yapı Kredi Plaza A Blok No.1/A Kat.16 Levent, Beşiktaş/İstanbul adresinde mukim, Çukurova Holding A.Ş.de bordrolu olarak çalışan 15168 baro sicil ve 70516126716 T.C. kimlik no.lu Av. ASİYE SEVAL COŞAR** tarafımızdan vekil tayin edildi.

VEKALET VERENLER :

1- ÇUKUROVA HOLDİNG ANONİM ŞİRKETİ
Levent Mh.Cömert Sk. Yapı Kredi Plaza A Blok No.1/A K.16 Beşiktaş/İSTANBUL
Büyük Mükellefler V.D.-2640028465

2- SINAİ VE MALİ YATIRIMLAR HOLDİNG ANONİM ŞİRKETİ
Levent Mh.Cömert Sk. Yapı Kredi Plaza A Blok No.1/A K.16 Beşiktaş/İSTANBUL
Beşiktaş V.D.-7690023054

3- ENDÜSTRİ HOLDİNG ANONİM ŞİRKETİ
Levent Mh.Cömert Sk. Yapı Kredi Plaza A Blok No.1/A K.16 Beşiktaş/İSTANBUL
Beşiktaş V.D.- 3340071010

4- DEMİR TOPRAK İTHALAT İHRACAT VE TİCARET ANONİM ŞİRKETİ
Levent Mh.Cömert Sk. Yapı Kredi Plaza A Blok No.1/A K.16 Beşiktaş/İSTANBUL
Beşiktaş V.D.- 2780079164

5- KARAMKO İMALAT ZİRAAT ENDÜSTRİ VE TİCARET ANONİM ŞİRKETİ
Levent Mh.Cömert Sk. Yapı Kredi Plaza A Blok No.1/A K.16 Beşiktaş/İSTANBUL
Beşiktaş V.D.- 5182037619

6- TURKCELL HOLDİNG ANONİM ŞİRKETİ
Büyükdere Cad. Yapı Kredi Plaza A Blok Kat.16 Levent, Beşiktaş/İSTANBUL
Boğaziçi Kurumlar V.D.-8710146872

Dolıgıbıntır
Av. A. Seval Coşar
17.06.2016

Türkiye Cumhuriyeti

T.C.
BEŞİKTAŞ
19. NOTERLİĞİ

BEŞİKTAŞ 19.
NOTERİ

ZEKERİYA DEMİR

ÇAYIR ÇİMEN SOK.
EMLAK KONUTLARI
A-2 BLOK KAT:1D:6
LEVENT-BEŞİKTAŞ,
İSTANBUL
Tel :
0212-3255903-16

İşbu vekaletname altındaki imzaların gösterdiği, Beşiktaş Nüfus Müdürlüğü'nden verilmiş 11.10.2005 tarih, 10432 kayıt, S09 seri ve 910232 numaralı fotoğraflı Nüfus Cüzdanına göre İzmir ili Dikili ilçesi Bademli mahallesi / köyü 0018 cilt, 00072 aile sıra, 0015 sıra numaralarında nüfusa kayıtlı olup, baba adı Hüseyin Avni, ana adı Asiye, doğum tarihi 01.07.1948, doğum yeri İstanbul olan okur yazar olduğunu söyleyen, **34135788908 T.C. kimlik numaralı MEHMET BÜLENT ERGİN,** Beşiktaş Nüfus Müdürlüğü'nden verilmiş 21.01.2003 tarih, 653 kayıt, A09 seri ve 182953 numaralı fotoğraflı Nüfus Cüzdanına göre Adana ili Seyhan ilçesi Kayalıbağ mahallesi / köyü 0025 cilt, 00538 aile sıra, 0013 sıra numaralarında nüfusa kayıtlı olup, baba adı Mustafa Tekin, ana adı Kevser, doğum tarihi 15.10.1949, doğum yeri İstanbul olan okur yazar olduğunu söyleyen, **17074188770 T.C. kimlik numaralı FİKRİ ŞADİ GÜCÜM,** Şişli Nüfus Müdürlüğü'nden verilmiş 10.06.2004 tarih, 9114 kayıt, K08 seri ve 178121 numaralı fotoğraflı Nüfus Cüzdanına göre İstanbul ili Şişli ilçesi Halaskargazi mahallesi / köyü 0011 cilt, 00577 aile sıra, 0007 sıra numaralarında nüfusa kayıtlı olup, baba adı Gazi, ana adı Süheyla, doğum tarihi 03.09.1951, doğum yeri Sarıkamış olan okur yazar olduğunu söyleyen, **48091308148 T.C. kimlik numaralı HİKMET YASEMİN ÇETİNALP,** Kadıköy Nüfus Müdürlüğü'nden verilmiş 23.03.2009 tarih, 9012 kayıt, M11 seri ve 237107 numaralı fotoğraflı Nüfus Cüzdanına göre Bursa ili Mudanya ilçesi Dere mahallesi / köyü 0026 cilt, 00048 aile sıra, 0039 sıra numaralarında nüfusa kayıtlı olup, baba adı Narin Ali, ana adı Güler, doğum tarihi 24.06.1964, doğum yeri Mudanya olan ve halen yukarıdaki adreste bulunduğunu, okur yazar olduğunu söyleyen, **35536114648 T.C. kimlik numaralı İBRAHİM ALPAY DEMİRTAŞ,** Beşiktaş Nüfus Müdürlüğü'nden verilmiş 14.11.2011 tarih, 11571 kayıt, C13 seri ve 244388 numaralı fotoğraflı Nüfus Cüzdanına göre Mersin ili Tarsus ilçesi Camicedit mahallesi / köyü 7 cilt, 37 aile sıra, 29 sıra numaralarında nüfusa kayıtlı olup, baba adı Mehmet Kemal, ana adı Ülcas, doğum tarihi 1.4.1944, doğum yeri Tarsus olan okur yazar olduğunu söyleyen, **31843791770 T.C. kimlik numaralı MEHMET EMİN KARAMEHMET,** Maltepe Nüfus Müdürlüğü'nden verilmiş 24.8.2004 tarih, 18772 kayıt, K09 seri ve 892572 numaralı fotoğraflı Nüfus Cüzdanına göre İstanbul ili Şişli ilçesi Teşvikiye mahallesi / köyü 27 cilt, 897 aile sıra, 1 sıra numaralarında nüfusa kayıtlı olup, baba adı Ahmet Remzi, ana adı Adile, doğum tarihi 1.6.1943, doğum yeri İstanbul olan okur yazar olduğunu söyleyen, **24440096942 T.C. kimlik numaralı OSMAN BERKMEN** adlı kişilere ait olduğunu ve işlerinin yoğunluğu nedeni ile daireye gelemediklerinden Büyükdere Cad. Yapı Kredi Plaza A Blok Kat.16 Levent, Beşiktaş/İSTANBUL adresinde mahallinde huzurumda imzalandığını onaylarım. İkibinonüç yılı Ekim ayının yirmisekizinci günü 28.10.2013

A/Ö

BEŞİKTAŞ 19. NOTERİ
ZEKERİYA DEMİR
vekili başkatip ŞEREF DİNDAR

KDV, Harç, Damga Vergisi ve Değerli Kağıt bedeli makbuz karşılığı tahsil edilmiştir.

№ 13388

SOĞUK DAMGA VARDIR

SİNAİ VE MALİ YATIRIMLAR HOLDING ANONİM ŞİRKETİ
Sermayesi 1.000.000.000 - TL
Ticaret Sicil No. 63169
Levent Hayallepi Çarşısı Sokak
Yapı Kredi Plaza A Blok No. 16
BEŞİKTAŞ/İSTANBUL

31 Mart 2013
İstanbul,

ŞİRKÜLER No. 37

Şirketimiz temsil ve ilzama yetkili olanların isimlerini,görevlerini ve imza örneklerini sunuyoruz.

1. Aşağıdaki işlemlerde münferiden şirket denetçisi ile kişinin şirket Genel Müdürü sıfatı taşıyanların müştereken imzaları gereklidir.

a) Yönetim Kurulu kararına bağlı olmak kaydıyla Şirketin yükümlülükle bulunan, diğer şirketlere ait her nevi hisse senedi ve tahvillerin satılması, devir ve cirosu ile bunların herhangi bir şekilde rehni,

b) Yönetim Kurulu kararına bağlı olmak kaydıyla, üçüncü kişiler lehine verilecek ipotek, rehin, kefalet ve diğer aynî veya şahsi teminatlara ilişkin işlemlerde,

c) Şirkete ait hisse senetleri ve tahvillerin ihracı, başka şirketlerin ait her nevi senetler ve tahvillerin satın alınması, bunlar üzerine şirket lehine rehin ve ayni hak tesisi, bu hisse senedi ve tahvillerin muhafaza ve tevdi edilecekleri banka ve kuruluşlara yatırılması, gayrimenkul alım ve satımına ait işlerde her türlü ferağ, tesis ve fek için yapılacak her türlü sözleşme, vekaletname ve bunun ihtiraki mukaveleler.

2. Yukarıdaki fıkralarda sayılanlar dışında kalıp da şirketin muhtelif ve muayyen dahil işlerde, şirketi ilzam edecek sözleşme ve ilzamı mucip her türlü sözleşmeler, vekaletnameler, senetler, tediye emirleri ve bu mahiyetteki belge ve mukavelelerde,

Her mutlaka Dörtlü denetçiler imza yetkililerinden birisi ile şirket imza yetkililerinden iki kişinin şirket ünvanı altına beyanlarını müştereken imzaları gereklidir.

3. Şirketin cari işlem ve muameleden temlik eden bankalara ait çekler ile imzası, ciranta, muhavale, vezne ve benzerleri emtiadlık mektup, emtia ve vesikalar, şirket içi ve şirketler arası ve sair mahiyetteki ait yazışmalarda,

İmza yetkililerinden herhangi iki kişinin şirket ünvanı altına beyanlarını müştereken imzaları gereklidir.

Saygılarımızla,
SINAI VE MALI YATIRIMLAR HOLDING ANONİM ŞİRKETİ

Yönetim Kurulu Başkan Vekili
Hikmet Yavuz ÇETİNALP

Yönetim Kurulu Başkanı
Mehmet Ayaz KANAN

İMZA YETKİLİLERİ

№ 13388

a) Yönetim Kurulu

Başkan : Mehmet Ayaz KANAN

Başkan Vekili : Hikmet Yavuz ÇETİNALP
(Genel Müdür)

Üye : İbrahim Alpay DEMİRTAŞ

b-Yönetim Kurulu dışında İmza Yetkilileri

Müşavir : Mehmet Emin KARAMEHMET

2-MÜŞTEREK İMZA YETKİLİLERİ

OSMAN KIZAK

ENDÜSTRİ HOLDİNG ANONİM ŞİRKETİ
Sermayesi 750.000.000 - YTL
Ticaret Sicil No. 45561
Levent Mahallesi Çarşı Sokak
Yapı Kredi Plaza A Blok No.16 K.13
BEŞİKTAŞ-İSTANBUL

ÜSTÜNDEKİ ASLINA UYGUNDUR
31 Mart 2013
EK GAŞINA KULLANILMAZ.

№ 13188

İstanbul,

SOĞUK DAMGA VARDIR

İMZA YETKİLİLERİ

№ 13188

a-Yönetim Kurulu

Başkan : Mehmet Emin KARAMEHMET

Başkan Vekili : Mehmet Ayaz KANAN

Üye : Mehmet Bülent ERGİN

Üye : Hikmet Yavuz ÇETİNALP
(Finansman Müdürü)

Üye : Bekir BOZKURT

b-Yönetim Kurulu dışında İmza Yetkilileri

Genel Müdür : İbrahim Alpay DEMİRTAŞ

ŞİRKÜLER No. 37

Şirketimiz temsil ve ilzama yetkili olanların isimlerini,görevlerini ve imza örneklerini sunuyoruz.

a) Yönetim Kurulu kararına bağlı olmak kaydıyla, üçüncü kişiler lehine verilecek, ipotek, rehin, kefalet ve diğer aynî ve/veya şahsi teminatlara ilişkin işlemlerde Ancaksa Yönetim Kurulundan iki kişinin şirket ünvanı altına beyanlarını müştereken imzaları gereklidir.

b) Yukarıdaki maddede dışında kalan Şirketin diğer maddesi ve muamelesine dahil işler için tanzim edilecek ibra belgesi, senet, vekaletname ve makbuzlar ve diğer aşamalar ve işlemlerin geçerli olabilmesi için, Şirket ünvanı altına konmuş bir mutlaka Yönetim Kurulu Üyesi olmak kaydıyla imza yetkililerinden herhangi iki kişinin müşterek imzaları gereklidir.

Saygılarımızla,
ENDÜSTRİ HOLDİNG ANONİM ŞİRKETİ

Yönetim Kurulu Başkan Vekili
Mehmet Ayaz KANAN

Yönetim Kurulu Başkanı
Mehmet Emin KARAMEHMET

SOĞUK DAMGA VARDIR

№24447

KARAMİKO
İMALAT ZİRAAT ENDÜSTRİ ve TİCARET A.Ş.

16 Nisan 2012

№08646

T.C. BEŞİKTAŞ 19. NOTERLİĞİ

İstanbul,

İMZA YETKİLİLERİ

№08646

SİRKÜLER

Şirketimiz, yazımız imza sirküler örneğini ekte olanların isimlerini, adlı ve unvanlarını ve imza örneklerini ihtiva ve ibraz eylemiştir.

Şirketin her türlü hukuki fiil, işlem ve operasyonlarına ilgili olarak Yönetim Kurulu Başkan Vekili Mehmet Emin KARAMEHMET ile Yönetim Kurulu Üyesi Semra GÖKALP'in Şirket kaşesi veya unvanı altına müştereken atacakları imzaları ile veya Yönetim Kurulu Başkanı Ali Şamsa KARAMEHMET ile Başkan Vekili Mehmet Emin KARAMEHMET'ten birinin şirket kaşesi veya unvanı altına münferiden atacağı imzaları Şirketin en geniş şekilde temsil ve ibraz edilmesine,

Saygılarımızla,
KARAMİKO İMALAT ZİRAAT ENDÜSTRİ VE TİCARET ANONİM ŞİRKETİ

Yönetim Kurulu Başkan Vekili
Mehmet Emin KARAMEHMET

Yönetim Kurulu Başkanı
Ali Şamsa KARAMEHMET

İmza Yetkilileri

Yönetim Kurulu

Başkan : Ali Şamsa KARAMEHMET

Başkan Vekili : Mehmet Emin KARAMEHMET

Üye : Semra GÖKALP

T.C. BEŞİKTAŞ 19. NOTERLİĞİ
DENİR TOPRAK İTHALAT İHRACAT VE TİCARET ANONİM ŞİRKETİ
Sermayesi: XXXXXXX.- TL.
Ticaret Sicil No: 24447
Ticaret Müdürlüğü: Ticaret Sicil
Vergi Kimlik No: [illegible]
BEŞİKTAŞ-İSTANBUL

26 Mart 2012

№07163

İstanbul,

ÖNÜNÜ DAMGA TEK BAŞINA KULLANILMAZ.

SOĞUK DAMGA VARDIR

İMZA YETKİLİLERİ

SİRKÜLER No: 19

Şirketimiz, ekteki imza sirküler örneğinin bilahare, adlı ve unvanlarını ve imza örneklerini ibraz ve ihtiva eylemiştir.

Şirketin; merkezi ve muvazzaf, ilgili şubelerde, şirketi temsilen alınan ve ibraz edilen her türlü mukavelenameler, vekaletnameler, senetler ve bu mahiyetteki belge ve evraklarla, banka çekleri ve cirolar, her türlü teslim emirleri, şirketin ticari muameleleriyle, muhasebe, vezne ve emaneriyle hesapları münasebetiyle emtialar ve evrakların ve şirketin diğer umumi ve işlerinde Yönetim Kurulu Üyelerinden herhangi iki kişinin şirket ünvanı altına müştereken koyacakları imzalarla en geniş şekilde temsil ve ibrazına karar verilmiştir.

Saygılarımızla,
DENİR TOPRAK İTHALAT İHRACAT VE TİCARET ANONİM ŞİRKETİ

Yönetim Kurulu Başkan Vekili
Hikmet Yaşaman UĞSINALP

Yönetim Kurulu Başkanı
Mehmet Bülent ERGİN

İmza Yetkilileri

Yönetim Kurulu

Başkan : Mehmet Bülent ERGİN

Başkan Vekili : Hikmet Yaşaman UĞSINALP

Üye : İbrahim Alper DEMİRTAŞ

№ 13365

Çukurova Holding A.Ş.
Ticaret Sicil No: İstanbul/475061
Sermayesi: 5.000.000.000 TL
Adres: Levent Mahallesi Cümert Sokak
Yapı Kredi Plaza A Blok No:1/A K:16
Beşiktaş-İSTANBUL

Yönetim Kurulumuzun 13.05.2013 tarihli ve 482 sayılı toplantısında altına karar gereğince esas mukavelenamizin 14. ve 16. Maddeleri hükmüne tevkifen Holding adına imza koymaya yetkili olanların ad ve soyadları, vazifeleri ve imza yetkileri ile imza örnekleri ne sürkülerimizde gösterilmiştir.

a. Aşağıdaki işlemlerde, birisi Yönetim Kurulu Başkanı veya Yönetim Kurul Başkan Vekili'nin imzası olmak şartıyla, diğeri birinci veya ikinci derecede imzaya yetkili iki kişinin, şirket dosyası altına var edecekleri imzalarının bulunması gerekir.

a.1) Her türlü gayrimenkul alınır ve satımı ile Holding'e ait gayrimenkullerin ipotek edilmesi ve fek edilmesi,

a.2) Şirketlere iştirak edilmesi, tehsil ve hisse senedi alını satımı,

a.3) Başka bir şirket veya 3. kişi lehine kefalet veya garanti vermesi ve kaldırılması, kredi sözleşmeleri akdedilmesi.

Şu kadar ki, Esas Sözleşmenin 14.maddesi gereğince Holding'in üçünün kişiler lehine vereceği aynı verveya şahsi teminatlarını geçerli olabilmesi için ilmesinde usulüne göre Yönetim Kurulu kararı alınmış olması gerekir.

b. Holding adına yapılacak diğer her türlü işlem, bilinmiş evrak, vesaik ve yazışmalarda, birisi birinci derecede imzaya yetkili kişi olmak üzere, diğeri birinci veya ikinci derecede imzaya yetkili iki kişinin Holding ünvanı altına imzalarının var edecekleri imzalarının bulunması gerekir.

Bu 19 numaralı sürkülerimiz evvelkiler hükmünde kalır.

Saygılarımızla,

ÇUKUROVA HOLDING A.Ş.

№ 13365

Çukurova Holding A.Ş.

№ 24447

İmzaya Yetkili Olan Şahıslar ve İmza Örnekleri:

a. Birinci Derecede İmza Yetkilileri:

1) Mehmet Ersin Karamehmet
Yönetim Kurulu Başkanı ve
Muhtelif Üye

2) Ali Sinan Karamehmet
Yönetim Kurulu Başkan Vekili

3) Fikri Sadi Gülelim
Yönetim Kurulu Üyesi

4) Mehmet Bülent Ergin
Yönetim Kurulu Üyesi

5) Ali Tuğrul Tokgöz
Yönetim Kurulu Üyesi

№ 13365

Çukurova Holding A.Ş.

İmzaya Yetkili Olan Şahıslar ve İmza Örnekleri:

b. İkinci Derecede İmza Yetkilileri:

İbrahim Alpay DEMİRTAŞ
Mevzuat Denetim Koordinatörü

MÜSTENİDATTIR
TEK SİRİ
KULLANILIR

SOĞUK DAMGA VARDIR

№ 17820

15 Temmuz 2013

TURKCELL HOLDİNG A.Ş.
İMZA SİRKÜLERİ

Ticaret Sicil No: İstanbul, 430991

Adres: Büyükdere Cad. Yapı Kredi Plaza A Blok Kat: 16 Levent, Beşiktaş-İSTANBUL

Turkcell Holding A.Ş. Yönetim Kurulu'nun 17.06.2013 tarih, 2013/01 No.'lu toplantısında Yönetim Kurulu üyelerinden herhangi ikisinin, şirket unvanı altına kayıtlarını müştesek imzaları ile şirketi her yerde ve her hususta temsil ve ilzama yetkili kılınmalarına karar aşağıdaki imzalar.

YÖNETİM KURULU ÜYELERİ

Mehmet Ersin KARAMEHMET
Yönetim Kurulu Üyesi

Osman BERKMEN
Yönetim Kurulu Üyesi

Alexey Kaminievich KHUDYAKOV
Yönetim Kurulu Üyesi

Olli Adolfinsch HALIS
Yönetim Kurulu Üyesi

Tuğrul Erkin KIVISAARI
Yönetim Kurulu Üyesi

Karin Birgitta ELIASSON
Yönetim Kurulu Üyesi

Olli Teppo TUOHIMAA
Yönetim Kurulu Üyesi

R-2016-172 ZUZUSTERIEN - TO BE SERVED á signifier-da notificara

Claim No. CL-2015-000622

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

COMMERCIAL COURT

Before: Mr Justice Leggatt

Dated: 3 February 2016

BETWEEN:

SAMSUNG HEAVY INDUSTRIES CO LTD

Claimant

-and-

(1) VALUE SHIPPING LIMITED

(2) BRAVO SHIPPING LIMITED

(3) BARBAROS MARITIME LIMITED

(4) STOCK SHIPPING LIMITED

(5) SHOW SHIPPING LIMITED

(6) HAPPY SHIPPING LIMITED

(7) GENEL DENIZCILIK NAKLIYATI AS

(8) ÇUKUROVA HOLDING AS

(9) MEHMET EMIN KARAMEHMET

Defendants

ORDER

UPON the Claimant's application dated 2 February 2016

AND UPON reading the affidavit of Marcus Murray Birch dated 2 February 2016

24.02.2016

IT IS ORDERED THAT:

1 There be judgment in default for the Claimant's claim against the First, Eighth and Ninth Defendants in the sum of the amounts specified in the Particulars of Claim, being:

(A) Against the First Defendant:

(1) US$37,093,527.85 (being US$14,844,980.37 under the Finance Agreements and US$22,248,547.48 under the Termination Agreement); and

(2) Interest.

(B) Against the Eighth Defendant:

(1) US$66,580,960.48 (being US$44,332,413 under the Cukurova Finance Guarantees and US$22,248,547.48 under the Termination Guarantee); and

(2) Interest.

(C) Against the Ninth Defendant:

(1) US$44,332,413 (under the Karamehmet Finance Guarantees); and

(2) Interest.

2 The costs of the claim, to be assessed if not agreed, are to be paid by the Defendants to the Claimant.

Who we are

Genel Energy is the largest holder of reserves and resources in the Kurdistan Region of Iraq, where we have been operating for over a decade.

Through the Miran and Bina Bawi gas fields, Genel is positioned to be the cornerstone provider of KRI gas to Turkey under the KRI-Turkey Gas Sales Agreement.

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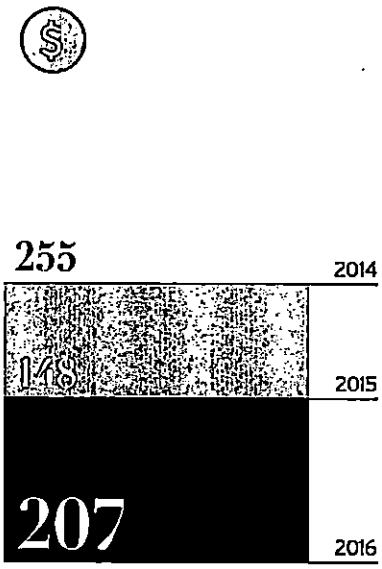
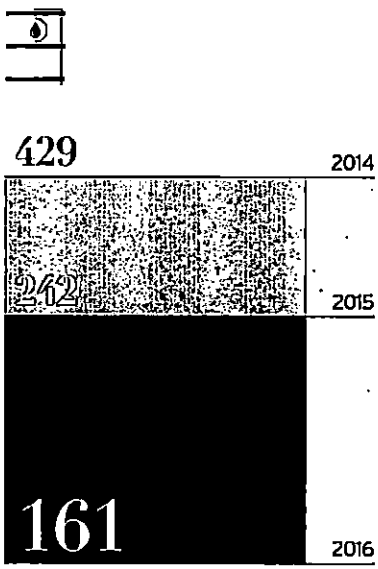
IBC Shareholder information

Discover more about Genel Energy on our website www.genelenergy.com

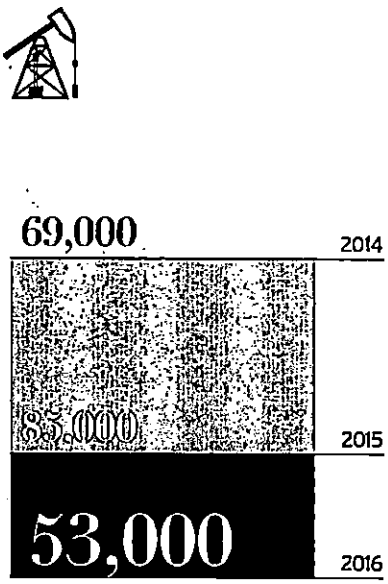
CASH PROCEEDS
($ million)



2P RESERVES
(net MMbbls)



PRODUCTION
(bopd, working interest)



HIGHLIGHTS

- The KRG's February 2016 commitment to pay contractor export payments and address outstanding receivables led to a significant increase in cash proceeds during 2016.
- $207 million cash proceeds were received in 2016, with Genel generating $59 million in free cash flow (2015: $179 million outflow).
- $67 million in cash proceeds received in 2017 to date, representing full settlement of invoices for 2016 production.
- 2016 net production averaged 53,300 bopd (2015: 84,900), at the lower end of revised guidance
- Strong liquidity position at the end of 2016, with unrestricted cash balances of $407 million.

READ MORE P8

OUTLOOK

- Signature of amended PSCs and GLA in February 2017, with a focus now on concluding negotiations with potential partners.
- Continued engagement with the KRG over accelerating the recovery of unpaid entitlements.
- Tawke 2017 production expected to average around year to date production levels of 111,000 bopd, in line with the Operator's guidance.
- Peshkabir-2 Cretaceous discovery in early 2017 - accelerated appraisal and early production planning.
- 2017 capex guidance for Taq Taq and Tawke reiterated at $50-75 million. KRI gas business and Africa exploration expenditure also reiterated at c.$50 million.
- Bond buy-back announced.

READ MORE P11

ESSENTIAL READING

Market environment
The Kurdistan Regional Government's cash liquidity improved in 2016, facilitating regular payments.

READ MORE P6

CEO statement
Maximising the value of our oil assets, accelerating the recovery of the receivable, building on the momentum in the development of our gas assets.

READ MORE P8

Sustainability
Genel has been drilling for a decade in the Kurdistan Region of Iraq, making a significant contribution to the local community.

READ MORE P21

I am pleased to welcome you to Genel Energy's sixth annual report

Tony Hayward
Chairman

Last year we spoke of Genel Energy's resilience, and 2016 saw this tested once again. There is now greater stability in the oil industry, and there are opportunities in the Genel portfolio that provide clear reasons for optimism going forward.

Following a difficult 2015 for the entire oil industry, after hitting a low in February 2016, the oil price and operating environment improved across the remainder of the year. For the Kurdistan Region of Iraq, an economy almost entirely dependent on income from its oil exports, these tailwinds have begun to make a difference.

At the start of the year the continued fall in the oil price, coupled with the financial cost of the fight against ISIS and the ongoing lack of budget transfers from Baghdad, placed a significant financial strain on the KRG. Despite this the KRG reaffirmed its commitment to pay exporters based on the contractual entitlements under the Production Sharing Contract governing each licence.

Payments for exports were made throughout the year, with over half a billion dollars paid for gross exports from Taq Taq and Tawke. This resulted in Genel generating free cash flow in the year, a testament to our low cost base and a notable achievement during a difficult time for the industry. The recovery in the oil price facilitates ongoing and regular payments, and provides a basis from which the KRG can turn its attention to progressing the gas development.

Despite the disappointment associated with the further impairments to our balance sheet, there remains significant value potential in the portfolio. Maximising the recovery of oil from our fields, the recovery of our full receivable entitlement, as well as the development of our gas assets, remain key priorities for Genel going forward.

KRI oil assets

Payments throughout 2016 enabled a resumption of investment at Taq Taq and Tawke. Tawke's production performance remains robust, and the asset is now the primary driver of value in Genel's oil business. We will work together with the operator, DNO, as the field continues to generate significant cash flow and value for the partners in years ahead.

The regularity of payments also allowed appraisal drilling at the nearby Peshkabir discovery, with very encouraging initial results. Further appraisal activity is planned for 2017, but we already believe the potential exists to add to our production going forward.

Challenges continue at the Taq Taq field, and production performance has been disappointing. Work done in 2016, and the first two months of 2017, helped to refine our understanding of the remaining potential. This regrettably led to a further write-down of reserves. Additional drilling in 2017, and further investment at the field, will be targeted and appropriate in order to maximise the recovery of remaining oil and generate positive cash flow from operations on an annual basis.

Momentum in the gas business

As we look ahead, of great encouragement is the momentum behind the development of the Miran and Bina Bawi gas fields. Across the industry, 2016 saw accelerated adoption of natural gas usage, with the Middle East recording the strongest regional growth rate. Turkey continues to be one of the largest gas consuming markets in the world, and its willingness to diversify supply away from the 88% it gets from just three countries provides a compelling reason for Turkey and the KRG to drive forward the development of Genel's fields. Miran and Bina Bawi alone have the potential to help meet a meaningful percentage of this demand.

The finalisation of documentation of the Production Sharing Contracts and Gas Lifting Agreements for both fields in February 2017 is a significant milestone.

There remain many challenges to bringing these assets to production, but this is a company-changing opportunity.

Management changes

In order to ensure that we have an appropriate team in place to best deliver on our strategy, Paul Schofield was appointed Chief Operating Officer in May 2016. With thirty five years' management and technical experience encompassing all aspects of the upstream oil and gas business, Paul has been a welcome addition to the team.

Jim Leng and Sir Graham Hearne retired from the Board during 2016, having both made valuable contributions in the establishment of Genel Energy as a respected London-listed company. It was a great pleasure working with them. Simon Lockett was added to the Board, bringing significant knowledge and experience of the oil sector.

Post-period end, we have also welcomed Tolga Bilgin to the Board.

Responsible operations

2016 was the tenth anniversary of Genel Energy drilling at Taq Taq, and we are proud of the work done to support the local community and the KRI as a whole in that time. Since drilling began Taq Taq has been a major source of revenue to the KRG, and we have also invested around $25 million on local community projects, funding over 178 separate projects, as well as currently providing employment to over 400 local people. This work continues, and is a credit to the team in the KRI.

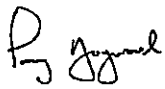
As well as the local community, we take our responsibilities to our employees, contractors, and partners seriously. In 2016 we achieved our target of zero injuries across the business, something that we will strive to emulate in 2017 and beyond.

Outlook

We recognise that 2016 share price performance has been disappointing, and the Board and management team are focused on a strategy to reverse this trend. We retain high-impact onshore exploration opportunities in the portfolio, our oil fields remain cash flow generative, and our gas assets provide a very large scale opportunity that is rare for an independent E&P company.

The regularity of payments for our oil production, coupled with our confidence in them continuing throughout 2017 and beyond, provides us with optionality regarding our financial position. The Board will continue to assess the appropriate capital structure for the business as the framework for our gas development evolves ahead of our 2019 bond refinancing.

With the opportunities available in our portfolio we are confident that we have the strategy and team to grow the business in coming years. We look forward to updating you on progress throughout 2017.



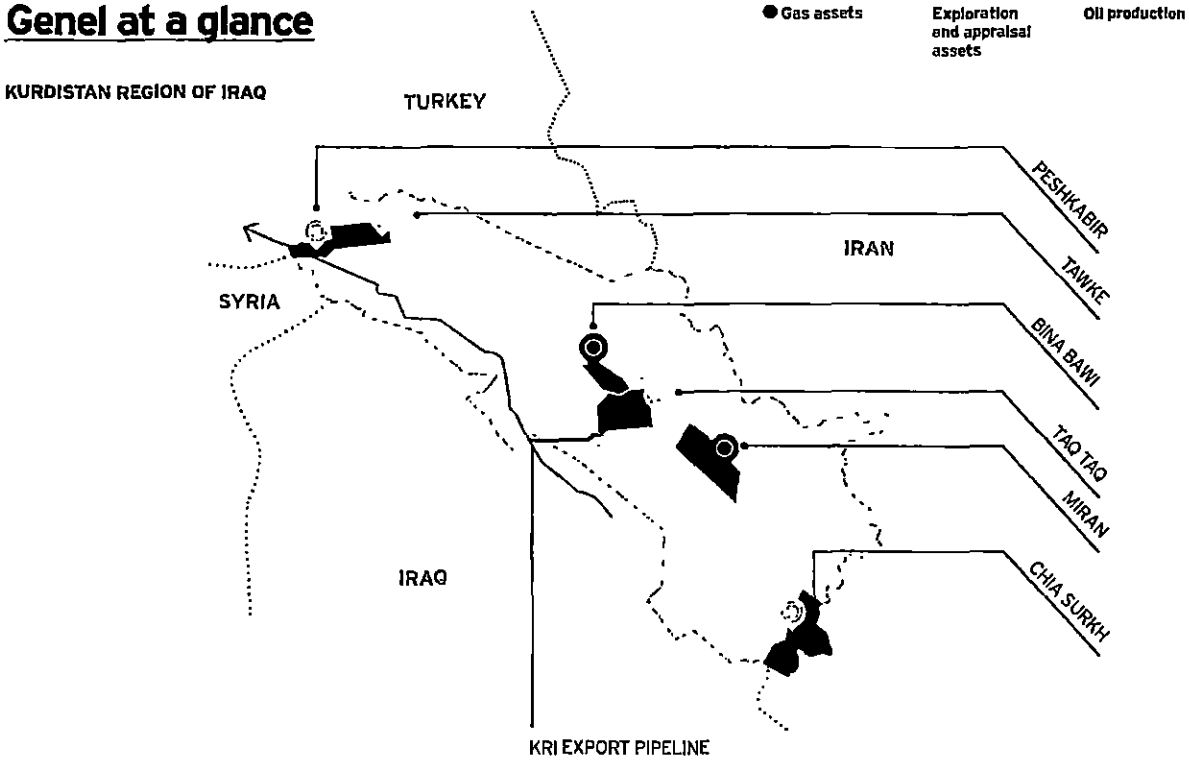
Tony Hayward
Chairman

> We retain high-impact onshore exploration opportunities in the portfolio, our oil fields remain cash flow generative, and our gas assets provide a very large scale opportunity that is rare for an independent E&P company.

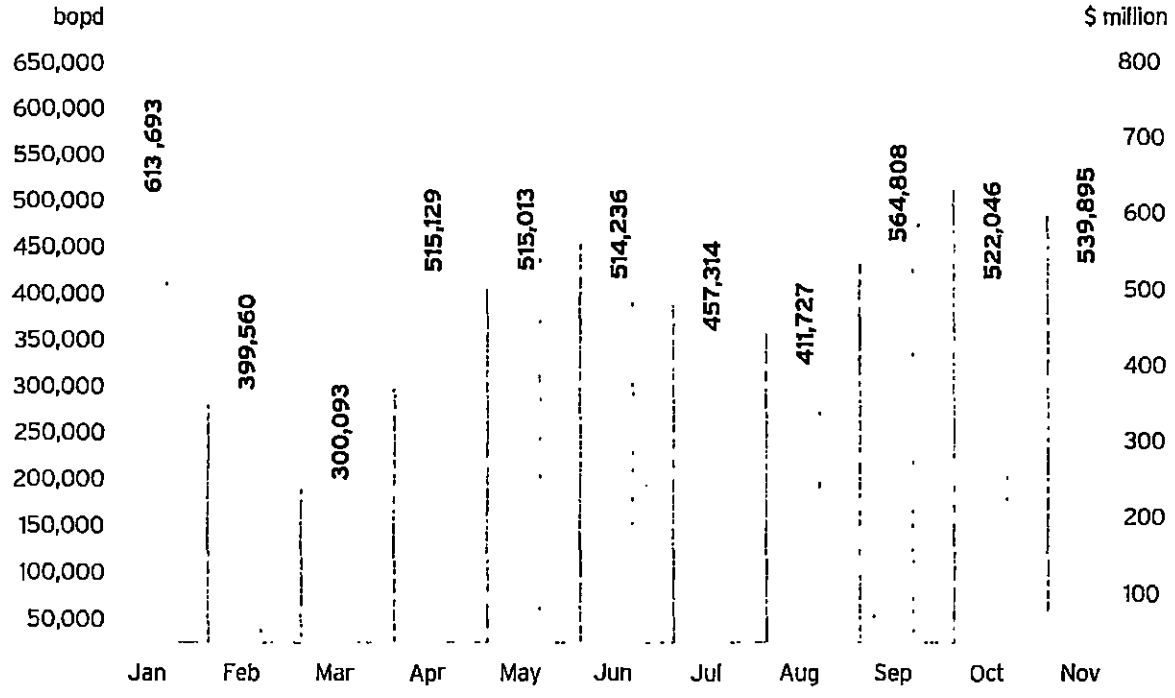
READ MORE
Where we operate P6

READ MORE
Corporate Governance P34

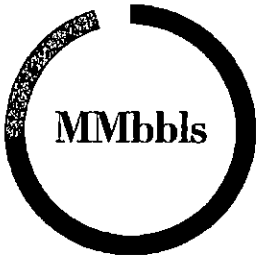
Genel at a glance



KRI PIPELINE EXPORTS 2016 –
the key economic driver for the KRI

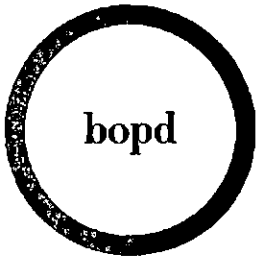


NET 2P RESERVES BY LICENCE



- Tawke - 126
- Taq Taq - 36
- Peshkabir - 8

2016 NET PRODUCTION

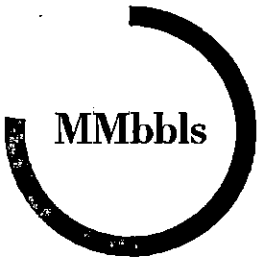


- Taq Taq - 26,500
- Tawke - 26,800

2016 CAPITAL EXPENDITURE

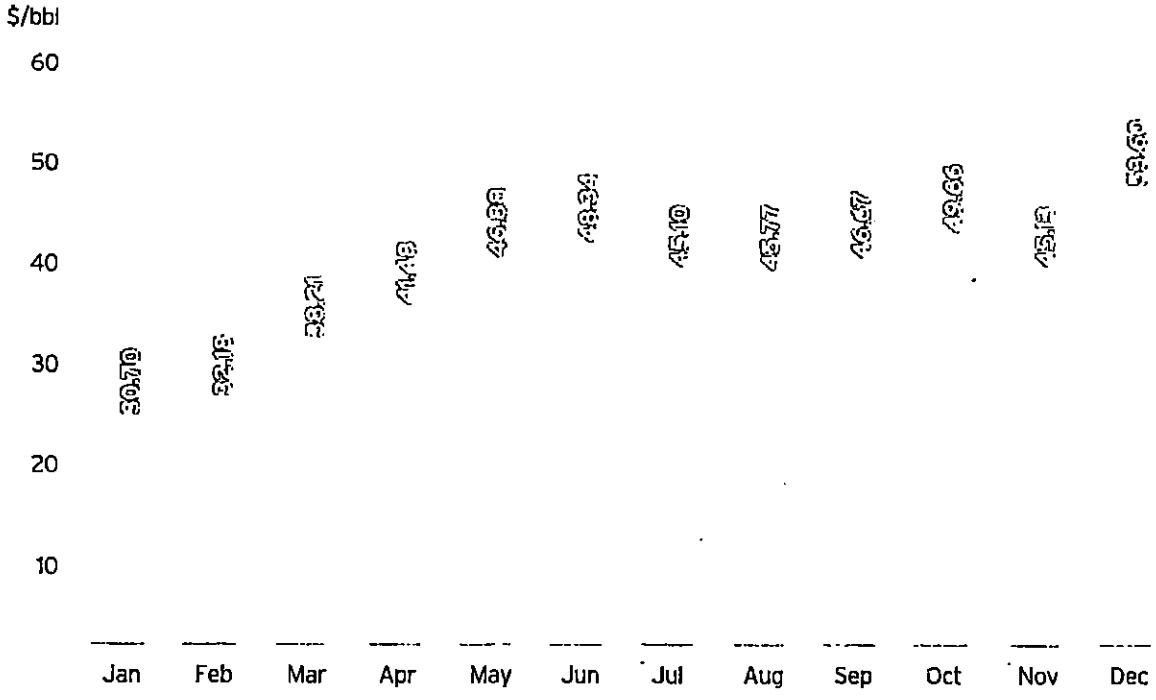
- Producing assets - 40
- Exploration and appraisal - 21

NET UNRISKED RESERVES AND RESOURCES



- KRI - 1,712
- Somaliland - 1,250
- Morocco - 899

BRENT OIL PRICE 2016



Claim No.

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

COMMERCIAL COURT

Before: Mr Justice Popplewell

Dated: 31st September 2015

BETWEEN:

SAMSUNG HEAVY INDUSTRIES CO LTD

Claimant

-and-

(1) VALUE SHIPPING LIMITED

(2) BRAVO SHIPPING LIMITED

(3) BARBAROS MARITIME LIMITED

(4) STOCK SHIPPING LIMITED

(5) SHOW SHIPPING LIMITED

(6) HAPPY SHIPPING LIMITED

(7) GENEL DENIZCILIK NAKLIYATI AS

(8) ÇUKUROVA HOLDING AS

(9) MEHMET EMIN KARAMEHMET

Defendants

DRAFT ORDER

UPON the Claimant's application dated 21 August 2015

AND UPON reading those documents recorded on the Court file as having been read

IT IS ORDERED THAT:

1 The Claimant has permission to issue the Claim Form attached to this application.

2 The Claimant has permission to serve the Claim Form, Particulars of Claim and any other document in these proceedings on:

(a) the Seventh Defendant at

Genel Denizcilik Nakliyati AS
Buyukdere Cad. Yapi Kredi Plaza
A Blok K. 12 34330 Levent
Istanbul
Turkey

or elsewhere in Turkey.

(b) the Eighth Defendant at

Çukurova Holding AS
Buyukdere Cad. Yapi Kredi Plaza
A Blok K. 15 34330 Levent
Istanbul
Turkey

or elsewhere in Turkey.

(c) the Ninth Defendant at

Mehmet Emin Karamehmet
Yapi Kredi Plaza
A Blok K. 17 34330 Levent
Istanbul
Turkey

or elsewhere in Turkey.

3 Each of the Seventh Defendant, the Eighth Defendant and the Ninth Defendant has 21 days after service of the Claim Form to file an acknowledgement of service under CPR 10 and/or an admission under CPR 14 and/or a Defence. Where any of the Seventh, Eighth or Ninth Defendant files an acknowledgement of service indicating an intention to defend that defendant has a further 28 days in which to file his defence.

4 The costs of this application are in the case.

Dava No. CL-2015-000622

LONDRA YÜKSEK MAHKEMESİ

YARGIÇLAR KURULU BÖLÜMÜNDE

TİCARET MAHKEMESİ

Yargıç: Mr Justice Leggatt

Tarih: 3 Şubat 2016

TARAFLAR:

SAMSUNG HEAVY INDUSTRIES CO LTD

Davacı

-ve-

(1) VALUE SHIPPING LIMITED

(2) BRAVO SHIPPING LIMITED

(3) BARBAROS MARITIME LIMITED

(4) STOCK SHIPPING LIMITED

(5) SHOW SHIPPING LIMITED

(6) HAPPY SHIPPING LIMITED

(7) GENEL DENİZCİLİK NAKLİYATI AS

(8) ÇUKUROVA HOLDING AS

(9) MEHMET EMIN KARAMEHMET

Davalılar

KARAR

Davacının 2 Şubat 2016 tarihli başvurusu
VE Marcus Murray Birch'ün 2 Şubat 2016 tarihli yeminli ifadesinin okunması ÜZERİNE

GEREĞİ DÜŞÜNÜLDÜ:

1 Davacının Birinci, Sekizinci ve Dokuzuncu Davalıdan talep ettiği, Dava Gerekçelerinde belirtilen aşağıdaki meblağların ödenmesinin kabulüne:

(A) Birinci Davalıdan:

(1) US$37.093.527,85 (Finans Anlaşmaları dahilinde US$14.844.980,37 ve Fesih Anlaşması dahilinde US$22.248.547,48); ve

(2) Faiz.

(B) Sekizinci Davalıdan:

(1) US$66,580.960,48 (Çukurova Finans Teminatları dahilinde US$44.332.413 ve Fesih Teminatı dahilinde US$22.248.547,48); ve

(2) Faiz.

(C) Dokuzuncu Davalıdan:

(1) US$44.332.413 (Karamehmet Finans Teminatları dahilinde); ve

(2) Faiz.

2 Üzerinde anlaşmaya varılamaması halinde takdiren belirlenecek olan, mahkeme masraflarının Davalılar tarafından Davacıya ödenmesine KARAR VERİLDİ.

ATC
ASSOCIATION OF TRANSLATION COMPANIES
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Member No. T13

Dava No. CL-2015-000622

LONDRA YÜKSEK MAHKEMESİ

YARGIÇLAR KURULU BÖLÜMÜNDE

TİCARET MAHKEMESİ

Yargıç: Mr Justice Leggatt

tarih: 3 Şubat 2016

TARAFLAR:

SAMSUNG HEAVY INDUSTRIES CO LTD

Davacı

-ve-

(1) VALUE SHIPPING LIMITED

(2) BRAVO SHIPPING LIMITED

(3) BARBAROS MARITIME LIMITED

(4) STOCK SHIPPING LIMITED

(5) SHOW SHIPPING LIMITED

(6) HAPPY SHIPPING LIMITED

(7) GENEL DENİZCİLİK NAKLİYATI AS

(8) ÇUKUROVA HOLDING AS

(9) MEHMET EMIN KARAMEHMET

Davalılar

KARAR

Ref: SOSU/MBIR/GHEN/34722.00001

BERWIN LEIGHTON PAISNER

ATC ASSOCIATION OF TRANSLATION COMPANIES
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Dava No.

LONDRA YÜKSEK MAHKEMESİ

YARGIÇLAR KURULU BÖLÜMÜNDE

TİCARET MAHKEMESİ

Yargıç:

Tarih: [el yazısı: BAY JUSTICE POPPLEWELL/3 Eylül 2015]

TARAFLAR:

SAMSUNG HEAVY INDUSTRIES CO LTD
[mühür: LONDRA YÜKSEK MAHKEMESİ/7 EYLÜL 2015/DENİZCİLİK VE TİCARİ MAHKEME] **Davacı**

-ve-

(1) VALUE SHIPPING LIMITED

(2) BRAVO SHIPPING LIMITED

(3) BARBAROS MARITIME LIMITED

(4) STOCK SHIPPING LIMITED

(5) SHOW SHIPPING LIMITED

(6) HAPPY SHIPPING LIMITED

(7) GENEL DENİZCİLİK NAKLİYATI AS

(8) ÇUKUROVA HOLDING AS

(9) MEHMET EMIN KARAMEHMET

Davalılar

KARAR TASLAĞI

Davacının 21 Ağustos 2015 tarihli başvurusu VE okunmuş olarak Dava dosyasında kayıtlı belgelerin okunması ÜZERİNE

GEREĞİ DÜŞÜNÜLDÜ:

1 Davacıya bu başvuruya ekli olarak Mahkeme Celbi çıkarma izni verilmesine

ASSOCIATION OF TRANSLATION COMPANIES
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Member No 713

2 Davacıya bu davada aşağıdaki kişilere Mahkeme Celbi, Dava Gerekçeleri ve herhangi başka bir belgeyi tebliğ etme izni verilmesine:

(a) Yedinci Davalı

Genel Denizcilik Nakliyatı' AS
Buyukdere Cad. Yapi Kredi Plaza
A Blok K. 12 34330 Levent
Istanbul Türkiye

veya Türkiye'de başka bir adreste.

(b) Sekizinci Davalı

Çukurova Holding AS Buyukdere
Cad. Yapi Kredi Plaza A Blok K.
15 34330 Levent Istanbul
Türkiye

veya Türkiye'de başka bir adreste.

(c) Dokuzuncu Davalı

Mehmet Emin Karamehmet
Yapi Kredi Plaza
A Blok K. 17 34330 Levent
Istanbul
Türkiye

veya Türkiye'de başka bir adreste;

3 Yedinci Davalı, Sekizinci Davalı, Dokuzuncu Davalı'dan her birine CPR 10 uyarınca tebligatı aldığını bildirmek ve/veya CPR 14 uyarınca bir kabul veya bir Savunma istemini kayda geçirmek için Dava Celbinin tebliğinden itibaren 21 gün verilmesine; Yedinci, Sekizinci veya Dokuzuncu Davalıdan herhangi birinin savunma yapma niyetini ifade eden bir tebligat alındı bildirimini kayda geçirmesi durumunda davalıya savunmasını mahkemeye vermesi için ilave bir 28 gün daha verilmesine;.

4 Bu başvurunun maliyetinin mahkeme masraflarına dahil edilmesine KARAR VERİLDİ.

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Dava No.

LONDRA YÜKSEK MAHKEMESİ

YARGIÇLAR KURULU BÖLÜMÜNDE

TİCARET MAHKEMESİ

Yargıç:

Tarih:

TARAFLAR:

SAMSUNG HEAVY INDUSTRIES CO LTD

Davacı

-ve-

(1) VALUE SHIPPING LIMITED

(2) BRAVO SHIPPING LIMITED

(3) BARBAROS MARITIME LIMITED

(4) STOCK SHIPPING LIMITED

(5) SHOW SHIPPING LIMITED

(6) HAPPY SHIPPING LIMITED

(7) GENEL DENİZCİLİK NAKLİYATI AS

(8) ÇUKUROVA HOLDING AS

(9) MEHMET EMIN KARAMEHMET

Davalılar

KARAR TASLAĞI

Ref: SOSU/MBIR/GHEN/34722.00001

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Certificate

I, Aysun Demir, a Turkish native speaker with a BA in English Linguistics and a qualified member of the Institute of Translation and Interpreting (MITI) since 2007, domiciled at 53 Fursby Avenue, N3 1PJ London, acting as a translator working for Temple Translations Ltd., competent to translate from English into Turkish hereby certify that I have translated the attached draft order and order relating to Samsung Heavy Industries Co LTD (Claimant) and 1) Value Shipping Limited, 2) Bravo Shipping Limited, 3) Barbaros Maritime Limited, 4) Stock Shipping Limited, 5) Show Shipping Limited, 6) Happy Shipping Minited, 7) Genel Denizcilik Nakliyati AS, 8) Cukurova Holding AS and 9) Mehmet Emin Karamehmet (Defendants) and that it is to the best of my knowledge a true and accurate translation into Turkish of the original English documents.

Signed

Date 12/02/16

Sertifika

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İmza

Tarih 12/02/2016

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EXHIBIT E

Genel Energy

JFSC
REGISTRY RECEIVED ON
14 JUN 2017
REGISTERED ON
DATE AMENDED
INITIALS
DATABASES

T-PW

DTRYPPA16

Our market environment

As the KRI continued to suffer economic hardship in 2016, Genel, with its partners in TTOPCO, provided vocational training courses for residents of villages close to Taq Taq

Building solid foundations

The Kurdistan Region of Iraq is a semi-autonomous region, governed by the Kurdistan Regional Government. The KRI has been central to the fight against ISIS, while sheltering people displaced by the fighting in Iraq and Syria. With this backdrop, the KRI continues its work to create a sustainable economic framework.

If 2015 was the year that the KRI proved its resilience in the face of numerous challenges, 2016 was the year that the KRG took significant steps forward, maintaining the security of its borders and improving its economic situation.

Boosted by a recovery in the Brent oil price from lows of $30/bbl to $55/bbl, KRI oil exports increased in value, while significant economic reforms helped the KRG move towards financial stability. Moving into 2017, the Kurdistan Region of Iraq is now achieving a monthly fiscal breakeven.

ISIS on the defensive

The Peshmerga, working alongside Baghdad-controlled forces and supported by a wide international coalition has helped to vastly shrink the territory under ISIS control in Iraq. At the time of writing, the liberation of Mosul has been continuing, with the east and south of the city back under coalition control and ISIS suffering numerous defeats on the western wing of the city. Prior to the Mosul campaign, the terrorist group had already been driven from its last remaining oilfields in Iraq, cutting its most significant source of revenue.

The Kurdistan Region of Iraq remained safe and secure in 2016. The military battle is being won, although the humanitarian struggle continues.

In total, 1.8 million refugees and internally displaced persons are currently sheltered within the borders of the KRI, constituting 97% of Syrian refugees in Iraq and 40% of internally displaced Iraqis. The KRG has provided leadership for the humanitarian response, and the territorial pressure on ISIS is allowing the KRG to plan for the voluntary and dignified return of IDPs to their homes.

Non-governmental organisations have provided valuable support to the KRG, although the lack of significant financial aid from the international community means that the KRG economy continues to suffer a significant strain.

Maturing oil industry

External factors continue to put pressure on the finances of the KRG, finances that were already overburdened by public spending, but the recent rise in the oil price has been a significant boon for an economy based almost entirely on its natural resources.

Pipeline exports via the Turkish port of Ceyhan continued throughout 2016, peaking at just under 600,000 bopd in November. Sales by the KRG to international traders were regular and predictable throughout the year, and major companies are publicly committing to operations in the KRI, with Rosneft signing a Cooperation Agreement in the fields of upstream, infrastructure, logistics and trading in early 2017.

> Boosted by a recovery in the Brent oil price from lows of $30/bbl to $55/bbl, KRI oil exports increased in value, while significant economic reforms helped the KRG move towards financial stability.

With the addition of Rosneft, international trading houses have now provided pre-payments to the KRG for oil exports totalling around $3 billion since 2014, helping to boost liquidity in the region and strengthen the KRI's fiscal position.

Regular payments to the KRG have in turn facilitated regular payments to oil companies operating in the KRI, and just under $700 million was paid to IOCs in 2016.

An oil price of $55 per barrel, with exports at 550,000 bopd, generates $750 million monthly for the KRG. Coupled with economic reforms, this has moved the KRG towards a current account surplus.

Economic reforms

The Kurdistan Regional Government has followed through on its promise to modernise its economy and significantly reduce public spending. Working with the World Bank, the KRG has carried out a full economic audit, looking to cut costs and build a solid economic bedrock.

Actions have been taken to diversify sources of government income, including the overhaul of the taxation system and a reduction in electricity fuel subsidies. The KRG has also moved to an electronic payment system for salaries, requiring all government employees to be biometrically registered. Austerity measures have led to temporary salary reductions throughout the public sector, which continues to provide employment for over 50% of the KRI workforce.

The work undertaken has led to an 80% drop in the consolidated fiscal deficit, from $6.5 billion in 2014 to an estimated $1.3 billion in 2016. At the same time, government spending has decreased by c.70% as the KRG continues to implement austerity measures. Non-salary operating expenditure has also fallen by over 50%.

Qubad Talabani, Deputy Prime Minister of the KRG, stated at a conference in London that the payment for salaries (excluding the Peshmerga) has been reduced from $750 million to c.$450 million per month. Although part of this has been achieved through temporary salary cuts, the biometric registration programme paves the way to making an element of this reduction permanent. As of March 2017, biometric registration of government wage-earners crossed over one million people.

Regional relationships

2016 saw a continuation in the more stable relationship between Baghdad and Erbil since the election of Iraqi Prime Minister Haider al-Abadi. The Peshmerga has fought alongside Iraqi troops in the campaign to liberate Mosul, with this military cooperation indicative of an improvement in the overall relationship between the respective authorities.

In the second half of 2016 a deal was reached between the KRG and Baghdad's Northern Oil Company regarding the federally controlled Kirkuk fields, with both sides agreeing to split the export volumes equally. This agreement has been built on in 2017, with new commitments by Baghdad to bring Kirkuk crude to Kurdish refineries. In February 2017 this agreement has seen 40,000 bopd of NOC crude transported to KAR's refineries west of Erbil, generating fuel for Mosul and liberated areas to offset the losses of the Bayji and Qayyarah refineries.

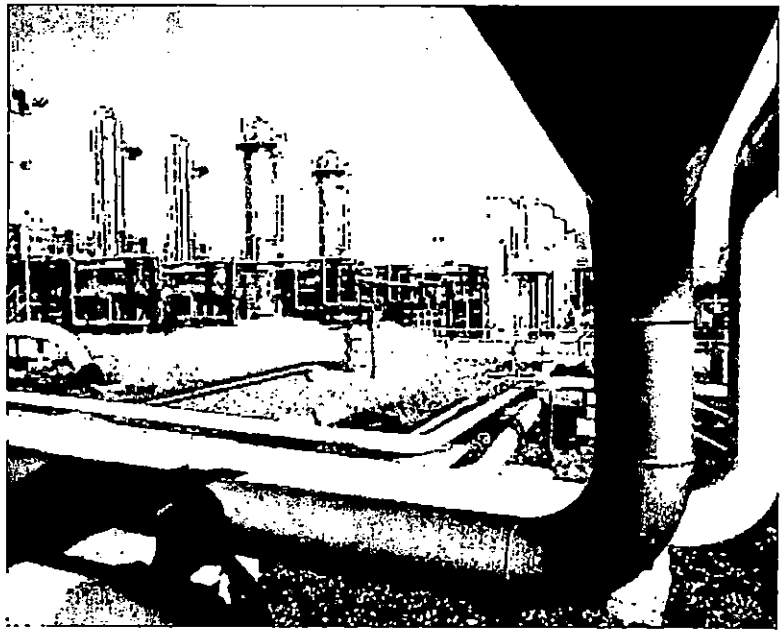
As the relationship with Baghdad has stabilised, the relationship between Turkey and the KRG has continued to improve. In February 2017, President Barzani visited Turkey, a meeting that followed closely behind January 2017 talks between KRG Prime Minister Nechirvan Barzani and Turkish President Erdogan, at which they discussed the further development of cooperation in the field of energy amongst other things.

The requirement for energy is one of the key drivers of the Turkey-KRG relationship. Turkey has one of the fastest growing gas markets in the world, and gas from Russia, Iran and Azerbaijan makes up 88% of imports.

There is a clear incentive for Turkey to diversify supply, especially when this can be done while reducing costs, and KRI gas offers the opportunity to diversify supply from a secure, long-term source at a cheaper cost than all other alternatives.

↓

Central processing facility at Taq Taq



Maximising recovery, generating positive cash flow, building on renewed momentum in the gas business

Murat Özgül
Chief Executive Officer

The last three years have been a difficult period for Genel. The entire E&P sector struggled with a collapsing oil price environment, the Kurdistan Region of Iraq faced a challenging security situation, and our Taq Taq field has suffered from sharp production declines and subsequent reserve downgrades.

While acknowledging the recent disappointing share price performance and cumulative impact of impairments, there are now clearer opportunities for value creation than there have been for some time, driven by the significant opportunity afforded by our gas assets.

Genel has operated in the KRI, and worked alongside the Kurdistan Regional Government, for over a decade. We have acknowledged the difficult times that the KRG has faced economically, and the hard work that has delivered a working payment mechanism for oil exports.

2016 was a watershed for contractor payments, with Genel receiving $207 million in the year, an increase from $148 million in 2015. This led us to generate free cash flow after interest payments for the period, a notable performance at a time of low oil prices.

The willingness and ability of the Kurdistan Regional Government to make regular payments has been welcome at a time when they continue to implement significant austerity measures. Our key focus is the recovery of outstanding receivables. In February 2016 a mechanism was implemented by the KRG through which the receivable would begin to be recovered.

Alongside monthly payments for current sales based on a proxy for contractual PSC entitlement, the KRG agreed to make further payments equivalent to five percent of the monthly netback revenue derived from our producing fields towards the recovery of outstanding entitlements. This was a promising start, and we will continue to work with the KRG to build on this.

As part of its commitment to transparent governance, the KRG has engaged internationally recognised auditing firms to audit the KRI oil sector. This process will also cover unpaid entitlements to oil companies. We are confident that once this audit process is complete, the KRG will remain committed to the full settlement of unpaid entitlements in a timely fashion, and we remain focused on recovering the full amount of our receivable.

Building a transformational gas business

While the oil business continues to generate cash, the gas business is now moving forward towards development. In 2016, hampered by the KRG's economic crisis and regional geopolitical events, progress was slower than expected. Expenditure was accordingly kept to a minimum, with the Pre-FEED and upstream Gas Development Plan studies for the Miran and Bina Bawi fields being the focus of activity.

> 2016 was a watershed for contractor payments, with Genel receiving $207 million in the year, an increase from $148 million in 2015.

> The development of our Miran and Bina Bawi assets has the potential to be transformational for Genel, and we are focused on demonstrating the value proposition to the industry and market.

An updated view on discount rates, and the pace of the development timetable, amongst other factors, has led the Company to reduce the carrying value of the Miran and Bina Bawi fields in the Company's accounts from $1,448 million to $867 million. Despite this write-down, the development of our gas assets represents a huge opportunity for the Company, and for the Kurdistan Region of Iraq as a whole.

Indeed, while 2016 progress was slow, momentum has recently returned to the gas project. We are very pleased to have finalised documentation for the amended Miran and Bina Bawi Production Sharing Contracts and Gas Lifting Agreements. This was an important milestone allowing us to focus on the next step of concluding negotiations with potential partners, which will be the catalyst for pre-development activity to start in earnest in order to move the KRI gas project towards FID.

Our focus in 2017 is the positive conclusion of discussions with a strategic partner for the project, followed by a completion of the midstream agreement and financing of the gas processing facility.

The development of our Miran and Bina Bawi assets has the potential to be transformational for Genel, and we are focused on demonstrating the value proposition to the industry and market. Genel has been central to the Kurdistan Region of Iraq's development as an oil province, and we now look forward to playing the same role in the development of gas exports which will provide a huge boost to the KRG's economy.

Cash generative oil assets

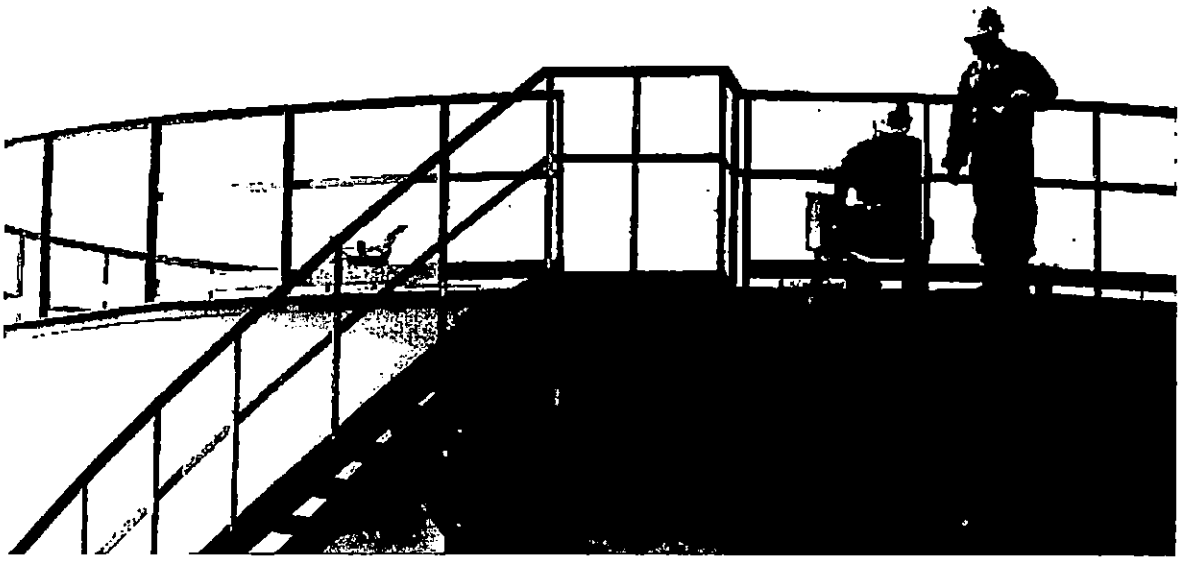
Despite a period of export pipeline downtime in the first quarter of 2016, Tawke field performance remained strong, producing an average of 107,000 bopd in the year. Regular payments allowed investment in the field to restart in the first quarter and continue throughout the year, with the development programme offsetting natural well decline at the field.

Tawke reserve estimates also remain stable, with gross proved plus probable (2P) reserves estimated at 504 MMbbls, compared to 543 MMbbls at year-end 2015, with the difference between that and the prior year being primarily the production in 2016. The Tawke field is now our cornerstone oil asset. It remains a low cost field, and we look forward to working with DNO to maximise the cash generation and value of this key asset in the future. We expect that Tawke production in 2017 will average around year to date production levels, in line with the Operator's current view.

The Peshkabir discovery, under the Tawke PSC, provides potential upside. Following the discovery of Jurassic oil in the Peshkabir 1 well in 2012, the Peshkabir-2 well, spudded in October 2016, discovered additional oil in the Cretaceous horizon in the southern flank of the field in early 2017.

Workers at Taq Taq

Overleaf: The successful Peshkabir-2 well, on the Tawke licence



The Tawke partners are considering a number of options to step up the appraisal of the new discovery, including the drilling of a third well in the second half of 2017. Options are also under consideration for possible early Peshkabir production from Peshkabir-2, incorporating oil transportation to the Tawke field's production facilities at Fishkabur 12 kilometres away.

Taq Taq field performance in 2016 was disappointing. It is both a mature and complex field, where the recent production decline has been faster than expected. Having produced over 200 million barrels of oil, the focus is now on maximising oil recovery while controlling costs, with an overall aim of generating positive cash flow from operations.

There remains continued uncertainty at the field over reserves estimation and future production rates, and the Company has removed guidance for Taq Taq in 2017. Ongoing work at Taq Taq is aimed at maximising oil recovery at Taq Taq and its value to Genel.

In 2016 capital expenditure totalled $61 million across Genel's entire business, a reduction of 30% on initial guidance and almost $100 million down on the prior year. Both fields continue to benefit from low capital and operating costs, and appropriate expenditure remains a key priority for Genel. As such, investment at both Taq Taq and Tawke will keep pace with the payments that we receive.

Development of reserves and resources

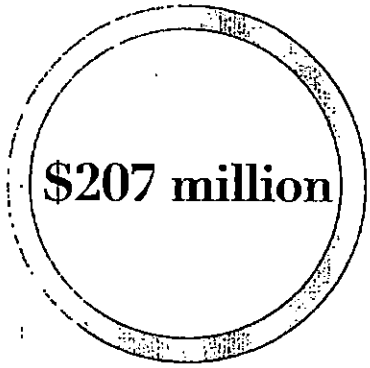
The reduction in the Company's 2P reserves at the end of 2016 primarily reflects the updated assessment of Taq Taq 2P reserves, a consequence of a reassessment of the gross rock volume above the oil water contact and fracture porosity in the undrained Cretaceous Shiranish reservoir. The Peshkabir Cretaceous discovery represents the best current prospect for near-term reserve bookings, and we look forward to spudding the Peshkabir-3 appraisal well in the second half of the year.

As with all aspects of the business, our focus on cost and value means we will prioritise those areas of the portfolio that meet our value creation criteria. In this regard, following the drilling of the CS-12 well and a subsequent review of licence prospectivity, we have agreed the sale of our 40% interest in the Chia Surkh licence to Petoil, subject to KRG approval. On completion Petoil will pay Genel an initial consideration of $2 million, and an additional $25 million in staged payments contingent on future crude oil production from the Chia Surkh licence.

In line with our strategy to concentrate on low-cost, onshore activity with high-impact potential, we look forward to stepping up activity in Somaliland. The potential is significant – our licences cover an area the size of the entire KRI, with the geology analogous to the proven hydrocarbon province in Yemen. The acquisition of 2D seismic data on the Odewayne and SL-10B/13 blocks is now underway. The data will be acquired as part of a Somaliland government-owned project, with the Company purchasing the associated data from the government. We look forward to maturing prospects towards drilling in the medium term.

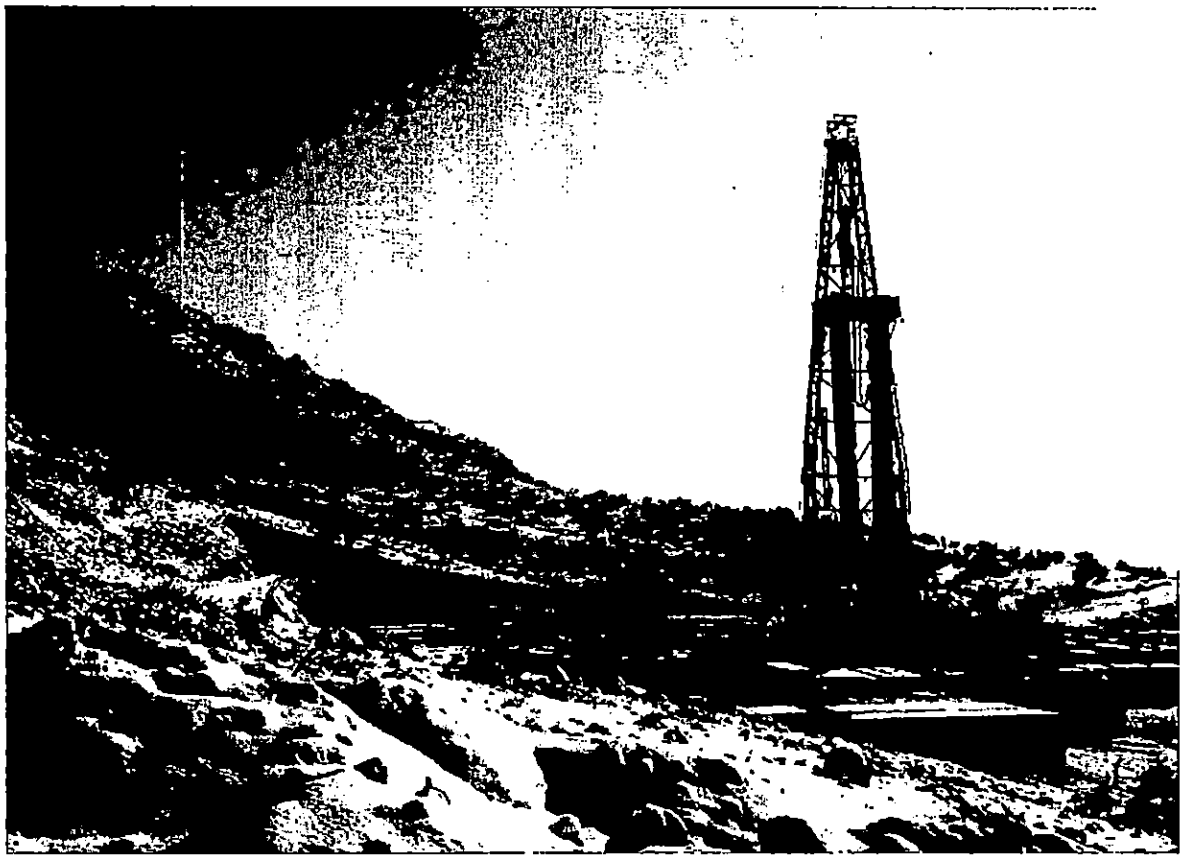
The Company is currently in discussions with the Moroccan government over the nature, scope, and timing of the activity related to the maximum future exploration commitment of c.$30 million.

CASH RECEIPTS 2016



- Taq Taq - 125
- Tawke - 82

> Appropriate expenditure remains a key priority for Genel. As such, investment at both Taq Taq and Tawke will keep pace with the payments that we receive.

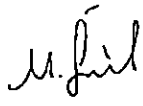


Outlook

We have very clear priorities for the coming year. We will look to maximise recovery from our oil fields while controlling costs, with an overall aim of generating positive cash flow from operations. As ever, we continue to keep a close eye on our financial position, cost control is key across the business, and investment will match the payment environment.

We are encouraged by the frequency of payments in early 2017 and look forward to that continuing over the balance of 2017. We are focused on working with the KRG to accelerate the recovery of the receivable for the oil that we have produced in recent years. The KRG has already stated that an increase in the oil price would lead to an increase in the allocation of netback revenues paid to IOCs each month, and the improvement we have seen in their economic situation bodes well in this regard. The receipt of full cash entitlements remains our focus, although there are other options available.

2017 is a very important year for Genel and especially the development of the gas business. We are working with the KRG and in discussions with counterparties to move things rapidly forward, promising an improved future for Genel and the KRI.

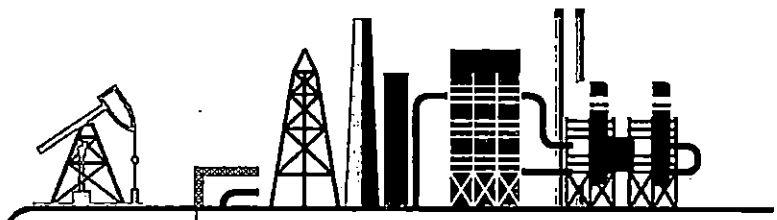


Murat Özgül
Chief Executive Officer

> We are encouraged by the frequency of payments in early 2017 and look forward to that continuing over the balance of 2017. We are also focused on working with the KRG to accelerate the recovery of the receivable for the oil that we have produced in recent years.

Our business model

HOW WE CREATE VALUE
We create value by finding and monetising natural resources. To achieve this we must execute exploration campaigns, deliver selective development projects, maximise our production over the life of field, and monetise at all points of the cycle, ensuring that we are suitably financed through a mix of diverse funding options and portfolio management.



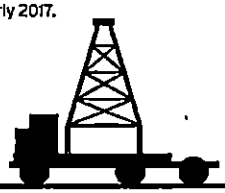
1

EXPLORATION AND APPRAISAL

Execute high-impact E&A programmes, mitigating environmental impact, with a view to increasing reserves and resources.

Key focus
Genel continues to prioritise near-term spend on our KRI production and development assets, while our refocused exploration strategy targets low-cost onshore opportunities.

2016 activity
Appraisal work in the KRI in 2016 focused on Chia Surkh, and the Peshkabir-2 well at Tawke, which discovered additional oil in the Cretaceous horizon in early 2017.



2

DEVELOPMENT AND PRODUCTION

Safely deliver selective development projects for the benefit of both Genel and the communities in which we operate. The key aim is to maximise production of natural resources over the life of field and increase cash flow.

Key focus
Genel is concentrating on assets in the KRI, where production costs are amongst the lowest in the world.

2016 activity
An increase in regularity of payments allowed work programmes to resume at Taq Taq and Tawke. The mid-stream pre-FEED for Miran and Bina Bawi gas fields was completed.

Our strategy

HOW WE OPERATE
Our business model illustrates our value creation story, and is guided by our strategy. As we pursue our strategy, the way in which we conduct ourselves with our host communities and governments is crucial to our success as a business, and underpins everything that we do. Our record on health, safety and the environment is a source of pride for Genel, and we strive to ensure that our operations provide benefits for those communities in which we operate.

①

MAXIMISE THE POTENTIAL OF OUR KRI OIL ASSETS AND COMMERCIALISE OUR KRI GAS BUSINESS

Oil production in the KRI is managed to ensure long-term value creation, maximising production over the life of the field and investing at an appropriate level to the external environment. Our Miran and Bina Bawi fields contain an estimated 11 tcf of mean raw gas resources, the commercialisation of which has the potential to be transformational for both Genel and the KRI.

READ MORE
P8

②

CREATE VALUE WITH THE DRILL BIT

We are committed to realising the value in our portfolio through a focused drilling programme, exploring, appraising and developing our assets, with the flexibility in our portfolio allowing us to manage expenditure appropriately.

READ MORE
P16

3

FINANCE AND PORTFOLIO MANAGEMENT

Manage financial and business assets to provide flexibility in our capital structure in order to pursue strategic objectives and underpin future growth.

Key focus

Managing the portfolio in an appropriate way for the external environment, minimising expenditure and managing our level of debt.

2016 activity

Capital expenditure was reduced by 61%, and a successful bond buy-back in March 2016 helped reduce debt and bolster the balance sheet, while regular payments from the KRI stabilised the receivable.

Our oil reserves

Oil production in the KRI provides ongoing cash generation. Our reserves are being produced at some of the lowest costs in the industry, making our assets cash flow breakeven at a Brent oil price of less than $20/bbl. A payment mechanism announced in February 2016 helped provide clarity over export receipts, and over $200 million was received by Genel in 2016.

READ MORE
P17

The KRI gas development

The Miran and Bina Bawi gas project will benefit from an industry leading cost structure, helping Turkey both diversify and lower the cost of energy imports. Underpinned by a government backed gas sales agreement between Turkey and the KRG, our gas assets provide a unique opportunity. The signing of documentation signalled renewed momentum in 2017.

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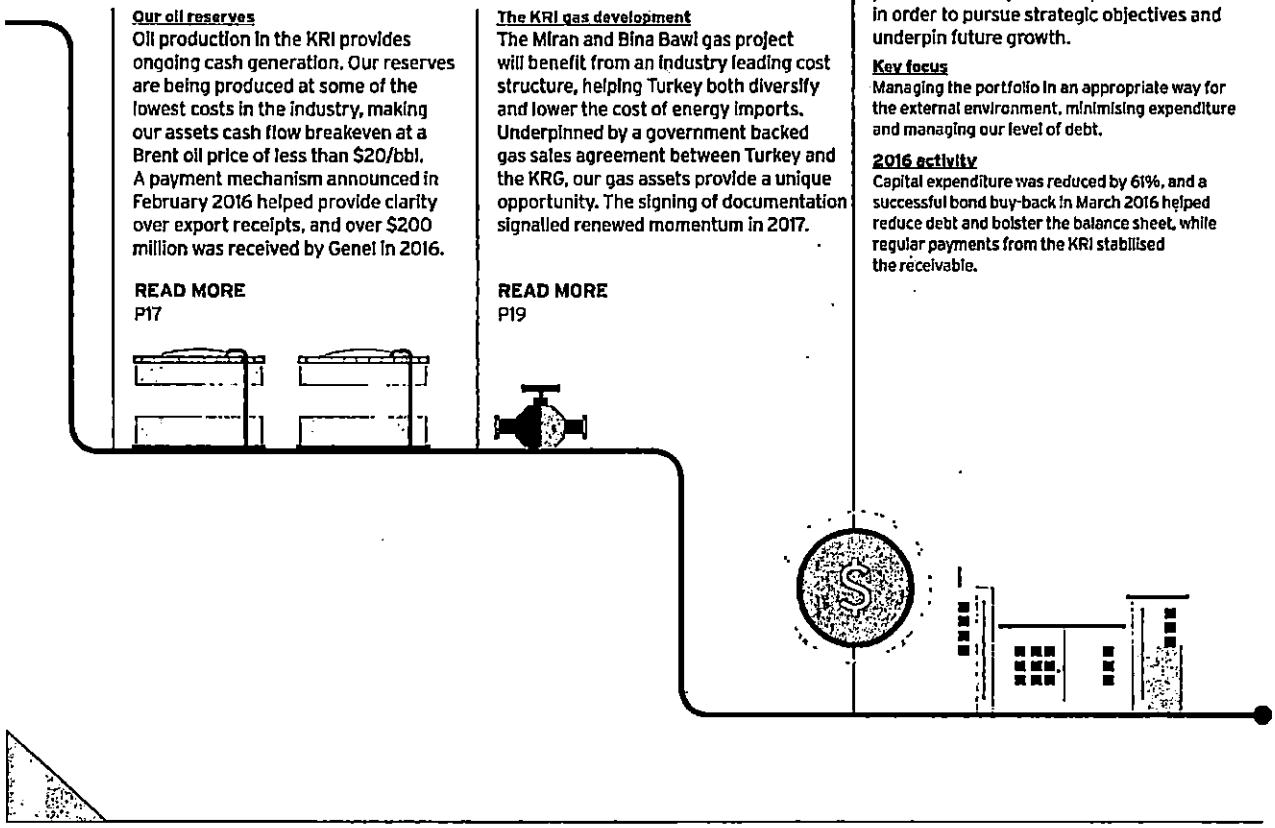

3 PURSUE SELECTIVE, ACCRETIVE M&A OPPORTUNITIES

We continue to look to leverage the skills and knowledge of the management team and identify upstream assets that would add to reserves and/or resources and complement the existing KRI position.

READ MORE
P26

4 MAINTAIN THE HIGHEST LEVEL OF CORPORATE GOVERNANCE

The strength of our management team, and an experienced Board, provides the expertise to grow the business and the governance necessary to maintain the integrity of the Company and effectively manage risk.

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P34

5 RETURN EXCESS CASH TO SHAREHOLDERS

The Company aims to retain a strong balance sheet and flexibility in our capital structure in order to pursue its strategic objectives and underpin future growth. We continue to evaluate and evolve our capital structure to reflect the needs of the business, with a view to returning capital to investors when appropriate.

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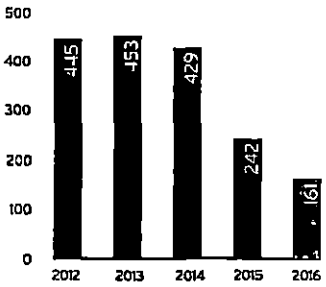
P24

Measuring our progress

NET 2P RESERVES

161 ↓

(net mmbbls)
2015: 242 mmbbls



Definition
2P reserves are proved plus probable reserves.

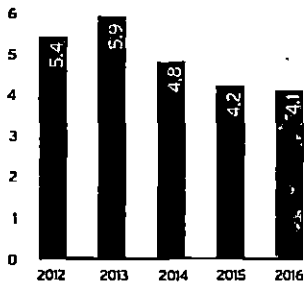
Performance
Gross 2P reserves at Tawke were 504 MMbbls at the end of 2016, compared to 543 MMbbls at the end of 2015, with the difference being field production in the year. At Taq Taq, a reassessment of gross rock volume and fracture porosity in the undrained Shiranish formation resulted in a reduction in gross 2P reserves from 172 MMbbls at the end of 2015 to 59 MMbbls at the end of 2016. Note that end-2015 reserves have been restated, from 264 MMbbls to 242 MMbbls, following the Tawke reserves update announced on 18 March 2016.

Relevance to strategy
Our strategy is to enhance the value of our existing 2P reserves through active reservoir management and cost effective development. The Company also looks to replace 2P reserves through a combination of maturing contingent resource to commerciality, exploration for new sources of hydrocarbons and M&A activity.

TOTAL NET RESERVES AND UNRISKED RESOURCES

4.1 ↓

(bnboe)
2015: 4.2 bnboe



Definition
Net reserves and resources include 3P reserves, 2C contingent resources and prospective resources.

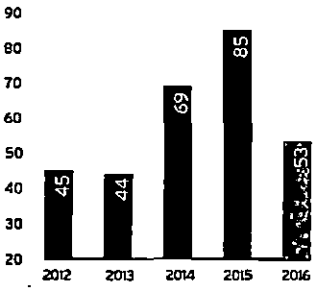
Performance
Net reserves and unrisked resources remained largely unchanged in 2016. Further maturation of the Sidi Moussa prospect inventory added 449 MMbbls of unrisked prospective resource, notably through the addition of a series of Cretaceous prospects. This was offset by the removal of the Miran Deep prospect, a block wide reassessment of Chia Surkh volumes subsequent to the CS-12 well result, and the reduction of 3P reserves at Taq Taq.

Relevance to strategy
Prospective resources are those quantities of hydrocarbons estimated to be potentially recoverable from undiscovered accumulations by application of future development projects, and have the potential to drive long term growth.

NET PRODUCTION

53,000 ↓

(bopd)
2015: 85,000 bopd



Definition
Production is measured in barrels of oil produced per day.

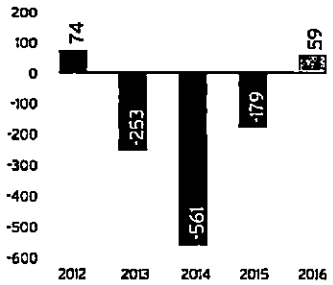
Performance
The 2016 development programme at Taq Taq failed to offset natural decline, with production at the field down 48% compared to 2015. Production at Tawke was also lower compared to 2015, a result of reduced investment made in the prior year as regular payments were not forthcoming. A scaled back work programme in 2016 has helped to mitigate against field decline.

Relevance to strategy
Production from our fields provides Genel's revenue generation, and is a key measure of our operational performance. Our oil production in the KRI is managed to ensure long-term value creation, with production maximised over the life of the field.

FREE CASH FLOW

59 ↑

($ million)
2015: ($179) million



Definition
Cash flow generated from operating activities, minus capital expenditure.

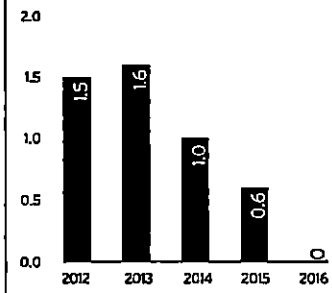
Performance
The receipt of over $200 million in payments for oil exports, and a 61% reduction in capital expenditure, led to positive free cash flow generation in 2016.

Relevance to strategy
Production from operating activities forms Genel's revenue generation. Net cash illustrates the success of monetisation of these activities, reflecting both money received and the minimisation of operating costs. Free cash flow has replaced capital expenditure as a KPI, which did not reflect Genel's focus on cash generation.

LOST TIME INCIDENTS

0 ↓

Hours lost due to injury per million work hours
2015: 0.6



Definition
Lost time incident frequency measures the number of lost time incidents per million work hours.

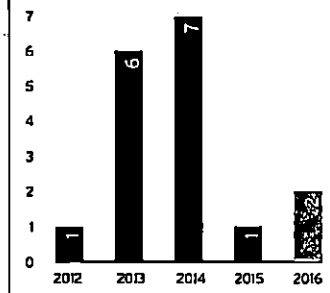
Performance
2016 was a landmark year, as we achieved our target of zero injuries across both TTOPCO and Genel operations. We continue to review processes and make improvements where possible in order to strive to repeat this performance in coming years.

Relevance to strategy
The safety of our workforce remains of paramount importance. Genel is committed to running safe and reliable operations across our portfolio, aiming at zero fatalities and no lost time incidents.

SPILLS - LOSS OF PRIMARY CONTAINMENT

2 ↑

Incidents where there has been a loss of primary containment
2015: 1



Definition
Loss of primary containment records any unplanned or uncontrolled release of material from a piece of equipment (such as a pipe, vessel, or tank) used for containment of potentially harmful or hazardous substances and products.

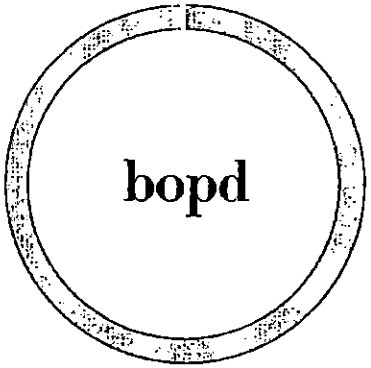
Performance
There were two fluid releases at Taq Taq, one totalling five litres of hydraulic lift fluid, the other c.1000 litres of diesel from an onsite generator. Clean up was undertaken, and there was no lasting harm to the environment. As always, a full investigation of both incidents was undertaken and lessons learned.

Relevance to strategy
Part of our commitment to being a sustainable business is for the impact on the environment around our operations to be minimised. Asset integrity is a major priority for Genel and we plan and execute the operations of our business and our engagement of subcontractors so as to minimise risk and mitigate potential impact.

Tawke ultimate recovery unchanged, new discovery at Peshkabir

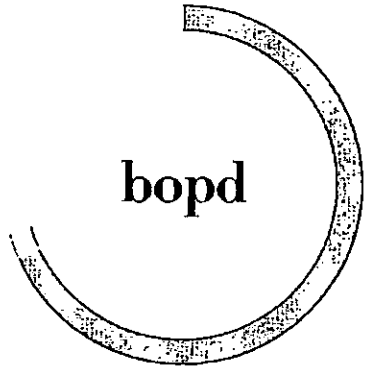
Paul Schofield
COO

TAWKE SALES ROUTE 2016



Export via pipeline - 105,500
Domestic sales - 1,000
Refinery sales - 400

TAQ TAQ SALES ROUTE 2016



Export via pipeline - 41,000
Domestic sales - 1,600
Refinery sales - 17,600

Production and sales

Net working interest production in 2016 averaged 53,300 bopd, at the lower end of the Company's 53-60,000 bopd guidance range, which was revised from 60-70,000 bopd in July 2016. Production declined by 37% year-on-year, with the underperformance versus initial guidance primarily a result of greater than anticipated declines at Taq Taq during the year.

Following a hiatus in drilling activity in the second half of 2015, development activity at both Taq Taq and Tawke resumed in early 2016 as the KRG's payment announcement provided confidence of ongoing cash receipts. Investment at Tawke helped to offset natural well declines at the field, with drilling activity at Taq Taq only partially mitigating natural well decline.

During 2016, the majority of production from both fields was exported by the KRG through the KRI-Turkey pipeline. The Taq Taq field also continued to supply the domestic Bazian refinery. Small volumes from both fields were also supplied into the domestic market, principally during downtime in the KRI-Turkey pipeline. All sales routes from both fields are currently invoiced at the same price under the terms of the February 2016 payment mechanism. The Company continues to expect that the majority of production from both fields will be exported by the KRG through the KRI-Turkey pipeline. The KRI domestic market does provide a secondary sales route in the event of meaningful disruptions to KRI-Turkey pipeline uptime.

The Company announced on 28 March 2017 that previous guidance for 2017 Taq Taq gross average production of 24-31,000 bopd had been removed given the ongoing uncertainties in reserves estimation and future production from the field. Consequently, the previous 35-43,000 bopd 2017 production guidance for the Company has also been removed.

Average 2017 year to date production for the Company is 40,000 bopd, representing its net share of Taq Taq and Tawke production.

Reserves and resources

At 31 December 2016, Genel's proven plus probable (2P) net working interest reserves were 161 MMbbls. In the 2015 Annual Report and Accounts, end-2015 2P net reserves were reported as 264 MMbbls. Shortly after publication of the Company's 2015 results, the Tawke operator updated its assessment of end-2015 Tawke reserves and resources, leading to a revision of the Company's end-2015 net 2P reserve position to 242 MMbbls (as stated in the table below). Compared to this latter figure, end-2016 net 2P reserves represent a 33% year-on-year reduction.

Year-end 2016 gross Tawke 2P reserves were estimated by the operator, DNO ASA, at 504 MMbbls, compared to 543 MMbbls at year-end 2015. The year-on-year change is explained by production in 2016 of 39 MMbbls. Genel's net share of Tawke 2P reserves at

end-2016 is 126 MMbbls. At the Peshkabir field, gross 2P reserves at year-end 2016 were unchanged at 32 MMbbls (8 MMbbls net to Genel).

On 29 February 2016, the Company announced that the 2P initial gross recoverable reserves (referred to in the industry as Estimated Ultimate Recovery, or EUR) for the Taq Taq field had been downgraded from 683 MMbbls to 356 MMbbls. On 28 March 2017 the Company announced a further downward revision of Taq Taq 2P EUR to 267 MMbbls, implying gross 2P reserves of 61 MMbbls at year-end 2016 (from 172 MMbbls at year-end 2015). Genel's net share of Taq Taq 2P reserves at year-end 2016 is 27 MMbbls. The further reduction of 2P EUR for Taq Taq is a consequence of a reassessment of the gross rock volume above the oil water contact and fracture porosity in the undrained Cretaceous Shiranish reservoir, following an analysis of reservoir surveillance data and well performance from 2016 and the first two months of 2017.

Following a technical and commercial review of development planning for the Miran oil discovery, and capital allocation decisions across Genel's business, the Company has decided that it would be prudent to move Miran oil volumes from reserves to resources pending clarity on the nature and timing of partner(s) for the KRI gas business. This reduced 2P reserves by 23 MMbbls (net).

At 31 December 2016, Genel's 2C net contingent resources were 1,549 MMboe. In the 2015 Annual Report and Accounts, 31 December 2015 net 2C resources were reported as 1,252 MMboe. Shortly after publication of the Company's 2015 results, the Tawke operator updated its assessment of end-2015 Tawke reserves and resources, resulting in the Company's end-2015 2C net resources position being upgraded to 1,284 MMboe. Furthermore, a decision has been taken to include KRI gas business resource estimates on a raw gas instead of sales gas basis at end-2016. This, amongst other factors, results in a comparable end-2015 2C resource number of 1,552 MMboe. Compared to this latter figure, 31 December 2016 2C net resources were practically unchanged year-on-year.

In 2016, 2C resources attributable to the Chia Surkh PSC were reduced following a block wide assessment of volumes following the CS-12 drilling results. Elsewhere, net Peshkabir 2C resources of 12 MMboe were added following the Cretaceous discovery in early 2017. Net Miran oil 2C resources of 39 MMbbls were added to 2C following their removal from 2P reserves.

KRI oil assets

Tawke PSC (25% working interest)

The Tawke field produced a gross average of 107,000 bopd in 2016, compared to 135,000 bopd in 2015, representing a 21% decline year-on-year. The majority (98%) of sales from the field were by the KRG through the KRI-Turkey pipeline, with the remainder either being refined at the Tawke field or sold in the domestic market. A total of 33 development wells have been drilled at the field, with 28 of these currently producing. Surface facilities capacity is currently 200,000 bopd with water handling capacity of up to 16,000 bpd.

Following the KRG's February 2016 payment announcement, well intervention and drilling activity at Tawke field recommenced. In the first half of 2016, a workover programme on eight existing wells was implemented, which helped offset natural well declines. In the second half of the year, four new production wells were drilled, three of which were in the shallow Jeribe reservoir and the fourth in the main Cretaceous reservoir. Combined, these development wells added in excess of 10,000 bopd (sum of initial well rates) of new production for investment of $11 million, again offsetting declines from the existing well stock.

The firm programme for Tawke in 2017 includes two further development wells (T-35 and T-21N) in the main Cretaceous reservoir and two shallow Jeribe wells. Workovers of existing wells are also planned. Additional activity in 2017, which includes further Cretaceous and Jeribe wells, is contingent on reservoir performance and regular payments from the KRG for current sales and unpaid entitlements.

The Tawke field has produced an average of 111,000 bopd in 2017 year to date and is currently producing 108,000 bopd. The Company expects that the average Tawke production in 2017 will be around year to date production levels, in line with operator guidance.

	Remaining reserves (MMboe)				Resources (MMboe)					
					Contingent				Prospective	
	1P		2P		1C		2C			
	Gross	Net	Gross	Net	Gross	Net	Gross	Net	Gross	Net
31 December 2015	447	123	777	242	1,065	798	2,186	1,552	3,433	1,994
Production	(61)	(19)	(61)	(19)	-	-	-	-	-	-
Acquisitions and disposals	-	-	-	-	-	-	-	-	-	-
Extensions and discoveries	-	-	-	-	-	-	48	12	-	-
New developments	-	-	-	-	-	-	-	-	-	-
Revision of previous estimates	(11)	(5)	(119)	(62)	15	13	(82)	(15)	492	317
31 December 2016	375	99	597	161	1,080	811	2,152	1,549	3,925	2,311

Taq Taq (44% working interest, joint operator)

The Taq Taq field produced an average of 60,000 bopd in 2016, a 48% year-on-year decline. A total of 28 development wells have been drilled at the Taq Taq field.

During the year, 68% of field output was sold by the KRG through the KRI-Turkey pipeline, with a further 29% trucked to the domestic Bazian refinery and the remainder sold into the domestic market.

During 2016, three existing production wells were side-tracked. All three sidetracks (TT-27x, TT-07z and TT-16y) were contributing a total of 9,000 bopd at year-end 2016, most of which was from the TT-16y well. Production rates from the other two sidetracks were lower than anticipated due to the well completions being compromised as a result of drilling and completion problems.

Notwithstanding the contribution from the side-track wells drilled in 2016, Taq Taq field production underperformed expectations in the year, primarily as a rising oil water contact in the Shiranish reservoir reduced the productivity from key wells. Following the analysis of reservoir surveillance data and well performance from 2016, and the first two months of 2017, assumptions on gross rock volume above the oil water contact and fracture porosity in the undrained Shiranish formation were reassessed. This resulted in a further reduction in gross proven and probable (2P) EUR from 356 MMbbls at end-2015 to 267 MMbbls at end-2016. These changes have been supported by McDaniel & Associates in its updated Competent Person's Report (CPR) dated 28 March 2017.

In addition, the Company has been working on an updated Field Development Plan ('FDP') for the Taq Taq field. The scope of this activity has been extended to incorporate the results of recent well performance and will be further refined on the back of future development activity. The strategy at Taq Taq is to maximise recovery from the field while controlling costs, with an overall aim of generating positive cash flow from operations.

The Taq Taq field has produced an average of 28,000 bopd in 2017 to date. The Company has previously stated that the field is reliant on production from a limited number of key wells - production is currently 19,000 bopd from 15 wells, with five of these wells accounting for 77% of field production. Recently, key producing wells have exhibited high rates of decline as a result of water breakthrough, exacerbating the decline rate across the field. Taq Taq field water production is currently 13,000 bpd, representing a water cut of c.40%, significantly less than total water handling capacity of 55,000 bwpd. The Company currently intends to announce Taq Taq field production on a monthly basis going forward.

The TT-29z well is currently drilling at the field and aims to reduce the uncertainty on the free water level in the north flank, which in turn will give better understanding on remaining reserves at this location. TT-29 will also target a shallower Tertiary anomaly which could add new reserves if successful. Operations on the well are scheduled to complete in mid-2017. In addition, the firm 2017 programme for Taq Taq comprises two sidetracks of existing Cretaceous producers, further development of the Pilaspi reservoir and ESP/jet pump installation.

The Company remains of the view that Taq Taq is under drilled on the flanks of the field. Accordingly, an opportunity register, which consists of new development well locations

> Genel continued to work towards the commercialisation of the significant resource base at the Miran and Bina Bawi fields, currently estimated at 11 tcf (gross 2C basis) of raw gas.

Paul Schofield and Simon Lockett at Taq Taq

and remedial work on existing wells, is being prepared. The Company is working with its partner in the field to determine the optimal forward development programme. The partners have agreed to further refine the future activity as the results of ongoing development activity are known. Future activity levels at Taq Taq are also subject to the continuation by the KRG of regular payments for crude sales and historical receivables.

KRI gas assets

Miran and Bina Bawi fields (100% working interest, operator)

In 2016, Genel continued to work towards the commercialisation of the significant resource base at the Miran and Bina Bawi fields, currently estimated at 11 tcf (gross 2C basis) of raw gas. The focus during 2016 was on finalising the upstream PSCs and terms of gas supply to the midstream processing facilities. At the asset level, the focus was on preliminary engineering studies, with both the upstream Gas Development Plan and midstream pre-FEED awarded in mid-2016.

In February 2017, the Company announced that it had finalised Amended and Restated Production Sharing Contacts and Gas Lifting Agreements for the Miran and Bina Bawi fields. As a result, Genel's interests in both Miran and Bina Bawi increased to 100% (from 75% and 80% respectively). These changes are not reflected in year-end 2016 reserves and resources as they occurred after the reporting date of 31 December 2016.

The GLAs contain conditions precedent, which, inter alia, include the execution of final agreements on the midstream gas processing facilities and pipeline transportation, the execution of the financing documents and the completion of updated competent person's reports for Miran and Bina Bawi.

Both Genel and the KRG have the option to terminate the GLAs by February 2018. If the conditions precedent are not satisfied within 12 months, the KRG has a right to terminate the GLAs. In the event of termination, and a subsequent failure to conclude new gas lifting agreements within one year period, the KRG can also terminate the Miran and Bina Bawi PSCs. During the three year period following such a termination, Genel would have a right of first refusal to participate in the development of the Miran and Bina Bawi gas fields with a 49% working interest on the same terms offered to any third party. With this part of the gas documentation finalised, Genel is now focused on the next step of concluding negotiations with potential partners.

In mid-2016, the Company awarded the pre-Front End Engineering Study ('FEED') contract for the midstream facilities to Fluor and Gas Development Plan ('GDP') to Baker Hughes RDS. The midstream pre-FEED was completed in early 2017 and has identified a number of potential sites for the processing facilities at both Miran and Bina Bawi. In addition, an option to process gas from Miran and Bina Bawi at one plant located close to the Taq Taq field is under consideration. The next step in the midstream development planning entails a full FEED study and Environmental Impact Assessment.

The GDP, which has now been completed, has focussed on dynamic reservoir modelling, production profiles, drilling locations, well completion concepts and the subsurface reservoir management plan for Miran and Bina Bawi. The GDP is broadly supportive of the findings of the existing third party CPRs for Miran and Bina Bawi with respect to the level of contingent resources at both fields.

Capital expenditure estimates for the upstream development and midstream processing facilities are still at a very preliminary stage. In particular, further sub-surface work may be needed at both Miran and Bina Bawi to refine the distribution of resources across the fields, potential well locations, and well deliverability. The Company envisages that this activity, if implemented, would be funded as part of a farm-down of its 100% upstream interest in both fields. As a result, the Company believes that is appropriate that updated cost estimates for the gas project await finalisation of the partnership structure for both the upstream and midstream.

In 2016, the Company formally relinquished its 40% interest in the Dohuk licence.

Exploration and appraisal

Cost effective onshore E&A activity, both in the KRI and internationally, is an important part of the Company's growth strategy. This strategy yielded tangible success in early 2017 with the Cretaceous discovery at Peshkabir-2. Further appraisal of Peshkabir will be the focus in 2017, in addition to committed activity on the Africa exploration portfolio.

KRI

The Peshkabir-2 well was spudded in October 2016 to both appraise the 2012 Jurassic discovery and explore Cretaceous prospectivity 18 km to the west of the Tawke field. In January 2017, the Tawke partners announced that oil had been discovered in the Cretaceous, with the well flowing at a stable rate of 3,800 bopd of 28° API oil. The well has reached a planned depth of 3,500 metres and was completed to facilitate rigless testing of the Jurassic, during March and April 2017. The Tawke partners plan to appraise the Cretaceous discovery with the Peshkabir-3 well later in 2017, as well as investigate the potential for early production from Peshkabir-2 via the existing Tawke facilities. The Tawke operator's initial estimate of gross 2C contingent resources for the Peshkabir Cretaceous discovery is 48 MMboe.

The CS-12 exploratory appraisal well on the Chia Surkh licence spudded on 30 March 2016, with a view to refining the resource potential of the licence after the successful CS-10 and CS-11 wells in 2013. Genel was carried on its share of the CS-12 well costs by its partner Petoil. The well was drilled to a measured depth of 2,500 metres ahead of time and budget. The primary Oligocene and Eocene objectives proved to be water bearing. A testing programme in the previously proven Miocene section established a modest level of oil resources.

Following consideration of the well results and a review of the prospectivity on the licence, the Company signed a Sales and Purchase Agreement in January 2017 to transfer its 40% interest in the Chia Surkh licence to its partner, Petoil, which remains subject to approval by the Ministry of Natural Resources. Petoil will pay Genel an initial consideration of $2 million, and an additional $25 million in staged payments contingent on future crude oil production from a commercial development at Chia Surkh.

As part of a portfolio high-grading exercise, the Company's 40% working interest in the Ber Bahr licence is in the process of relinquishment.

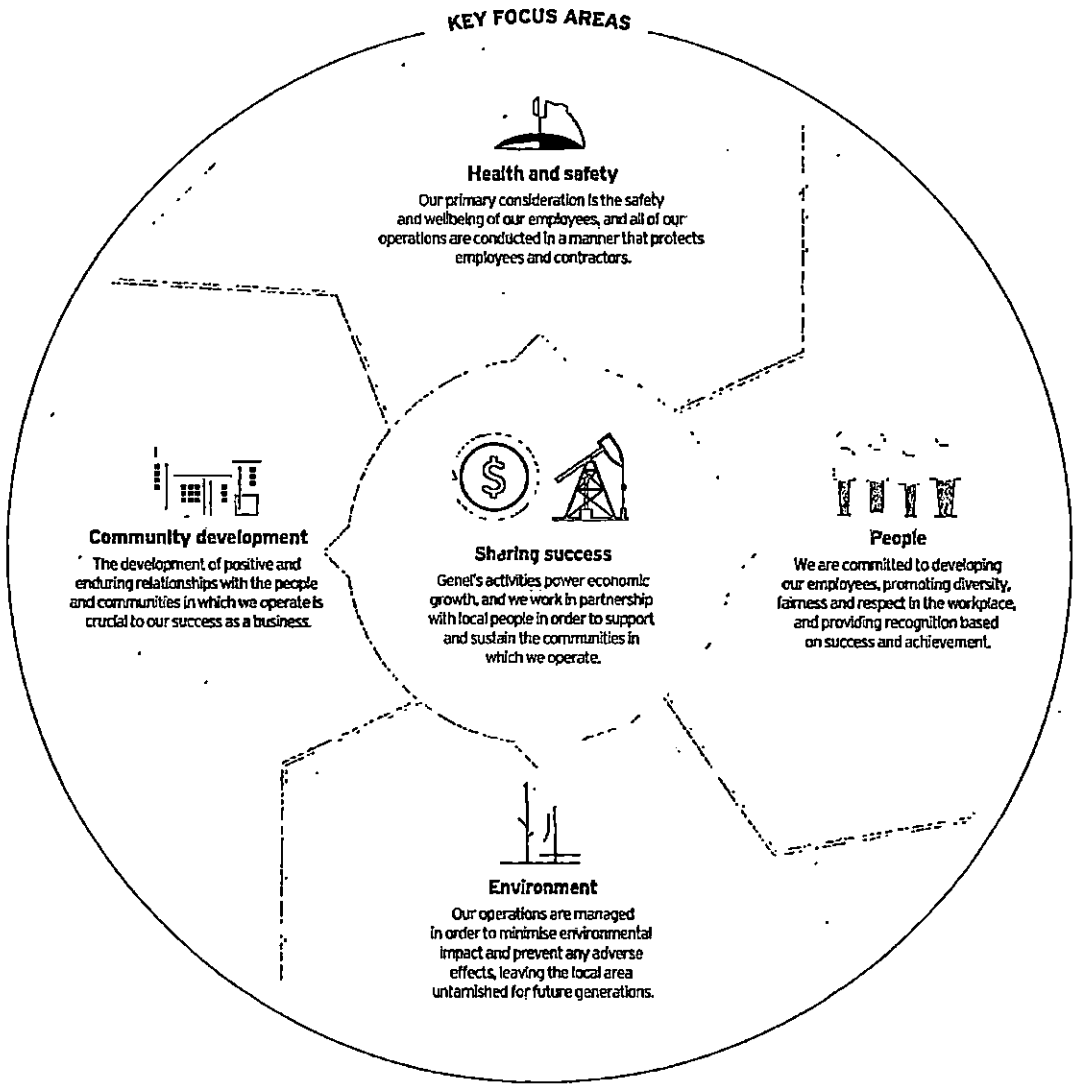
Africa

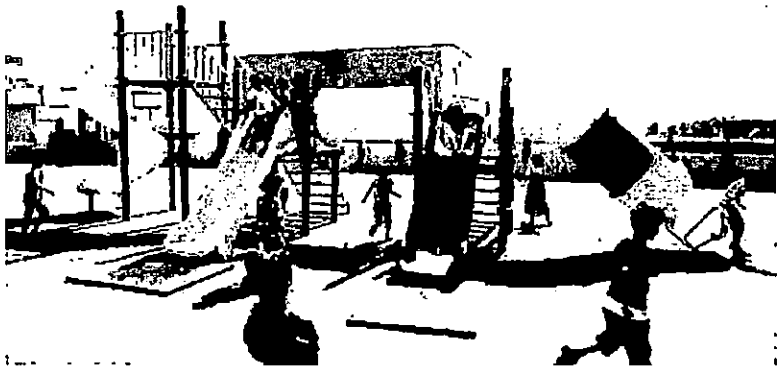
Onshore Somaliland, the acquisition of 2D seismic data on the Odewayne (Genel 50%, operator) and SL-10B/13 (Genel 75%, operator) blocks commenced in March 2017. The data will be acquired as part of a Somaliland government owned speculative 2D seismic acquisition project, with the Company purchasing the associated data from the government. This new data is expected to deliver a step change in the company's understanding of this highly prospective but underexplored area. The current 2D seismic will satisfy the outstanding commitment in the current exploration phase on both licences. Any further activity beyond the current exploration phase is discretionary.

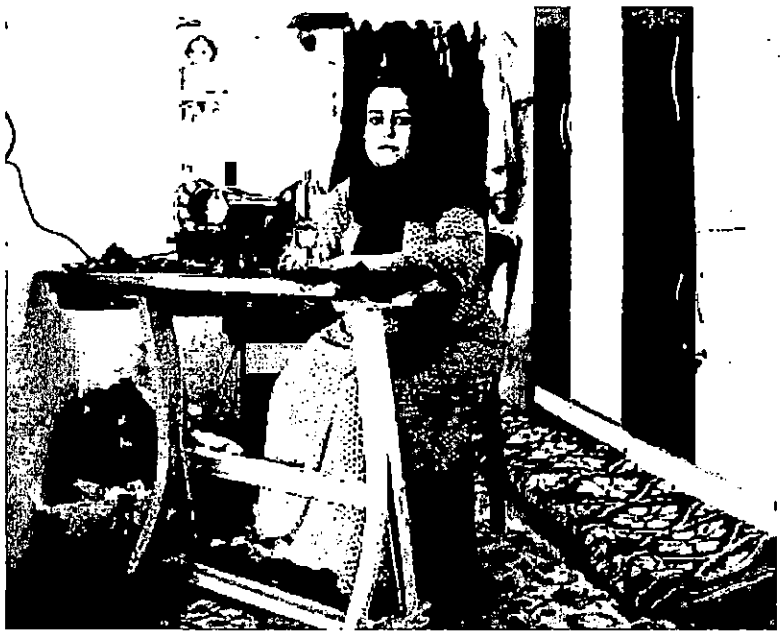
The Company is currently in discussions with the Moroccan government over the nature, scope and timing of the activity related to the maximum future exploration commitment of c.$30 million.

Making a positive contribution to communities

Supporting and sustaining the communities in which we operate is fundamental to Genel Energy's success. Natural resources should be a boon to a region, and it is imperative that local people share the benefits of the resources found in their area. As well as providing economic benefits for a country as a whole, we strive to directly support local communities through providing opportunities, while leaving the environment untarnished for future generations.







10 YEARS OF DRILLING BY TTOPCO AT TAQ TAQ

$25m
spent on local community projects

390
local people given vocational training

206m
barrels of oil produced

$12bn
value of total Taq Taq oil sales

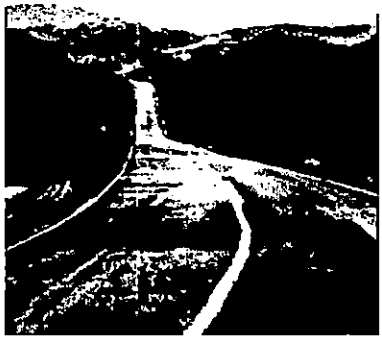
400
people employed from the local community

178
social projects funded, including a library, nursery, art school, refugee camp, and road

5,800
medical visits made to local people in 15 local villages

11
local companies established to provide services to Taq Taq

Providing lasting benefits



We are committed to conducting all of our operations in a manner that protects Genel's employees and contractors from injuries and illnesses, as well as having regard to the healthy and safety of the general public and the protection of the environment.

Health and safety

A safe workplace is a priority for Genel, and we are proud of our performance in this area. 2016 was a landmark year, as we achieved our target of zero injuries across both TTOPCO and Genel operations. This achievement reflects the progress made in our safety culture and performance.

We are also proud of the fact that there has never been a Genel or TTOPCO fatality, and we continue to take proactive steps to keep it this way.

In 2016 we introduced improved signage across our sites to help raise awareness of potential dangers. At Taq Taq, TTOPCO took on a new HSE overseer, bolstering our efforts to run the safest possible site. The employee permit to work was also updated, tightening procedures and making clear to all what their responsibilities are.

The development of life-saving rules was finalised in June, following discussion with employees and contractors. Based around three core areas - process safety, personal safety, and driving - training has been rolled out to all employees across the business. New rules have been instigated in all Genel operated fields, with contractors made aware of their obligations.

People

Our talented, experienced and motivated staff are key to the success of our Company.

At 31 December 2016, Genel employed 128 people. Of these, 68 are based in Ankara, 19 in London, 17 in the Kurdistan Region of Iraq, and 24 in our African operations. Reaffirming our commitment to providing opportunities for local people, TTOPCO employed 507 people, of whom 78% (395 employees) are from the local area.

Our commitment to employing a diverse and balanced workforce enables us to build an effective and talented workforce at all levels of the organisation, including the Board.

The value we place on equal opportunities and diversity of ideas, skills, knowledge, experience, culture, ethnicity and gender is evident in our daily operations as well as formalised in our policies and procedures.

Our recruitment policy is to appoint individuals based solely on their skills, experience and suitability to the role. 30% (39 employees) of our workforce are women. Of those, 13% (5 employees) hold senior management positions within our organisation.

Environment

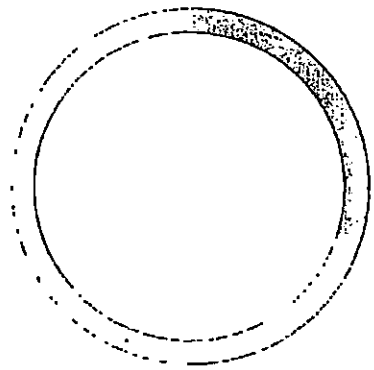
Our operations are managed in accordance with our policy of minimising environmental impacts and potential adverse effects. This includes a focus on effective design, efficient operation, and responsible energy use.

Fluor completed the pre-Front End Engineering Design study relating to the Miran and Bina Bawi fields around the end of 2016. This included the environment design basis, environmental aspect identification, and scope of work for the environment impact assessment, for which a consultant will shortly be selected.

We continue to report our greenhouse gas ('GHG') emissions in accordance with the requirements of the UK's Companies Act 2006 (Strategic Report and Directors' Reports) Regulations 2013, for all Genel operated assets or facilities.

GENDER DIVERSITY

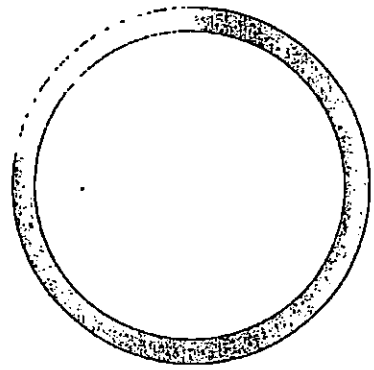
EMPLOYEES



● Female - 30%
○ Male - 70%

LOCAL EMPLOYMENT

TTOPCO



● From the local area - 78%
○ Outside local area - 22%

The majority of energy and fuel data collected has been based on actual, measured consumption. 0.45% of emissions (5.2 tonnes of CO_2 equivalent (tCO_2e)) has been extrapolated from actual consumption figures. Emissions are calculated using appropriate conversion factors sourced from: the Defra/ DECC UK Government Conversion Factors for Company Reporting 2015 and the IEA CO_2 Emissions from Fuel Combustion Highlights 2013 Edition.

According to the methodologies outlined above, our total reportable scope 1 emissions in 2016 were 808 tCO_2e, which included the combustion of diesel and LPG. Our total reportable scope 2 emissions were 348 tCO_2e, attributable to purchased electricity at our offices and field operations. Our total reportable scope 1 and 2 emissions were therefore 1156 tCO_2e, normalised to 9.97 tCO_2e per employee (based on the 2016 monthly average number of employees).

The GHG emissions from facilities we operate were 1156 tCO_2e in 2016, which is lower than those reported (1605 tonnes tCO_2e) in 2015. The main reasons for this decrease were the Ber Bahr block relinquishment and lower level of field maintenance activities at Miran and Bina-Bawi blocks in Kurdistan Region of Iraq.

Community development

We partner with and invest in communities close to our operations to achieve mutual long-term benefits, and we see it as our responsibility to help local people develop the skills to thrive and play a part as we unlock the potential of our host countries' natural resources.

Natural resources form the bedrock of the KRI economy, and our contributions through infrastructure construction, capacity building payments, and employee and contractor wages have a direct and material impact on development. As well as bringing these general benefits to the KRI, we work with communities and the KRG in order to support pressing local needs.

To date 178 projects have been carried out by TTOPCO, at a cost of over $25 million. Projects include the building of educational facilities, provision of medical support, and the addition of infrastructure including sewerage, electricity lines, roads, and telecommunication towers. Away from Taq Taq, $22.5 million has been spent by Genel on a further 38 community investment projects.

Tri-partite conversations, working with local communities and the government, help to prioritise investment where it is most needed. In 2016 the KRI continued to suffer economic hardship, and so the priority was on providing opportunities for economic empowerment. Genel, with its partners in TTOPCO, launched

the Local Communities Economic Development Programme for the Taq Taq area. The project aims to assist and promote an improvement of skills for individuals and families situated in rural areas by training them to develop attributes that provide the potential to generate their own private income and increase their general employability status.

The programme encompassed a number of strands, including vocational training courses for residents of villages close to Taq Taq. These courses included agriculture, needlework, and hairdressing. The courses have been underway since August, with 190 people having been trained. A similar project in the Miran area saw 148 people receive vocational training. The TTOPCO training centre has also been the venue for English language and IT training for 79 local people.

In addition to work done to improve economic prospects, we have continued to carry out those activities that make a positive difference to day to day lives. Daily waste collection takes place from nine villages surrounding Taq Taq, and villages are also provided with piped water and medical support. Since this initiative began, 5,800 medical visits have been made.

Land and crop compensation is also an important aspect of community relations, helping to retain support through the effective reimbursement for any people adversely impacted by the Company's operations. To date, in line with the policy of the Ministry of Natural Resources, Genel and TTOPCO have helped landowners to receive appropriate compensation in a timely manner, with over £2 million paid to landowners to date, of which $643,000 has been paid to 44 farmers to date near Taq Taq, and $455,000 to 48 farmers in the vicinity of Miran.

The Kurdistan Region of Iraq is continuing the fight against ISIS, and the KRG is accommodating significant numbers of Internally Displaced Persons seeking sanctuary in the region, with almost two million people now sheltering in the KRI. Following the construction of the Koya refugee camp in 2015, and work with Save the Children, over 1500 children are benefiting from the building of child friendly spaces in four camps across the KRI. In 2016 we continued to support IDPs and poor families, and 668 families around Taq Taq were provided with essential items.

Outside the KRI, Somaliland suffered from a severe and widespread drought in 2016. Working with Hon. Hussein Abdi Dualeh, Minister of Energy and Minerals, Genel distributed food and water to affected families. Food and 60 tankers of water were delivered, providing vital support to over 1500 families based in the Waridad and Bali Arrale districts. As operations in Somaliland move forward, our social programme will similarly increase, addressing key community needs.

Managing cash flows

Ben Monaghan
Chief Financial Officer

We have flexibility in our capital expenditures and are able to moderate spend on our producing assets to match payment flows.

2016 was a challenging year for the oil sector globally as the price of Brent crude fell to $27/bbl in January before recovering to $55/bbl at the end of the year. These financial challenges were particularly felt by the KRI, with the oil price drop deepening its ongoing economic crisis, while the war with ISIS and the influx of displaced persons had an ongoing impact on the KRG's financial position, and in turn the ability to pay oil companies, including Genel, for both current production and past receivable balances. Despite these challenges significant progress was made during 2016 towards establishing a working payment system and, despite the macro headwinds and the decline in production at Taq Taq, the Company delivered positive free cash flow in the year..

This achievement is due to a combination of factors:

The resumption of regular payments for oil deliveries by the KRI

We received $153.4 million from the KRG for oil delivered by Genel during 2016. Whilst arrears remained outstanding for October, November and December deliveries at the end of the year, and the temporary payment system does not reflect our view of our entitlement, receiving nine payments for both Taq Taq and Tawke sales during 2016 represents significant progress from the 2015 payment backdrop. Since year-end the outstanding arrears for 2016 deliveries have been settled in full.

The initiation of payments towards recovery of the receivable

Total payments of $53.9 million were received by Genel towards repayment of the receivable during 2016. Whilst this initial payment stream is limited in comparison to the amount outstanding, we welcome both the initiation of the payment flows and the KRG's public commitment to increase the quantum as their financial situation improves.

Our low cost asset base and the structure of the Production Sharing Contracts

Our oil assets remain amongst the lowest cost in the world, with operating costs of less than $2.0/bbl in 2016. These low operating costs combine with efficient capital expenditure and appropriate fiscal terms to fairly balance risk and reward at different oil prices between the oil producers and the KRG.

The flexible nature of our capital expenditure

We have flexibility in our capital expenditures and are able to moderate spend on our producing assets to match payment flows, with our capital expenditure accordingly dropping 61% year-on-year. We have no committed capital in our gas business and so have also been able to match spending to the pace of the project.

RESULTS SUMMARY ($ MILLION UNLESS STATED)	2016	2015
Production (bopd, working interest)	53,300	84,900
Revenue	190.7	343.9
EBITDAX[1]	130.7	279.4
Depreciation	(128.9)	(172.5)
Impairment of exploration assets	(779.0)	(144.1)
Exploration expense	(36.1)	(28.9)
Impairment of property, plant and equipment	(218.3)	(1,038.0)
Impairment of receivables	(191.3)	-
Operating loss	(1,222.9)	(1,104.1)
Cash flow from operating activities	131.0	71.2
Capital expenditure[2]	61.2	157.2
Free cash flow[3]	59.1	(179.2)
Cash[4]	407.0	455.3
Net debt[5]	241.2	238.8
KRG receivable	253.5	422.9
EPS (¢ per share)	(448.60)	(417.30)

1. EBITDAX is earnings before interest, tax, depreciation, amortisation, exploration expense and impairment which is operating loss adjusted for the add back of depreciation ($128.9 million), exploration costs written off ($36.1 million) and any impairments ($1,188.6 million)
2. Capital expenditure is additions of intangible assets and additions of property, plant and equipment (oil and gas assets only)
3. Free cash flow is net cash generated from operating activities less cash outflow due to purchase of intangible assets and purchase of property, plant and equipment (oil and gas assets only)
4. Cash reported at 31 December 2016 excludes $19.5 million of restricted cash
5. Net debt is reported debt less cash

A continued focus on costs across the business

We have maintained a tight control on costs and continue to ensure that we are structured and resourced appropriately for the external environment. Total headcount has fallen from 223 at the end of 2014 to 129 at the end of 2016, and total general and administrative costs have reduced from $47.0 million to $26.0 million over the same period.

There are some elements of the 2016 accounts that warrant further comment:

Impairments to our producing assets

The further reduction in reserves and amended production outlook for Taq Taq, together with an increase in the discount rate applied to our impairment testing as a result of the continued regional financial challenges, has led to an impairment of $180.8 million. Our oil price assumptions for impairment purposes are set out on page 23 and we have provided sensitivities on the two key estimates in the relevant note. The change in discount rate and oil price has also impacted our carrying value of Tawke, resulting in an impairment of $37.5 million.

Impairments to our exploration assets, including the gas business

Genel has invested over $1.4 billion in the acquisition and early development of the Miran and Bina Bawi fields. They represent a very attractive and low cost gas project, close to market with a governmental buyer in place, with the potential to generate significant value for both the KRG and Genel. In light of a revised timing and phasing of the project to reflect slower progress towards a final investment decision than previously anticipated, we have reviewed our carrying value for gas for impairment purposes. This revised timing, together with the revisions to our discount rate and oil price assumptions detailed above, has resulted in an impairment charge of $581.3 million. We have also impaired Chia Surkh by $197.7 million following the CS-12 well result and the expected completion of the subsequent sale of our interest to Petoil.

Impairment to the receivable

We have again provided substantial disclosure around the accounting approach taken in relation to the receivable. Our accounting follows the commercial judgment that the KRG intends to repay the debt and has the capability to do so over time, given a rising oil price. The current mechanism of repayment is linked to a percentage of field netback revenues, and we have used an assumption of this percentage multiplied by forecast field production and oil price to calculate future cash flows and a present value. Given the higher oil price has not yet resulted in a higher percentage being applied by the KRG to field revenue we have reduced our future assumptions to a flat 5% payment for impairment purposes, in line with current levels. This assumption, together with the reduction in forecast Taq Taq production and amended oil prices results in a book impairment of $191.3 million. This has no impact whatsoever on our right to recover the amount due from the KRG, which we are entitled to recover in full, which is the nominal value of $515.9 million.

As we look to 2017 there is a clear set of financial priorities for the Company:

- Continue to press the KRG for timely and full payments for oil deliveries, and for a transparent mechanism for reconciliation and recovery of the receivable
- Secure equity and debt investment into the gas assets, thereby progressing the project towards first gas
- Continue to focus on all aspects of the Company's cost base, whether capital, operating or administrative expenditure
- Manage liquidity appropriately ahead of the 2019 maturity of the Company's bond debt

Financial results for the year
Income statement

Production of 53,300 bopd was significantly reduced compared to last year (2015: 84,900 bopd). The combination of lower production, lower oil price and lower capex reducing cost oil by 44%, resulted in a 45% reduction in revenue to $190.7 million (2015: $343.9 million) and a 53% reduction to EBITDAX of $130.7 million (2015: $279.4 million).

Despite lower production, production costs of $35.1 million were broadly in line with last year ($36.3 million) as a result of lower capitalisation of costs due to lower capital activity. Lower production reduced depreciation of oil assets to $127.8 million (2015: $172.0 million).

Impairment of exploration assets includes $581.3 million relating to the Miran and Bina Bawi gas assets and the write-off of $197.7 million relating to the Chia Surkh licence following the drilling of CS-12. In addition, $36.1 million has been accrued relating to expenditures in the current year on exploration activity and exit/relinquishment of exploration licences.

Impairment of property plant and equipment was $218.3 million in 2016 (2015: $1,038.0 million relating to Taq Taq).

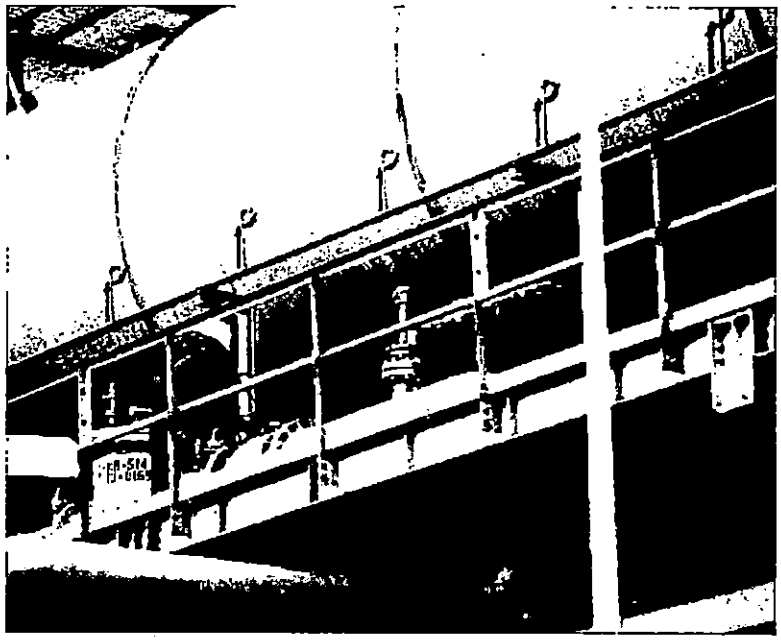
General and administrative costs were $26.0 million (2015: $28.7 million).

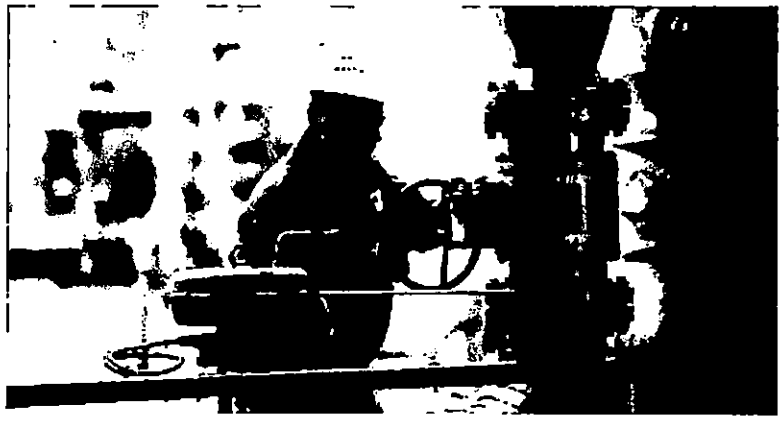
Finance income of $16.2 million (2015: $1.3 million) was comprised of $14.2 million discount unwind on trade receivables and $2.0 million of bank interest income. Finance expense of $61.0 million (2015: $57.8 million) was comprised of $51.0 million of bond interest together with non-cash discount unwind expense of $10.0 million.

In the KRI, the Company is either exempt from tax or tax due has been paid on its behalf by the KRG from the KRG's own share of revenues, resulting in no tax payment required or expected to be made by the Company. Tax presented in the income statement of $0.4 million relates to taxation of the Turkish and UK service companies.

Capital expenditure

Capital expenditure in the year was $61.2 million (2015: $157.2 million). Cost recovered development spend of $40.3 million (2015: $109.2 million) was incurred on the producing assets in the KRI with spend on exploration and appraisal assets amounting to $20.9 million (2015: $48.0 million), principally incurred on the Miran and Bina Bawi PSCs.





DEBT	YE2016
Net debt/EBITDAX < 3.0	1.8
Equity ratio > 40%	60%
Minimum liquidity > $75m (>$100m from May 2018)	407

"As we look to 2017 there is a clear set of financial priorities for the Company."

Cash flow and cash

Net cash flow from operations was $131.0 million (2015: $71.2 million). This was positively impacted by $53.9 million (2015: nil) of proceeds being received for the KRG receivable, and $153.4 million (2015: $148.2 million) received for current sales. Operating expense, exploration expense and corporate costs amounted to a cash outflow of $56.3 million (2015: $87.0 million), with net payment of creditors resulting in a cash out flow of circa $20 million (2015: inflow circa $10 million).

Cash flows for capital spend on Taq Taq and Tawke was $51.2 million (2015: $120.2 million), with $20.7 million (2015: $130.2 million) cash out flow on exploration and evaluation assets – principally Miran and Bina Bawi.

Free cash flow was $59.1 million compared to a cash outflow of $179.2 million last year. After which, $35.4 million was used to buy back bonds with nominal value of $55.4 million and $52.0 million (2015: $46.1 million) was paid on bond interest expense.

$19.5 million of cash is restricted and therefore excluded from reported cash of $407.0 million (2015: $455.3 million). Overall there was a net decrease in cash of $47.8 million compared to a decrease of $33.0 million last year, which included bond issuance proceeds of $196.2 million.

Debt

The Company has $730.0 million of bonds maturing in 2019 in issuance, of which $55.4 million are held by the company resulting in total externally held debt of $674.6 million (2015: $730.0 million) and net debt of $241.2 million (2015: $238.8 million).

The bond has three financial covenant maintenance tests, which are summarised in the table above.

Receivables

At 31 December 2016, the reported KRG receivable was $253.5 million (2015: $422.9 million), detailed disclosure is provided on this balance in the significant accounting estimates and judgements section of note 1 and in note 10 to the financial statements.

Net assets

Net assets at 31 December 2016 were $1,333.4 million (2015: $2,574.8 million) and consist primarily of oil and gas assets of $1,537.1 million (2015: $2,602.1 million), trade receivables of $253.5 million (2015: $422.9 million) and net debt of $241.2 million (2015: $238.8 million).

Liquidity/cash counterparty risk management

The Company monitors its cash position, cash forecasts and liquidity on a regular basis. The Company holds surplus cash held in government gilts or treasury bills or on time deposits with a number of major financial institutions. Suitability of banks is assessed using a combination of sovereign risk, credit default swap pricing and credit rating.

Dividend

No dividend (2015: nil) will be paid for the year ended 31 December 2016.

Going concern

The directors have assessed that the cash balance held provides the Company with adequate headroom over forecast operational and potential acquisition expenditure for the 12 months following the signing of the annual report for the period ended 31 December 2016 for the Company to be considered a going concern.

B. Monaghan

Ben Monaghan
Chief Financial Officer

The changing environment reinforces the need for careful monitoring across all our operations

Ongoing uncertainty in the environment in which we operate, both in the global oil industry and in the Kurdistan Region of Iraq, makes the management of risk a key focus and integral to Genel's success as a business.

Clearly defined executive accountability allows key risks to be carefully monitored, with information flowing up to the Board through appropriate channels and allowing informed decisions to be made.

It is the responsibility of the Board to:

- accurately identify and assess the principal risks to the business
- mitigate controllable risks to an acceptable level; and
- where possible, build resilience to accepted non-controllable risks

The Board is responsible for Genel's risk management, which it does primarily by:

- Setting the overall risk appetite of the Company
- Assessing what level of risk is acceptable to bear
- Providing oversight of appropriate risk management systems and internal control processes

The Board ensures that Genel's risk appetite is appropriate to the external environment and the situation of the Company.

The risk management systems and internal control processes are designed to support the Board in identifying key risks and associated judgements, enabling them to make effective, timely and appropriate decisions.

THE BOARD AND ITS COMMITTEES

The Board is supported by its Committees, which apply their expertise to the assessment and management of certain risks. The Committees report findings and/or recommendations to the Board. The allocation of risks to the appropriate Committees is summarised in the table below:

Board and Committees	Responsibility
BOARD	• Overall responsibility for risk oversight • Overall responsibility for all principal risks
AUDIT COMMITTEE READ MORE P44	• Risk management and internal control systems • Financial controls
REMUNERATION COMMITTEE READ MORE P50	• Compensation and reward • Board composition
NOMINATION COMMITTEE READ MORE P46	• Board composition
HSSE COMMITTEE READ MORE P48	• Health and safety risks • Security risks • Environmental risks

RESPONSIBILITIES

Board

- Identifies and assesses the potential impact, likelihood and sensitivity of the principal risks of the business
- Identifies new risks or changes in the nature, probability or impact of existing risks
- Makes effective, appropriate and timely decisions on how principal risks are managed or accepted
- Ensures that decisions taken are appropriately executed throughout the business through appropriate delegation of authorities and policies
- Where appropriate, approves policies on key risks and provides direction on risk management and appropriate risk mitigation
- Monitors the effectiveness of controls in place through reporting, assurance and detailed reviews in order to assess where action is required
- Identifies where controls are not appropriate or not operating effectively

READ MORE P40

STRATEGY

RISK ASSESSMENT AND REVIEW IDENTIFIES RISKS

BOARD SETS CONTROLS TO MITIGATE OR MANAGE RISKS

Executive Committee

- Leads the identification, understanding and assessment of risks to the business for review and discussion by the Board
- Assigns risks to relevant Executive Committee members as risk owners

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RISK REGISTER DOCUMENTS RISKS AND ALLOCATES EACH RISK TO A RISK OWNER

REPORTING AND ASSURANCE ON EFFECTIVENESS OF CONTROLS

RISK OWNER REPORTS ASSESSMENT OF RISKS TO THE BOARD

Risk owners

- Put in place processes and procedures that execute the decision taken by the Board as to what is the appropriate management or mitigation of each principal risk
- Assess and report risk and monitor the design and operating effectiveness of any mitigating controls and procedures
- Provide oversight of the daily operations of the key areas of the business

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RISK OWNER DESIGNS, OPERATES, MONITORS AND REPORTS ON CONTROLS

The principal risks and uncertainties set out on the following pages represent the Board's assessment of the most significant risks that may seriously affect the performance, future prospects or reputation of the Company and may threaten its business model, future performance, solvency or liquidity. They do not comprise all the risks and uncertainties faced by the Company – risks that are generally part of normal activity as an E&P company are identified, assessed, managed and monitored at the functional level with close oversight and reported to the Board by a member of the Executive Committee.

RISK	TREND	APPROACH
Board		
DEVELOPMENT AND RECOVERY OF OIL RESERVES AND RESOURCES IN THE KRI Paul Schofield, COO **READ MORE** P16	↑	Genel aims to realise the value in the portfolio through a focused drilling programme to explore, appraise and develop our assets. Genel continues to build appropriate technical capability to assess reservoir potential and future performance.
COMMERCIALISATION OF KRI GAS BUSINESS Murat Özgül, CEO **READ MORE** P8	↑	The development and commercialisation of Genel's gas assets in the KRI is a key focus, with the potential to generate material and stable cash flow once onstream.
M&A ACTIVITY Ben Monaghan, CFO **READ MORE** P24	→	The pursuit of selective, value accretive M&A opportunities is part of the Company strategy.
KRI NATURAL RESOURCES INDUSTRY Pars Kutay, Head of Government Affairs **READ MORE** P6	→	The Company is dependent on its strong relationship with the KRG in order to realise the value of its principal oil and gas assets.
RECOVERY OF AMOUNTS OWED FOR EXPORT SALES Murat Özgül, CEO **READ MORE** P11	↑	Genel is owed $515.9 million by the Kurdistan Regional Government for unpaid exports.
REGIONAL RISK Pars Kutay, Head of Government Affairs **READ MORE** P6	↑	There is a history of political and social instability in the areas in which the Company operates.
CORPORATE GOVERNANCE FAILURE Murat Özgül, CEO **READ MORE** P34	→	The Company's strategy is to maintain high standards of corporate governance

Key

↑ Increased → Unchanged ↓ Decreased

OPPORTUNITIES	THREATS	MITIGATING ACTIONS
• Successful exploration and appraisal activity increases Company reserves • Reservoir management increases recoverable volumes • Progress on gas business unlocks resource value	• Capital constraints lead to reduced work programme, impacting recovery • Poor reservoir performance	• COO appointed to focus on producing assets • Engagement of third party to carry out independent review on Taq Taq reservoir • CPR updated for Taq Taq and Tawke • Successful appraisal activity ongoing at Peshkabir
• Progress on the gas business moves Miran and Bina Bawi towards development and transformational monetisation	• Project reliant on key milestones beyond the control of the Company • Failure to engage a farm-in partner would lead to increased exposure to costs and threaten viability of project	• Level of expenditure maintained at an appropriate level • Pre-FEED and upstream Gas Development Plan studies complete • PSC amendments and gas lifting agreement signed • Ongoing discussions with potential partners
• Execution of a transaction that positively impacts the Company's valuation, asset quality, and equity story, among other factors	• Execution of a transaction adversely impacts the Company's liquidity, balance sheet, valuation, asset quality, and equity story, among other factors	• An experienced Board oversees and signs off on all M&A decisions • Established process to ensure that an appropriate level of due diligence is performed
• Ongoing strong relationship facilitates further opportunity in the KRI	• Deterioration in the relationship with the KRG or a change in policy by the KRG results in a significant loss of value for the Company	• The Company has a long history of cooperation with the KRG, maintaining a regular dialogue and seeking to work collaboratively with them, local communities, local suppliers and subcontractors to achieve mutually beneficial objectives
• Improved financial position of the KRG allows the quantum of regular payments to increase, reducing the receivable and increasing Company liquidity	• Payments from the KRG become less regular, reducing the Company's ability to manage debt and carry out its strategic priorities	• Ongoing dialogue with the KRG
• Stable environment for operations allows Genel to pursue strategic objectives	• Increased instability in Turkey impacts the relationship with the KRG and the monetisation route for KRI oil and gas • Security situation in Somaliland precludes further activity	• Active monitoring of developments in Turkey, Iraq, the KRI, and Somaliland, including dialogue with key political figures
• Good corporate governance is proven to provide benefits to business and value to shareholders	• Corporate governance failure would likely negatively impact investor perception of the Company	• New risk management policies and procedures were introduced in 2016

RISK	TREND	APPROACH
Audit Committee		
CAPITAL STRUCTURE AND FINANCING Ben Monaghan, CFO **READ MORE** P24	↑	The Company aims to retain a strong balance sheet and flexibility in our capital structure in order to pursue its strategic objectives and underpin future growth.
HSSE Committee		
LOCAL COMMUNITIES Pars Kutay, Head of Government Affairs **READ MORE** P20	→	Supporting and sustaining the communities in which we operate is fundamental to Genel's success.
HEALTH AND SAFETY RISKS Paul Schofield, COO **READ MORE** P22	→	The safety of employees is a primary consideration across all Genel operations.

Viability statement

In accordance with provision C.2.2. of the 2014 revision of the Code, the Directors have assessed the prospects and viability of the Company over a longer period than the 12 months required by the 'Going Concern' provision.

Choice of assessment period

The Directors extended their viability statement to the five-year period up to March 2022 which, although inevitably introducing cash flow uncertainty given the inherent volatility in long-term oil price, cost and production forecasting, was felt to be an appropriate period for the following reasons:

- The production assumptions are supported by recent external reserve reports on both existing producing assets
- It captures the maturity of the Company's $675 million unsecured bonds, due in 2019
- It captures the timetable for the anticipated farm out and final investment decision on the Company's gas project

Review of financial forecasts

In reviewing the expected evolution of the company's business, associated cash flows and capital structure over the review period the Directors took into account:

- The Company's latest life of field cash flow projections for the oil producing assets on a proven and probably basis and the potential impact of the recent Peshkabir oil discovery
- Projections of the rate of recovery of the receivable from the KRG
- The potential value of the Company's gas business and other potential asset portfolio management opportunities
- The Company's outstanding bond and the refinancing options ahead of its maturity in May 2019 together with forecast results of interim covenant tests
- The potential evolution of debt capital market appetite for KRI risk and associated refinancing capacity
- The oil price forecast set out in our accounting policies note

Key

↑ Increased › Unchanged ↓ Decreased

OPPORTUNITIES	THREATS	MITIGATING ACTIONS
• Improved financial situation for the KRG leads to increased payments and increased liquidity	• Capital constraints lead to reduced investment, impacting value of Company assets	• Reduction in spend on capital activities • Ongoing reduction of G&A costs • Bond buy-back reduced debt levels and interest expense
• Strong local relationships continue to facilitate Genel's pursuit of strategic objectives	• A loss of local community support could give rise to disruption to projects or operations, or cause material reputational damage, which could in turn affect the Company's revenues, operations, and cash flows	• An ongoing community investment and education programme, and commitment to providing local employment
• Continued strong performance enhances Company reputation	• Failure of safety procedures leads to injuries and/or fatalities, adverse environmental impact, and material reputational damage	• Appointment of new HSE overseer by TTOPCO • Employee permit to work updated • Signage at sites improved

A range of sensitivities were run on the assumptions set out above to reflect different scenarios including, but not limited to, changes to production profiles, commodity price assumptions and receivable recovery rates.

Consideration of principal risks

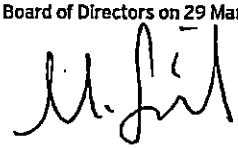
The principal assumptions underlying the forecasts above were reviewed in the context of the risks and mitigating actions set out in the Principal Risks on pages 30 to 33 including in particular those that specifically relate to the company's viability including:

- Recovery of amounts owed for export sales
- Development and recovery of reserves and resources
- Major capital projects
- KRI natural resources industry
- Regional risk

Viability assessment

Based on their review of these assumptions and sensitivities in the context of the funding options and risks referred to above, the Directors found that there was a reasonable expectation that the company will be able to continue in operation and manage its liabilities as they fall due over the five year period to March 2022.

Our 2016 strategic report, from pages 1 to 33 has been reviewed and approved by the Board of Directors on 29 March 2017.



Murat Özgül
Chief Executive Officer

Committed to high standards of corporate governance

Tony Hayward
Chairman

I am pleased to present my second Corporate Governance Report to shareholders as your Chairman.

2016 has been a year of change at Board level which has resulted in the reduction of the number of Directors from ten to nine. These changes have also driven a comprehensive review of our committee structures.

In January 2016, as part of the on-going refreshing of the Board, Simon Lockett was appointed as an Independent Non-Executive Director. Since his appointment Simon has undergone a comprehensive induction programme which has included meeting with key department heads in both London and Ankara and visits to our operational sites in the KRI.

Jim Leng and Sir Graham Hearne retired as Directors at the conclusion of the 2016 AGM.

Simon Lockett was appointed Chairman of the HSSE Committee where his deep understanding of the industry brings significant insight to the Committee deliberations. Chakib Sbiti was appointed Chairman of the Remuneration Committee where his previous international experience in the industry would inform the discussions on remuneration. All Independent Non-Executive Directors were appointed to the Nomination Committee. Succession planning and Board composition are vital to ensuring the formation of a high performing Board that ultimately leads to the success of the Company. Accordingly it is appropriate for all Independent Non-Executive Directors to have input to the appointment recommendations put forward to the whole Board for approval.

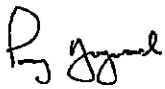
During 2016 the Company was pleased to have attracted a new Turkish shareholder in Bilgin Grup Doğal Gaz A.Ş. who currently hold 15.09% of the Company's shares making them our second largest shareholder. This entry on the register continues to demonstrate the strong support and confidence in the Company within Turkey. In March 2017 we announced the appointment of Tolga Bilgin as a Non-Executive Director. Tolga is CEO of Bilgin Energy and brings with him extensive experience in the Turkish energy sector.

In March 2016 we launched a bond buy-back offer to holders of our senior unsecured bonds and successfully repurchased $55.4 million worth of bonds in issue, thereby reducing our outstanding debt and strengthening the Company's balance sheet. We have continued with this strategy having announced a further bond buy-back at the time of publishing our 2016 results.

During these challenging times for both the Company and the industry we remain committed to ensuring we operate to high standards of corporate governance and support the Company in delivering on its business objectives. To that end we continue to comply with the UK Corporate Governance Code as is appropriate to our Company.

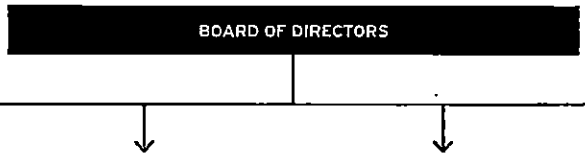
The Board, assisted by the work of the Audit Committee, keeps under review the governance framework, risk management and internal controls. You can read more about the enhancements we have made to our risk oversight in the Audit Committee report on pages 44 and 45.

We have continued to monitor our performance as a Board and have completed an internal effectiveness review for 2016. More details of the findings and our improvement programme are set out in this report on page 43.



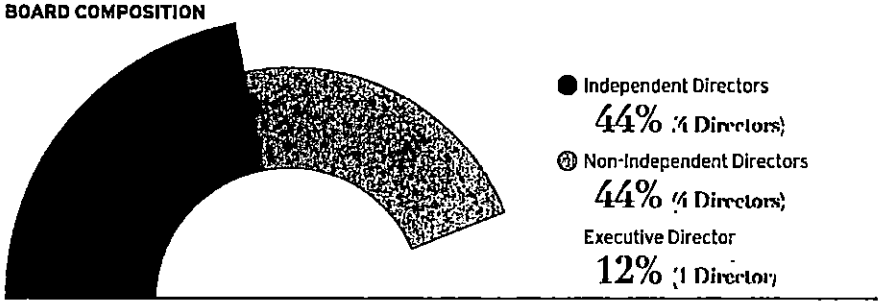
Tony Hayward
Chairman

THE BOARD
Our Committee structure



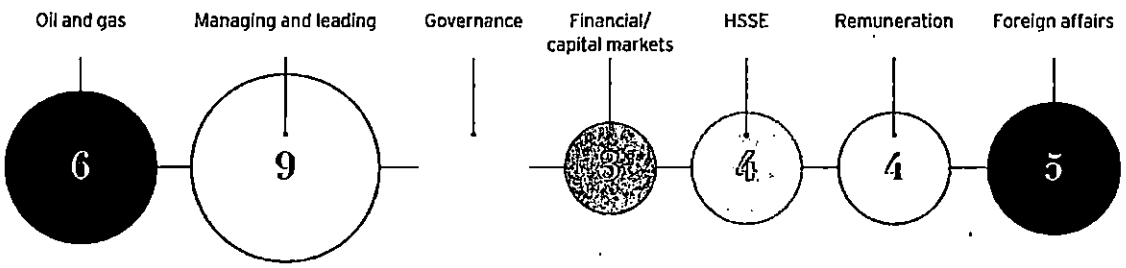
AUDIT COMMITTEE	REMUNERATION COMMITTEE	NOMINATION COMMITTEE	HSSE COMMITTEE
Ensuring integrity and objectivity of published financial information	Ensuring an appropriate approach to remuneration that supports delivery of the business strategy	Ensuring the continuance of a high calibre Board	Ensuring a responsible and credible approach to HSSE
Chairman George Rose	**Chairman** Chakib Sbiti	**Chairman** Tony Hayward	**Chairman** Simon Lockett
Members Simon Lockett Chakib Sbiti	**Members** Mehmet Öğütçü George Rose	**Members** Simon Lockett Mehmet Öğütçü George Rose Chakib Sbiti	**Members** Mehmet Öğütçü Chakib Sbiti
Meetings in 2016 3 scheduled and 2 ad hoc	**Meetings in 2016** 3 scheduled and 4 ad hoc	**Meetings in 2016** 1 scheduled	**Meetings in 2016** 3 scheduled
READ MORE P44	**READ MORE** P67	**READ MORE** P46	**READ MORE** P48

BOARD COMPOSITION



INTERNATIONAL DIVERSITY
Number of Directors

SKILLS AND EXPERIENCE OF THE BOARD
Number of Directors



Total number of Directors = 9

A strong board with demonstrable skills and experience in international oil and gas markets

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SARAH ROBERTSON
Company Secretary

Appointed: 25 July 2013

Skills and experience: Sarah was Deputy Company Secretary at Misys plc prior to joining Genel in July 2012. Previously she was Regional Head of Secretariat EMEA & the Americas for Standard Chartered Bank plc and had also held senior positions in the secretariat at RSA plc and Telewest Communications plc (now Virgin Media).

Sarah is a Fellow of the Institute of Chartered Secretaries and Administrators and holds an MSc in corporate governance.

1 TONY HAYWARD (59)
Chairman

Appointed: as Non-Executive Director on 2 June 2011 and as an Executive Director and Chief Executive Officer on 21 November 2011. Tony stepped down as Chief Executive Officer and was appointed as Chairman of the Board on 12 July 2015.

Committee memberships: Chairman of the Nomination Committee.

Key skills and experience: Tony has extensive leadership experience and knowledge of the global oil and gas industry both at a macro and micro level having previously acted as Group Chief Executive of BP plc from 2007 to 2010. He was Chief Executive for BP plc's upstream activities and a member of the main board of BP plc from 2003. Prior to this, in 2000, he was appointed BP's Group Treasurer where he gained significant experience in financial markets.

Current external appointments: Tony is the Non-Executive Chairman at Glencore plc and a Partner and member of the Advisory Board of AEA Capital.

Previous relevant experience: Tony has also served on the boards of TNK-BP, Corus and Tata Steel.

2 MURAT ÖZGÜL (44)
Chief Executive Officer

Appointed: as an Executive Director and Chief Executive Officer 12 July 2015

Key skills and experience: Murat Özgül joined Genel in 2008 as Chief Commercial Officer and was responsible for leading its merger with Vallares PLC in 2011. From his roles within Genel Murat brings his experience within the industry, leadership, and foreign affairs to the Board.

Previous relevant experience: Prior to joining the Company, Murat was the CEO of INTA Spaceturk, an imaging satellite operating company, and held engineering and managerial positions at Roketsan and INTA Defense.

3 GEORGE ROSE (65)
Senior Independent Non-Executive Director

Appointed: 02 June 2011

Committee memberships: Chairman of the Audit Committee and member of the Remuneration and Nomination Committees.

Key skills and experience: George brings with him recent and relevant financial experience. Until March 2011 George served as the Group Financial Director and member of the Board of BAE Systems plc a position he held for 13 years. George is also a Fellow of the Chartered Institute of Management Accountants and has a wealth of experience in governance to draw on from his former appointment as Non-Executive Chairman of the Audit Committee of Laing O'Rourke plc amongst other appointments.

Current external appointments: George is the Senior Independent Non-Executive Director of Experian plc and on 16 February 2016 George was appointed as a Non-Executive Director of EXPO 2020 LLC.

Previous relevant experience: George retired from the Board of National Grid plc in July 2013, where he served as a Non-Executive Director and was Chairman of the Audit Committee. Other past Non-Executive Directorships include Orange plc and Saab AB. He was previously a member of the UK's Financial Reporting Review Panel and the Industrial Development Advisory Board. George's earlier career consisted of several financial management positions in the automotive sector, at Ford Motor Company, Leyland Vehicles Ltd and the Rover Group.

4 CHAKIB SBITI (62)
Independent Non-Executive Director

Appointed: 19 April 2012

Committee memberships: Chairman of the Remuneration Committee and member of the Audit, Nomination and HSSE Committees.

Key skills and experience: Chakib has over 30 years' experience in the oil and gas industry through various roles held at Schlumberger, an international oilfield services company. Chakib was the Executive Vice President of Oilfield Services from 2003 to 2010 and President Asia from 1999, a role which was expanded to include the Middle East for the period 2001 to 2003. He has also been special adviser to the Chairman and Chief Executive Officer of Schlumberger (since 2010) and held various senior operational roles prior to 1999. Through the various roles Chakib has held at Schlumberger he has gained extensive experience in HSSE, foreign affairs and managing and leading an international business.

Current external appointments: Chakib is an Independent Director of SNC-Lavalin.

5 MEHMET ÖĞÜTÇÜ (55)
Independent Non-Executive Director

Appointed: 21 November 2011

Committee memberships: Member of the Remuneration, Nomination and HSSE Committees.

Key skills and experience: Mehmet brings with him his expertise in foreign affairs and the oil and gas industry having previously served as Director for International Government and Corporate Affairs at BG Group (2005-2011) and as a Turkish diplomat in Ankara, Beijing, Brussels and Paris (1986-1994).

Current external appointments: Mehmet is currently Chairman of Global Resources Partnership, a natural resources strategy group. In February 2016 Mehmet was appointed as a Non-Executive Director of Saudi Crown Holding. He was also appointed as an Independent Board member of Şişecam Group in April 2015 and as the Energy Charter Secretary - General's special envoy for the MENA region in March 2013. Since September 2013 he has led the Bosphorus Energy Club, a gathering of top energy, investment and geopolitical executives in Eurasia, MENA and Southeast Europe.

Previous relevant experience: Mehmet served as the head of the OECD's global forum on international investment and regional outreach programmes (2000-2005) and the Principal Administrator for Asia-Pacific and Latin America at the International Energy Agency (1994-2000).

6 SIMON LOCKETT (52)
Independent Non-Executive Director

Appointed: 19 January 2016

Committee memberships: Chairman of the HSSE Committee and member of the Audit and Nomination Committees.

Key skills and experience: Simon has recent experience within the industry having formerly held the position of Chief Executive Officer of Premier Oil plc between 2005 and 2014. Prior to being appointed as CEO Simon held a number of senior operational roles at Premier Oil including Operations Director between 2003 and 2005. Through his experience and ongoing external appointments Simon provides additional insight into the international oil industry, governance, financial and HSSE matters.

Current external appointments: Simon is currently a Non-Executive Director of Triyards Holdings Limited where he also serves as the Chairman of the Remuneration Committee and a member of the Audit and Nomination Committees. He is also a Non-Executive Adviser to the Board and CEO of Pico Petroleum Limited, a privately owned exploration and production company based in Cairo.

Previous relevant experience: Until May 2016 Simon was the Chairman and a member of the Audit, Nomination and Remuneration Committee of Loyz Energy Limited.

7 THE HONOURABLE NATHANIEL ROTHSCHILD (45)
Non-Executive Director

Appointed: 19 May 2011

Key skills and experience: Nathanial brings with him extensive experience in financial markets and in managing and leading global businesses.

Current external appointments: Nathaniel was appointed Executive Chairman of Volex plc in November 2015 following his appointment to the Board as a Non-Executive Director in October 2015. Nathaniel is a member of the Belfer Center's International Council at the John F. Kennedy School of Government at Harvard University.

Previous relevant experience: Until January 2013, Nathaniel was a Non-Executive Director of Barrick Gold Corporation, the world's largest gold company. He was previously Co-Chairman of Asia Resource Minerals plc.

8 GULSUN NAZLI KARAMEHMET WILLIAMS (39)
Non-Executive Director

Appointed: 21 November 2011

Key skills and experience: Nazli has experience in managing and leading large corporations. Between 2004 and August 2014 Nazli worked at Digiturk, a leading satellite broadcasting network. She was Chief Content Officer between 2007 and August 2014, with primary responsibility for overseeing all content acquisitions, production and creative services (including on-air promotion and print TV guides) and overall content strategy.

Previous relevant experience: Until 2013 Nazli was also a board member of Turkcell Iletişim Hizmetleri A.Ş a leading GSM operator in Turkey. Turkcell's shares trade on the Istanbul (IMKB) and New York Stock Exchanges (NYSE).

9 ÜMIT TOLGA BILGIN (42)
Non-Executive Director

Appointed: 16 March 2017

Key skills and experience: Tolga has current experience within the energy sector as CEO and Deputy Chairman of Bilgin Enerji Yatirim Holding A.S. having held this position since 2014. Bilgin Energy is one of the largest companies within the Turkish renewable energy sector. Through his current role and various positions held at Bilgin Energy inlcuding managing the development of wind, hydro and thermal energy projects, Tolga brings experience in management, leadership and project financing to the Board.

Current external appointments: Since 2006 Tolga has served as the Chairman of the Wind Power and Hydropower Plants Businessmen's Association.

Experienced in the industry and the KRI

1 BEN MONAGHAN
Chief Financial Officer

Ben Monaghan joined Genel as CFO in 2015. Prior to joining the Company he was Head of European Oil and Gas Investment Banking at J.P. Morgan in London, where he worked for 20 years raising equity and debt capital and advising on mergers, acquisitions, joint ventures and divestitures in the global energy sector. Ben also has two years' experience as an auditor with Arthur Andersen in the UK, Russia and France, and holds an MA degree from Cambridge University.

2 STEPHEN MITCHELL
General Counsel

Stephen Mitchell has practiced as a lawyer for over 35 years. Prior to joining the Company he was Vice President - Group Legal with BHP Billiton plc and prior to that he was Group General Counsel and Head of Risk Management at Reuters Group plc, in which he advised on a broad range of matters including mergers and acquisitions, joint ventures, corporate governance and compliance. Stephen was a partner in Freehills in Australia for six years prior to joining Reuters and holds a BEc and LLB from Monash University in Australia.

3 PARS KUTAY
Head of Government & Public Affairs

Pars Kutay joined Genel in December 2010. Pars is responsible for developing, co-ordinating and implementing policies on government and public affairs in countries where we operate. Pars was a partner at AB Consultancy and Investment Services from 1995 to 2010. Between 1984 and 1995 he served in Turkey's Undersecretariat of Treasury and Foreign Trade. He is a graduate of Law from Ankara University and holds degrees in International Finance and Environmental Law from Ankara University.

4 PAUL SCHOFIELD
Chief Operating Officer

Paul has 35 years' management and technical experience encompassing all aspects of the upstream oil and gas business. He started his petroleum engineering career at Shell in 1981, subsequently working with Enterprise Oil, Tuscan Energy and Hess. Paul joined Hess in 2006, holding a number of senior roles. Immediately prior to joining Genel, Paul was the most senior Hess representative in the management team for the Carigali Hess Operating Company, a significant Malaysian joint venture company operating in the Malaysia-Thailand joint development area. Paul holds a BSc Honours degree in Chemistry from Bristol University, and is a member of the Society of Petroleum Engineers.

5 ELLIOT MILNE
Commercial Director

Elliot Milne joined Vallares PLC in 2011 and advised on the merger with Genel that year, following which he has worked at Genel in a variety of commercial roles. Prior to joining Vallares, Elliot worked in Ethiopia for 12 months as a consultant to the Coffee Initiative Project, established by the Bill Gates Foundation. From 2006 to 2010 he worked at Goldman Sachs in their leveraged finance and natural resources M&A team in Australia. Elliot holds a BEc and LLB from the University of Sydney.

6 GOZDE TUTANC
Head of Human Resources

Gozde has over 20 years' experience in the telecom, consultancy, FMCG and media sectors. She joined Genel in 2014 as Head of Human Resources for Turkey and the Kurdistan Region of Iraq. Prior to joining the Company, Gozde worked in different HR management roles at Turkcell, a leading Turkish telecoms company, and held HR positions at DDI-Development Dimensions International and Coca-Cola. Gozde holds a BSc in Psychology from the Middle East Technical University in Ankara, and an Executive-MBA certification from the Koc University in Istanbul.

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CORPORATE GOVERNANCE

Corporate governance

Our objective remains to create long-term value for shareholders through the exploration, development and production of our oil and gas resources. We have low-cost oil producing assets and large-scale gas development assets that are important to the growth of the KRI.

We operate to a high level of governance within a culture that values ethical standards, personal and corporate integrity and respect for others. The Board governs the Company consistent with our business strategy and commitment to a transparent and high-quality governance system.

Our view is that governance is not just a matter for the Board and that a strong governance culture must be fostered throughout the organisation. Our expectations of our employees and of those with whom we conduct business are set out in our code of conduct, which is summarised below and is available on our website at www.genelenergy.com.

This report aims to provide shareholders with a comprehensive summary of our governance arrangements and an explanation of how the Company has approached the main principles of the UK Corporate Governance Code (the 'Code') during 2016.

Genel Energy plc is a Jersey incorporated company with a standard listing on the London Stock Exchange. Notwithstanding our standard listing, we are committed to complying with the regulatory requirements in both Jersey and the UK. We are in full compliance with the provisions of the Code with the exception of B.6.2. which provides that the evaluation of the Board of FTSE 350 companies should be externally facilitated every three years. Given the size of the Company it was considered more appropriate to conduct an internal review of the Board's effectiveness which was facilitated by the Company Secretary. A copy of the Code can be found at www.frc.org.uk/corporate/ukcgcode.cfm

As corporate governance principles continue to evolve, we will continue to adopt best practice guidelines as appropriate to our business.

Market Abuse Regulations

In 2016, the Company introduced a new share dealing policy and supporting procedures in response to the enactment of the Market Abuse Regulations which came into force on 3 July 2016.

The Board is responsible for taking all proper and reasonable steps to ensure full compliance with the Market Abuse Regulations, including ensuring that staff are fully trained and understand their obligations under the new regime. Face-to-face training was provided to employees impacted by the new arrangements during June and July 2016.

In addition to the adoption of the new share dealing policy we have also updated our tight well policy and procedures and introduced a new market sounding policy. A disclosure committee has been established and is made up of the CFO, the General Counsel, the Head of Investor Relations and the Company Secretary. The CEO is invited to attend as appropriate. The objectives of the disclosure committee are the timely identification of inside information and to assist the Company with the reporting to the market in accordance with the Market Abuse Regulations.

Code of conduct

Our code of conduct defines what we stand for as a Company and sets out the principles that guide all of our business activities. All staff have received training on how to represent Genel in accordance with the principles of the code of conduct. We strive for operational excellence and aim to conduct our business in a responsible, ethical and safe manner with high standards of financial reporting, corporate governance, and compliance with applicable laws. The code of conduct sets guidelines by which we conduct our business and how we expect our board, employees, suppliers, partners and others to behave. As a result, being able to demonstrate behaviours aligned with the code of conduct forms part of the performance objectives for every employee.

SpeakUp

All employees are encouraged to raise any concerns they may have and to report any suspected or known violations of the code of conduct without fear of retaliation. We operate an independently run and confidential 'SpeakUp' hotline. All issues raised via this route are investigated and reported to the Audit Committee.

Business conduct

We conduct our business in an open, honest and ethical manner. We do not tolerate any form of bribery. We aim to ensure that all financial and non-financial information we create is complete and accurate, and we strive to provide accurate and timely information to external stakeholders, including governments, in the locations in which we operate. We take steps to protect against inappropriate use of confidential and privileged information and we aim to protect and use our business assets appropriately.

Our policy is not to make political donations and we have not done so in the period under review (2015: nil).

Conflicts of interest

We seek to avoid conflicts of interest wherever possible. We believe it is important that the decision making process is not impaired by an individual being conflicted by either an actual or a potential conflict. However, we recognise that from time to time situations may arise which could result in actual or potential conflicts and, accordingly, we have a formal system in place enabling Directors and members of senior management to declare any such conflicts and for those conflicts to be reviewed and, if appropriate, authorised by the Board. A register of conflicts is maintained by the Company Secretary. The Audit Committee and the Board have applied the principles and processes set out above during 2016 and confirm that they have operated effectively.

Third parties

We maintain high standards of business conduct in our dealings with all third parties in order to promote mutually beneficial relationships and protect our reputation. We do not seek to win or maintain business by acting illegally or contrary to our contractual agreements. Our relationships with third parties are conducted on a fair and honest basis. We expect our third parties to maintain the same standards of business conduct as we adhere to.

Communities and environment

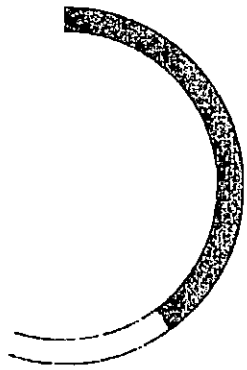
Protecting and sustaining the communities and environment in which we operate is fundamental to maintaining our operating licences and to creating a long-term sustainable business. We strive to maintain high standards of environmental protection and we do not compromise our environmental values for profit or production. We seek to maintain proactive and constructive engagement with the local communities affected by our operations and assets, and invest to help them develop in a sustainable manner. We contribute to socio-economic development and provide transparency in respect of our contributions and their impact. Further information on how we engage with communities can be found in the community engagement and investment section of this report on page 20.

BOARD ATTENDANCE

Date	January	February	February	March	April	July	August	September	November	December	Attendance
Scheduled/Ad-hoc	Scheduled	Scheduled	Ad-hoc	Ad-hoc	Scheduled	Scheduled	Ad-hoc	Scheduled	Scheduled	Ad-hoc	Scheduled
Tony Hayward	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	100%
Murat Özgül	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	100%
George Rose	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	100%
Chakib Sbiti[1]	✓	✓	✓	✓	✓	✓		✓	✓	✓	100%
Simon Lockett[2]	✓	✓			✓	✓	✓	✓	✓	✓	100%
Mehmet Öğütçü	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	100%
Nathaniel Rothschild	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	100%
Gulsun Nazli Karamehmet Williams[3]	✓	✓	✓	✓	✓	✓	✓	✓	✓		100%
Jim Leng[4]	✓	✓	✓	✓	n/a	n/a	n/a	n/a	n/a	n/a	100%
Sir Graham Hearne[4]	✓	✓	✓	✓	n/a	n/a	n/a	n/a	n/a	n/a	100%

1. Chakib Sbiti was unable to attend the ad-hoc Board meeting held in August 2016 due to prior commitments
2. Simon Lockett was unable to attend the ad-hoc Board meetings held in February and March 2016 due to prior commitments
3. Gulsun Nazli Karahmehmet Williams was unable to attend the ad-hoc Board meeting held in December 2016 due to prior commitments
4. Jim Leng and Sir Graham Hearne both retired as Directors of the Company on 27 April 2016
5. Denotes the attendance percentage at scheduled Board meetings by each Director

BOARD TIME SPENT



● Business strategy - 40%
○ Corporate governance/ risk management - 15%
Financial management - 20%
Projects - 25%

The role of the Board

The Board's role is to provide leadership in delivering on the long-term success of the Company within a framework of prudent and effective controls. It is responsible for approving the Company's strategy and business plan and keeping under review the financial and operational resources of the Company. It monitors the performance of the business and management against those strategic objectives with the overall objective of creating and delivering value to shareholders.

The performance of the Board and the contributions of Directors to the Board's decision making processes are essential to fulfilling this role. The Directors may exercise all the powers of the Company subject to the provisions of relevant law, the Company's articles and any special resolution of the Company in the furtherance of their role.

The Board has reserved certain matters for its own consideration and decision making. Authorities have been delegated to Board Committees and these are set out clearly in each Committee's terms of reference which are reviewed regularly to ensure that they remain appropriate and relevant. Copies of the terms of reference are available on our website.

Specific matters reserved for the Board include setting the Company's objectives and business strategy and its overall supervision. Significant acquisitions, divestments and other strategic decisions will all be considered and determined by the Board in accordance with the Company's delegated authorities.

The Board reviews the matters reserved for its decision annually, subject to the limitations imposed by the Company's constitutional documents and applicable law.

The Board and its Committees have access to the advice and services of the Company Secretary and the General Counsel and may seek advice from independent experts at the expense of the Company as appropriate. Individual Directors may also seek independent legal advice at the expense of the Company, in accordance with the Board's agreed procedure.

In addition, the Board has extensive access to members of senior management, who attend Board meetings by invitation, and present regularly to the Board on the performance of the business.

Board composition

There are nine Directors on the Board, of whom one is Executive and eight (including the Chairman) Non-Executive. Four are independent under the Code and four are not considered independent (excluding the Chairman who was not independent on appointment).

Skills, knowledge, experience and attributes of Directors

The Board considers that a diversity of skills, background, knowledge, experience, perspective and gender is required in order to govern the business effectively. The Board and its Committees work actively to ensure that the Executive and Non-Executive Directors continue to have the right balance of skills, experience, independence and group knowledge necessary to discharge their responsibilities in accordance with the highest standards of governance.

The Non-Executive Directors bring with them international and operational experience gained both in the sectors in which we operate

and in other areas of business and public life. Murat Özgül brings additional perspectives to the Board's work through a deep understanding of the business and the region within which it operates. Together they oversee the strategy of the Group and monitor the pursuit of the corporate strategy. All Directors are required to devote sufficient time and demonstrate commitment to their role.

Further details of the Directors' skills and experience are set out on pages 36 to 37 of this Annual Report.

Independence of the Board

The Independent Non-Executive Director's (George Rose, Chakib Sbiti, Simon Lockett and Mehmet Öğütçü) are responsible for ensuring appropriate challenge of management and the decisions of the Board.

The Non-Executve Directors who are not considered independent comprise two of the founders of the Company (Nathaniel Rothschild, Non-Executive Director and Tony Hayward, Chairman), plus Gulsun Nazli Karamehmet Williams who has been nominated for appointment to the Board by Focus Investments Limited in accordance with the relationship agreement between the Company and Focus and Ümit Tolga Bilgin who was appointed on 16 March 2017.

The Independent Directors and the Chairman meet regularly in private session after Board meetings and on other occasions over dinner.

The Board recognises that following Tolga Bilgin's appointment as a Director that there is a majority of Non-Independent Directors on the Board however it considers that there is an appropriate balance between Executive and Non-Executive, Independent and Non-Independent Directors, with a view to promoting shareholder interests and governing the business effectively. The Board will monitor this closely to ensure that the Independent thinking of the Board is not compromised. It is the intention of the Board to return to an equal balance of independent versus non-independent directors as soon as practicably possible.

Meetings of the Board

The Board meets approximately six times each year and schedules other meetings as necessary to fulfil its role. During the year the Board held ten meetings in total in various locations, four of which were in addition to those scheduled. In recognition of the challenging operating environment the Directors felt it appropriate to meet more regularly during 2016 to monitor developments at Taq Taq and receive frequent updates on the gas business.

There are detailed agendas for each Board meeting which are developed by the Chairman and the Company Secretary. The Board also has an annual rolling agenda that sets out the key topics for consideration at each meeting.

In addition to scheduled meetings of the Board, Directors receive updates from management in-between meetings on the performance of the business against the agreed strategy and on its operations.

Operation of the Board

The Chairman is responsible for ensuring that the Board operates effectively. The Board has an open style of communication and debates issues openly and constructively within an environment that encourages healthy debate and challenge both inside and outside the boardroom.

The Directors receive board papers and other relevant information in a timely manner ahead of meetings. Board papers are delivered through an electronic portal that enables

Roles and responsibilities

It is important to ensure that there is a clear division of roles between the Chairman, Chief Executive Officer and Senior Independent Director of the Company.

TONY HAYWARD
Chairman

Tony Hayward is the Chairman. The Chairman reports to the Board and is responsible for the leadership and overall effectiveness of the Board, overseeing the strategy of the Company and for setting the Board's agenda. Specific responsibilities of the Chairman include ensuring the effective running of the Board, ensuring that the Board agenda is forward-looking with an emphasis on strategic issues and ensuring the performance of the Board and its Committees is effective and in line with best practice. A culture of openness and debate is encouraged by the Chairman through ensuring constructive relations between Executive and Non-Executive Directors and ensuring effective communication between the Company and its shareholders. The Chairman's other significant commitments are included in his biography on page 37. There have been no changes to these during 2016.

MURAT ÖZGÜL
Chief Executive Officer

Murat Özgül is the Chief Executive Officer. The Chief Executive Officer is responsible for all executive management matters of the Group. He reports to the Chairman and to the Board directly. Specific responsibilities include the day-to-day management of the Group within delegated authority limits, identifying and executing strategic opportunities, managing the risk profile and ensuring appropriate internal controls are in place, maintaining a dialogue with the Chairman and the Board on important and strategic issues, ensuring the proper development of senior management and succession planning for executive positions.

GEORGE ROSE
Senior Independent Non-Executive Director

George Rose is the Senior Independent Director. The Senior Independent Director is available to shareholders who have concerns that cannot be addressed through the normal channels of the Chairman or the Chief Executive Officer. He chairs the Nomination Committee when it is considering succession to the role of Chairman and acts as a sounding board for the Chairman and an intermediary for other Directors if and when necessary.

Directors to access them wherever they are in the world. The timely provision of relevant information to Directors is vital in ensuring they are able to fulfil their role of effective oversight and challenge and for enabling the Board to make effective decisions.

Directors' induction and ongoing development

In order to govern the Group effectively, Non-Executive Directors must have a clear understanding of the overall strategy, together with a sound knowledge of the business and the industry within which it operates.

The Chairman, together with the Company Secretary, is responsible for ensuring that all new Directors receive a full, formal and tailored induction upon appointment to the Board. This includes a detailed overview of the Company and its governance practices and meetings with key personnel from across the Group in order to develop a full understanding of the business, its strategy and business priorities in each area.

Upon his appointment Simon Lockett received a full and comprehensive induction on the operations, processes, policies and procedures across the business. The induction included a comprehensive schedule of meetings with senior management in London and Ankara to develop his understanding of the business.

In addition, Chakib Sbiti receveid a full induction on the Company's approach to remuneration strategy and practices upon his appointment as Chairman of the Remuneration Committee.

As part of ongoing board development Directors attended a detailed half-day education session on the gas project in July 2016.

Risk monitoring and reporting

The Group keeps under review the major risks to which its operations in all regions are exposed by leveraging its local expertise, industry knowledge and strategic relationships. In particular, the Group continues to have a regular dialogue with its key stakeholders in the Kurdistan Region of Iraq, such as the KRG, the Turkish government and other regional public bodies. We maintain similar relationships within the Africa region to ensure the risks across the organisation as a whole are fully understood and mitigated appropriately and within the Group's tolerance for risk.

During the year, the Group's risk management approach was reviewed and enhanced culminating in the adoption of an updated risk management policy and procedures. Our risk management procedures facilitate the identification of the key risks and key risk indicators, the controls by which these are managed and mitigated, and how these controls are monitored. The senior management review and update the risk management process and keep under constant review the risks identified. The Board undertakes a robust assessment of the principal risks facing the Company at least annually. It focuses its assessment on those risks that could impact our business model, solvency, liquidity or future performance. The Board also reviews and monitors the risk management and internal control systems and each such review covers all material controls, including financial, operational and compliance controls.

Further details of the principal risks and uncertainties to which the Group's operations are exposed, and the framework within which these risks are managed, are set out on pages 28 to 33.

Internal controls

The Board is responsible for maintaining and reviewing the effectiveness of the Group's system of internal control. This system is designed to identify, evaluate and manage the significant risks to which the Group is exposed. The Board has established processes to meet the obligations placed on listed companies and the expectations of the UK Corporate Governance Code to publish a long-term viability statement and to continually monitor systems of risk management and internal control. These processes include having clear lines of responsibility, documented levels of delegated authority and appropriate operating procedures. We recognise that the system is designed to manage, rather than eliminate, the risk of failure to achieve business objectives, and can only provide reasonable, and not absolute, assurance against misstatement or loss. Our long term viability statement can be found on pages 32 to 33.

The Audit Committee supports the Board in the performance of its responsibilities by reviewing those procedures that relate to risk management processes and financial controls. The Audit Committee considers the reports of the internal audit function and the external auditor and reports to the Board on such matters as it feels should be brought to the Board's attention.

A detailed budget is produced annually in accordance with our financial processes and reviewed and approved by the Board. Operational reports are provided to the Executive Committee on a monthly basis and performance against the budget kept under regular review in accordance with the Group's financial procedures manual. The CEO reports to the Board on performance and key issues as they arise.

The assessment of controls and risk management processes provides a reasonable basis for the Board to make proper judgements on an ongoing basis as to the financial position and prospects of the Group.

The Board has conducted a review of the effectiveness of the system of internal control for the year ended 31 December 2016 and up to the date of the signing of the financial statements, and is satisfied that it remains appropriate to the business.

Communication with stakeholders

Part of the Group's code of conduct sets a framework for how it partners with, and invests in, communities (local, regional and global) to achieve mutual long-term benefits. The Group contributes to socio-economic development through taxes, royalties and other local payments and donations. Further details of our community programmes can be found on pages 20 to 23.

2017 AGM

The 2017 AGM will be held on Tuesday, 6 June 2017 at J.P. Morgan, 60 Victoria Embankment, London EC4Y 0JP, UK at 11.00am. The Notice of AGM accompanies this Annual Report and sets out the business to be considered at the meeting. The AGM will provide an opportunity for shareholders to meet with the Directors and senior management. Both this Annual Report and the Notice of AGM are available on our website at www.genelenergy.com

Communication with institutional investors

We communicate on a regular basis with our shareholders via presentations and calls as part of our annual investor calendar. We also liaise with them on an ad-hoc basis as and when questions arise.

Our major shareholders are also encouraged to meet with the Chairman to discuss any matters that they would like to raise outside the formal investor calendar.

The Board receives investor relations updates at each scheduled Board meeting covering key investor meetings and activities, as well as shareholder and investor feedback.

We also engage with our shareholders at our AGM and via our website at www.genelenergy.com

During the year we also communicated with our bondholders via calls and scheduled meetings.

2016 investor relations activity

Q1

2 conferences in the UK
Investor meetings in the UK and Middle East

Q2

2 conferences in the UK
Investor meetings in the UK
US investor roadshow
Investor visit to KRI and Ankara

Q3

Investor meetings in the UK
3 conferences in the UK

Q4

Investor meetings in the UK
4 conferences in the UK

Board committees

The Board has established four committees: the Audit Committee, the Remuneration Committee, the Nomination Committee and the Health, Safety, Security and Environment Committee.

These Committees have adopted terms of reference under which authority is delegated by the Board and copies of which are available on our website at www.genelenergy.com. Each Committee consists only of independent Non-Executive Directors (with the exception of the Nomination Committee, which is chaired by Tony Hayward who was not independent upon his appointment as Chairman).

A Reserves Committee has also been established which is made up of Tony Hayward, Simon Lockett and Chakib Sbiti. The objective of this Committee is to provide oversight of the assessment of the Company's reserves and resources and report to the Audit Committee on its findings.

Board effectiveness

As in previous years the Board effectiveness review was facilitated internally by the Company Secretary. Whilst this is not in compliance with B.6.2 of the UK Corporate Governance Code, which requires that an externally facilitated effectivess review is undertaken every three years, given the size of the Company this approach is considered appropriate.

Actions from the 2015 effectiveness review	Progress made against the actions
Board development Given the significance of the gas development to the Company, the Board would focus its development plan for the year on the development cycle of the gas project, including project financing.	The Board discussed the gas project at the majority of Board meetings held during the year. More specifically, an in depth education session was held in July 2016. This covered the commercial structure, the process to reach FID, the development programme, including the HSE aspects of the project, the economics, political influences and investor perception of the project.
Board effectiveness It was recognised that following the changes to Board composition during the year, the need to ensure that the new Board operated effectively was a priority for 2016.	Additional meetings outside of the usual Board cycle were held during the year to ensure that the Board remained fully informed on matters of significance during the year.
Political Risk In 2015, the Political Risk Committee was disbanded as it was felt that given the importance of political risk to the Company, this should be a matter for the whole Board. As this is a complex region in which to operate regular updates would be provided to Directors from appropriate commentators.	An external speaker attended the November Board dinner over which the political landscape in the region was discussed in detail and the opportunity provided for Directors to ask questions and broaden their understanding of the turmoil in the KRI region. In addition the Head of Government and Public Affairs, Pars Kutay, presents a political update at every scheduled Board meeting.
Remuneration Whilst the Remuneration Committee reviews in detail management targets when considering remuneration payouts to the executives, it will pay particular attention to this area given the difficult economic environment the Company is operating in.	The Committee has completed periodic reviews of the bonus targets to ensure that they remain relevant and appropriate in the current operating environment.

Actions arising from the 2016 effectiveness review	
Development	As the gas business develops, Directors should continue to be educated on the complex project inputs throughout 2017 and beyond
Effectiveness	As in 2015, and following further changes to board composition during the year, the directors should continue to focus on its operational effectiveness during 2017 and the induction process for new Directors
Financing	The Board, supported by the Audit Committee, will focus on maintaining the financial strength of the Company in the lead up to the refinancing in 2019
Underlying business	The Directors recognise the need to focus on the achievement of core business targets and the need to support management in that regard

The review of the performance of each of the Directors has been undertaken by the Chairman and the Senior Independent Director led the review of the Chairman's performance. Following these performance reviews, the Board considers that each of the Directors continue to make an effective and valuable contribution and demonstrate their commitment to the role.

Ensuring integrity and clarity of published financial information

AUDIT COMMITTEE

Chairman	Members	Meetings in 2016
George Rose	Chakib Sbiti	3 scheduled
	Simon Lockett	2 ad hoc

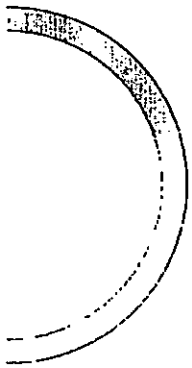
Objective	Progress
To increase shareholder confidence by ensuring the integrity and objectivity of published financial information	Scrutinised areas involving significant judgement, estimation or uncertainty in particular impairments and the receivable Reviewed reserves, resources and revenue Reviewed and received reports from the external auditors on the annual financial statements and other published financial information Ensured compliance with financial reporting standards and relevant financial and governance requirements
To advise the Board on whether the Annual Report taken as a whole is fair, balanced and understandable, and provides the information necessary for shareholders to assess the Company's performance, business model and strategy	Considered the quality and appropriateness of the accounting policies and practices and financial reporting disclosures, in particular in respect of revenue recognition and impairment of receivable Considered the Annual Report as a whole including the basis for the going concern assumption, the viability statement and underlying assumptions. Assessed the Annual Report in the context of whether, taken as a whole, it is fair, balanced and understandable
To assist the Board in meeting its financial reporting, risk management and internal control responsibilities	Monitored compliance with financial reporting standards and relevant financial and governance requirements Kept under review the risk register and retained oversight of the Group risk framework and by doing so supports the Board on assessing the Company's tolerance for risk Kept key accounting policies and practices under review to ensure that they remain appropriate
To assist the Board in ensuring the effectiveness of the internal accounting and financial controls of the Company	Kept under review the effectiveness of the systems of internal control, including the adherence to company policies, internal audit outputs and the compliance programme including the 'SpeakUp' arrangements and the anti-bribery and corruption processes and procedures
To monitor the Company's treasury and financing arrangements	Monitored the cash position of the Company in a difficult economic environment and kept the treasury policy under review to ensure it remains appropriate and aligned with the Company's cash position Reviewed the long-term financing requirements of the Company including initial plans for the refinancing of the Company debt
To strengthen the independent position of the Company's external auditors by providing channels of communication between them and the Non-Executive Directors	Monitored the effectiveness and independence of the external auditor and compliance with the non-audit services policy
To review the performance of the Company's internal and external auditing arrangements	Monitored the effectiveness and indepedence of the external auditor and compliance with the non-audit services policy Received regular updates from the Head of Internal Audit on the annual audit programme and reviewed the outputs from the programme, keeping any actions identified under review

AUDIT COMMITTEE ATTENDANCE

Date of Meeting	February	March	March	July	November	Attendance[5]
Scheduled/Ad hoc	Scheduled	Ad-hoc	Ad-hoc	Scheduled	Scheduled	Scheduled
George Rose	✓	✓	✓	✓	✓	100%
Chakib Sbiti[1]	✓		✓	✓	✓	100%
Simon Lockett[2]	n/a	n/a	n/a	✓	✓	100%
Mehmet Öğütçü[3]	✓	✓	✓	n/a	n/a	100%
Jim Leng[4]	✓	✓	✓	n/a	n/a	100%

1. Chakib Sbiti was unable to attend an ad-hoc Audit Committee meeting in March 2016 due to prior commitments
2. Simon Lockett was appointed as a member of the Audit Committee on 27 April 2016
3. Mehmet Öğütçü stepped down as a member of the Audit Committee on 27 April 2016
4. Jim Leng retired as a Director on 27 April 2016
5. Denotes the attendance percentage at scheduled Audit Committee meetings

AUDIT COMMITTEE TIME SPENT



- Governance and audit - 20%
- Financial reporting - 30%
- Financing - 15%
- Reserves and resources - 15%
- Risk management and internal control - 20%

All the members of the Committee are independent Non-Executive Directors. The Chairman, George Rose, has recent and relevant financial experience and both Chakib Sbiti and Simon Lockett are industry experts.

The Committee relies on information and support from management to enable it to carry out its duties and responsibilities effectively. The Audit Committee has detailed terms of reference which set out its areas of responsibility. The Company also operates an independent 'SpeakUp' hotline for all staff and the Committee reviews annually matters reported and the outcome of any investigations.

The significant issues considered by the Committee in relation to the 2016 accounts and how these were addressed were:

- Reserves and resources - the Committee considered the underlying processes and judgements made, including the output from the Reserves Committee process, when considering the assessment of reserves and resources for the purposes of the financial statements.
- Impairment of oil and gas assets - the Committee considered the process for review, key inputs and judgements made along with the supporting evidence when completing the assessment of the recoverable values of assets and the sensitivities applied.
- Impairment of receivable - as well as the process, key inputs and judgements made in respect of the assessment of the recoverable value of the KRG receivable the Committee also considered the supporting evidence underlying the judgements made in respect of the recoverability of the receivable.
- During the year the FRC Conduct Committee raised a number of points on the Company's 2015 Annual Report. As a result of the correspondance, additional disclosures have been included in the 2016 financial statements in resepct of the Group's reporting of the trade receivables balance.
- Risk reporting - the Committee considered and recommended to the Board an enhanced risk management policy and underlying procedures. The updated policy and procedures built on the existing risk management framework, further embedding risk management and oversight processes within the business.

Internal audit

The Board recognises that an effective internal audit function is vital to delivering a strong governance culture. Each year the Committee approves an internal audit plan for the year ahead which is aligned to the Group's risk profile. In November 2016 the Committee reviewed the outcome of the internal audit work performed in accordance with the 2016 internal audit plan. There had been no significant findings during the year and the Head of Internal Audit confirmed that management had worked openly and collaboratively during the audit process. The Committee held a private meeting with the Head of Internal Audit at that meeting.

External audit

The effectiveness and the independence of the external auditor are key to ensuring the integrity of the Group's published financial information. Prior to the commencement of the audit, the Committee reviews and approves the external auditor's audit plan. PwC present to the Committee their proposed plan of work which is designed to ensure that there are no material misstatements in the financial statements.

The Committee monitors and approves the provision of non-audit services by the Company's external auditors in accordance with the policy on non-audit services. The provision of non-audit services is generally limited to services that are closely connected to the external audit or to projects that require a detailed understanding of the Group (for example taxation advice) which require pre-authorisation by the Committee under the terms of the policy.

In 2016, the level of non-audit fee paid was $0.1 million, further details of which can be found on page 93 of the notes to the financial statements. These fees reflect the services and advice provided by PwC in respect of tax and accounting advice received during the year. PwC have been appointed as the Company's auditors for the past five years following a tendering process in 2011. In 2016 the Audit Partner was rotated and Michael Timar was appointed as the Senior Statutory Auditor to the Company. When considering the re-appointment of the Company's external auditors, the Committee reviews the external auditor's independence and objectivity. In November 2016 the Committee reviewed the effectiveness of the external audit process. It reviewed papers from both management and the external auditors, including the planning and execution of the audit process. The Audit Committee met privately with the external auditors in the absence of management. Following this review, the Committee was satisfied that the external auditor remains both effective and fully independent and on that basis their reappointment will be proposed and recommended at the forthcoming AGM.

The Committee reviewed its own effectiveness during the year. The transition to the new Audit Partner during the year had been a success. The review had identified some areas for focus in 2017 including supporting the Board in the lead up to the 2019 re-financing, ensuring close scrutiny of the areas of judgement made during the year and to increase time allocated by the Committee on the work of Internal Audit.

The Committee has also reviewed its terms of reference to ensure they reflect its responsibilities in the context of the review of internal financial control systems and financial risk management systems. The Committee terms of reference can be found on our website at www.genelenergy.com.

Ensuring a high calibre Board

NOMINATION COMMITTEE

Chairman	Members	Meetings in 2016
Tony Hayward	Simon Lockett	1 scheduled
	Mehmet Öğütçü	
	George Rose	
	Chakib Sbiti	

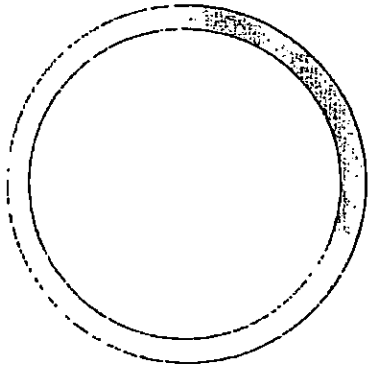
Objective	Progress
Review the structure, size and composition of the Board, having due regard to the Company's strategic, operational and commercial requirements and overall diversity of Board members	The size of the Board has been reduced from ten Directors to nine. Continued to keep under review potential candidates as part of the ongoing refresh of the Board
Annually reviewing the time required from Non-Executive Directors and making recommendations as to their reappointment at the AGM	Reviewed the performance of the CEO and each of the Non-Executive Directors and made recommendations for their re-appointment at the 2017 AGM. The review of the Chairman's performance was carried out by the Senior Independent Director
Keeping under review succession arrangements for Directors and other senior executives	Board succession was discussed at each Non-Executive Director meeting held during the year
Review Board Committee membership	A comprehensive review of Committee composition was undertaken during the year following which the compostion of the Committees was changed

NOMINATION COMMITTEE

Date	February	Attendance[3]
Scheduled/Adhoc	Scheduled	Scheduled
Tony Hayward	✓	100%
Mehmet Öğütçü	✓	100%
George Rose	✓	100%
Chakib Sbiti[1]	n/a	-
Simon Lockett[1]	n/a	-
Sir Graham Hearne[2]	✓	100%

1. Chakib Sbiti and Simon Lockett were appointed to the Nomination Committee on 27 April 2016
2. Sir Graham Hearne retired as a Director on 27 April 2016
3. Denotes the attendance percentage at scheduled Nomination Committee meetings

NOMINATION COMMITTEE TIME SPENT



⊙ Effectiveness - 30%
○ Succession - 70%

All the members of the Nomination Committee, with the exception of Tony Hayward, are Independent Non-Executive Directors.

The Nomination Committee assists the Board in ensuring that the Board consists of high-calibre individuals whose background, skills, experience and personal characteristics will augment the present Board and meet its future needs and diversity aspirations.

The Nomination Committee is aware of the need to align the Board's composition with the Compay's strategy and to ensure the Board has the necessary skills to ensure that Company's long-term success.

Currently there is one female Director on the Board and, when the opportunity arises we will consider candidates based on merit and against objective criteria and with due regard for the benefits of diversity on the Board. The Committee has spent time considering whether additions were needed to the Board following the retirement of Jim Leng and Sir Graham Hearne on 27 April 2016 but it was felt that a smaller board was more appropriately aligned to the size of the ongoing business. That said in March 2017 the Committee recommended the appointment of Tolga Bilgin as a Non-Executive Director. Tolga's experience in the Turkish energy market aligns with the Company's next stage of its develpoment of the gas business.

In the year ahead, the Nomination Committee will keep under review the composition and balance of the Board to ensure the appropriate experience and skills to delivery the Company's strategy.

When considering candidates for appointment to the Board, the Committee undertakes a comprehensive search process using Spencer Stuart, an independent external search agency. Spencer Stuart were not engaged on the appointment of Tolga Bilgin.

During 2016 the Committee continued to work with Spencer Stuart to assist with the refreshing of the Board over time. As part of their remit they have been asked to provide a pool of candidates from a diverse range of backgrounds and with due regard to gender diversity. Spencer Stuart have no other connection with the Company.

Ensuring a focused approach to HSSE

HSSE COMMITTEE

Chairman	Members	Meetings in 2016
Simon Lockett	Chakib Sbiti	3 scheduled
	Mehmet Öğütçü	

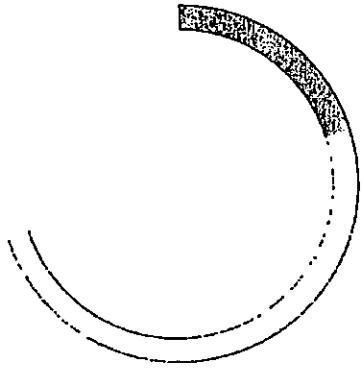
Objective	Progress
To ensure that the Company maintains a responsible and credible approach to HSSE matters (including asset integrity and major hazard risk management), in line with international best practice and emerging legal requirements	Received updates on developments both from a regulatory and operational perspective Monitors the collaboration of the operators in the region to develop a common approach to mitigating and managing the risks associated with oil field operations
To assist the Company in maintaining its relationships with the communities in which it operates, including through social investment and development activities	The environmental impact arising from our operations is reviewed regularly and any areas of concern are reviewed by the Committee
To assist the Board and other committees in assessing HSSE risks, in determining, implementing and reviewing the Company's HSSE strategy and processes	Risks allocated to the Committee under the risk management system were reviewed in detail and a report provided to the Audit Committee on the effectiveness of the HSSE controls and risk mitigation processes
To ensure the quality of the Company's reporting and disclosure (both internally and to shareholders) in relation to HSSE matters	Monitored performance against the HSE KPI targets and LTI targets Reviewed and monitored the GHG emissions output and disclosure made in the Annual Report in accordance with the GHG Protocol
To assist the Company in developing the HSSE culture	Endorsed and sponsored the Genel 'HSE Golden Rules' and the launch of the Genel Life Saving Rules Received regular updates on the approach to safety culture and security across the organisation particularly in the aftermath of the failed coup in Turkey and the battle to regain control of Mosul Provided feedback to the Remuneration Committee on the HSSE performance elements of the 2016 annual bonus performance targets

HSSE COMMITTEE

Date	February	July	November	Attendance[5]
Scheduled/Ad Hoc	Scheduled	Scheduled	Scheduled	Scheduled
Simon Lockett[1]	✓	✓	✓	100%
Chakib Sbiti[2]	✓	✓	✓	100%
Mehmet Öğütçü[3]	✓	✓		66%
Sir Graham Hearne[4]	✓	n/a	n/a	100%

1. Simon Lockett was appointed as a member of the HSSE Committee on 19 January 2016 and as HSSE Committee Chairman on 27 April 2016
2. Chakib Sbiti stepped down as Chairman of the HSSE Committee on 27 April 2016
3. Mehmet Oğütçü was unable to attend a HSSE Committee Meeting in November 2016 due to flight delays
4. Sir Graham Hearne retired as a Director on 27 April 2016
5. Denotes the attendance percentage at scheduled HSSE Committee meetings

HSSE COMMITTEE TIME SPENT



Culture - 20%
Planning and monitoring - 50%
Risk monitoring and mitigation - 20%
Security - 10%

Genel's HSSE policy reflects international best practice including but not limited to the IFC Performance Standards and ICMM Sustainable Development Framework. At each meeting of the Committee an update is received from management on the progress made against the HSSE strategic plan which it approves at the beginning of each year. In 2016 the plan contained actions in the following areas: leadership and culture, contractor management, operational readiness, HSE management system, health, environment and HSE safety performance.

During the course of the year progress was made against each of these areas including the launch of the Genel Life Saving Rules which complements our emergency response and crisis management procedures that were also reviewed and updated during the year. Various crisis and emergency management exercises were completed in order to ensure preparedness in the event of a crisis. During the year across the organisation 39 HSSE training sessions were held on topics including but not limited to H_2S awareness, process safety and administering first aid with 91% of employees attending two or more sessions. Operations activities included engaging and supporting Petoil on HSE matters during the drilling of the CS-12 well and providing pre-FEED deliverables on the Miran and Bina Bawi gas development project.

In line with the UK Companies Act 2006 (Strategic Report and Directors' Reports) Regulations 2013 the Company prepares and reports our greenhouse gas emissions which can be found in our corporate responsibility section on pages 20 to 23. The Committee reviewed the greenhouse gas emissions occurring from operations in 2016 and is pleased to note a year-on-year reduction of 28%.

In recognition of the importance of HSSE to our business the 2016 annual bonus objectives contain an element specifically allocated to HSSE. The Committee reviewed progress against the 2016 HSSE objectives and made recommendations to the Remuneration Committee on these elements the details of which may be found on page 63 of the Annual Report on Remuneration.

The Committee reviewed its own effectiveness during the year. During 2016 good progress had been made on enhancing the already strong HSE culture within the business. The Committee agreed to focus on the following areas during 2017:

- HSSE aspects of the gas project;
- HSSE culture across the organisation; and
- Increased site visits by Committee members

The Committee reviews its terms of reference annually, which can be viewed at www.genelenergy.com. All the members of the Committee throughout the year have been independent Non-Executive Directors.

Remuneration Committee Chairman's statement

REMUNERATION COMMITTEE

Chairman	Members	Meetings in 2016
Chakib Sbiti	George Rose	3 scheduled
	Mehmet Öğütçü	4 ad hoc

On behalf of the Remuneration Committee, I am pleased to present Genel's Directors' Remuneration Report for the year ended 31 December 2016, my first Report as Remuneration Committee Chairman.

As a Jersey registered company we are not required to prepare a remuneration report in accordance with UK legislation. However, as in previous years it remains the policy of Genel to comply with high standards of corporate governance. As such we have once again prepared our Directors' Remuneration Policy Report and Annual Report on Remuneration in accordance with the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008 (as amended).

Remuneration Policy

As we have chosen to comply with UK remuneration reporting regulations, at our 2017 AGM we are seeking shareholder approval for our new Remuneration Policy (the 'Policy'). Our last policy was approved by shareholders in 2014 and will shortly be reaching the end of its three-year term. Therefore, during 2016 we reviewed our Policy to ensure that our approach to remuneration remains appropriate and aligned with the Company's strategy in the new challenging energy business environment.

We believe that the remuneration structure set out in the current Policy remains clear, transparent, and simple and aligned with our strategic priorities while also promoting behaviours which are in the best interests of our shareholders. We are therefore proposing some small changes to the Policy to align it with the way good practice for UK listed companies has evolved in recent years:

- We were an early adopter of post-performance period holding periods on PSP awards, and our policy approved in 2014 included a three-year holding period. Holding periods are now more common for UK listed companies and it has become established that a two-year holding period is expected. We are therefore proposing to bring our Policy in line with this practice
- We introduced clawback provisions in 2015, however these will now be formally included in the Policy. For PSP awards these clawback provisions will apply during the holding period

The Policy, if approved by shareholders, will apply from the 2017 AGM. The vote on the Policy will not be binding as we are not covered by the same statutory protections afforded UK companies. However the Committee's intention is to operate within the Policy for a three-year period following its approval. The Policy is set out on pages 52 to 59.

Remuneration for 2016

Full details of the Remuneration Committee's decisions for 2016 are set out in the Annual Report on Remuneration on pages 61 to 68.

In the 2015 Annual Report we stated that the intention was to measure performance for Murat Özgül's 2016 annual bonus against a scorecard which would include 30% based on individual performance. However, during 2016 the Committee reviewed the bonus framework and decided that following the write down of reserves at Taq Taq and given the importance of the delivery of the gas, financial, safety and environment and operational business objectives, the individual performance element should be removed and the weightings for these business objectives be increased to 35.8%, 21.4%, 21.4% and 21.4% respectively, a total of 100% on company performance.

Further details of the 2016 annual bonus performance objectives and how they were assessed can be found on pages 62 and 63.

The performance period for PSP awards granted in 2014 ended on 31 December 2016. These awards will lapse as Genel's relative TSR ranking was below median of the peer group.

2016 PSP award

Genel is currently operating in a challenging environment and the Company is focussing on ensuring payment continuity with the KRG, maximising the value of oil assets, delivering the value of the KRI gas business and growing our resource base. The Committee considers that Murat Özgül is critical to the achievement of these objectives and to growing shareholder value.

Therefore, to enhance Murat's alignment with shareholders to deliver these objectives over the key period of the next three years, the Committee increased his PSP grant for 2016 on a one-off basis to 225% of salary. His 2017 PSP award will revert to the normal level of 150% of salary.

Approach to remuneration in 2017

Details of how we intend to apply our Policy over the coming year are set out on pages 66 and 67. The Committee determined that Murat Özgül's base salary will not be increased for 2017.

The Committee also decided that, while relative TSR is an important measure of long-term performance, the current focus of the Company is on absolute long-term value creation through developing our oil assets, recovering monies owed for past exports and establishing the gas business. Therefore, 2017 PSP awards will be assessed 50% on relative TSR against our peer group, and 50% against absolute TSR targets. Details of the targets are set out on pages 66 and 67. The Committee considers that these targets are appropriately stretching and that maximum vesting would represent significant value creation.

2017 AGM

Together with my fellow Committee members and Board colleagues, I will be available at our 2017 AGM to answer any questions regarding our Policy on executive remuneration and the activities of the Committee. On behalf of the Committee I would welcome any feedback and look forward to receiving your support for our Policy and our Annual Report on Remuneration.

Chakib Sbiti
Chairman of the Remuneration Committee

REMUNERATION COMMITTEE

Date	February	February	April	April	July	September	November	Attendance[5]
Scheduled/Ad-hoc	Scheduled	Ad-hoc	Ad-hoc	Ad-hoc	Scheduled	Ad-hoc	Scheduled	
Chakib Sbiti[1]	n/a	n/a	n/a	✓	✓	✓	✓	100%
George Rose	✓	✓	✓	✓	✓	✓	✓	100%
Mehmet Öğütçü[2]	n/a	n/a	n/a	✓	✓	✓		50%
Simon Lockett[3]	✓	✓	✓	n/a	n/a	n/a	n/a	100%
Jim Leng[4]	✓	✓	✓	n/a	n/a	n/a	n/a	100%
Sir Graham Hearne[4]	✓	✓	✓	n/a	n/a	n/a	n/a	100%

1. Chakib Sbiti was appointed Chairman of the Remuneration Committee on 27 April 2016
2. Mehmet Öğütçü was appointed as a member of the Remuneration Committee on 27 April 2016 and was unable to attend a Remuneration Committee Meeting in November due to a flight delay
3. Simon Lockett was appointed a member of the Remuneration Committee on 19 January 2016 and stepped down as a member of the Committee on 27 April 2016
4. Jim Leng and Sir Graham Hearne both retired as Directors of the Company on 27 April 2016
5. Denotes the attendance percentage at scheduled Remuneration Committee meetings

Objective	Progress
To determine the Remuneration Policy for the Chairman, CEO, CFO and broad framework for remuneration for members of the Executive Committee	Reviewed and updated the Remuneration Policy ahead of submission to shareholders for approval at the 2017 AGM and proposed a limited number of changes to align with UK practice
To review and have regard to remuneration practices across the Company	Considered remuneration practices across the Company including management recommendations for salary increases, bonus payments and share awards
In respect of performance related elements of the Remuneration Policy formulate suitable performance related criteria and monitor their operation	Completed a mid-year review of performance against bonus targets, re-aligning the targets for the CEO to 100% of target to be measured on Company performance for 2016 Reviewed the 2014 PSP performance against relative TSR of a comparator group which resulted in no shares vesting under the award
To review all aspects of any equity incentive plans operated or to be established by the Company	The Committee considered alternative approaches to the equity incentive plans. As a result of the review it was agreed to review the performance measures for the 2017 PSP award. Further details are set out on pages 66 and 67
To have regard in the performance of its duties to any published guidelines or recommendations regarding the remuneration of directors of listed companies and formation and operation of share schemes	As part of its deliberations during the year, governance updates were received from both Deloitte and the Company Secretary to ensure that any decisions taken and recommendations made were done so in the context of the wider remuneration landscape whilst remaining appropriate for the specific challenges facing the Company
To ensure that provisions regarding the disclosure of information, including pensions, as set out in The Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations and the UK Corporate Governance Code, are fulfilled.	Reviewed and updated the Company's Remuneration Policy to be put forward to shareholders under a binding vote at our 2017 AGM Reviewed the Annual Report of Remuneration for 2016 prior to submission to shareholders for a non-binding vote at the AGM

REMUNERATION POLICY REPORT

This part of the report sets out our Directors' Remuneration Policy (the 'Policy'). This Policy will be put forward for binding shareholder approval at the 2017 AGM as outlined above in the letter from the Chairman of the Remuneration Committee. The new Policy, if approved, will replace the previous Remuneration Policy approved at the 2014 AGM. The effective date of the Policy is the date on which the Policy is approved by shareholders (i.e. the date of our 2017 AGM, 6 June or at any adjournment thereof). Further details regarding the operation of the Policy can be found on pages 61 to 68.

The Committee will keep the Policy under review to ensure that it continues to promote the attraction, retention and motivation of the high-performing executive talent required to deliver the business strategy. It is the Committee's intention that the Policy be put to shareholders for approval every three years. Should any changes be required before the end of the three-year period, the amended Policy will be put to shareholders, following shareholder consultation as appropriate.

The proposed policy includes a number of changes from the previous policy approved by shareholders at the 2014 AGM:

- The holding period for PSP awards will be reduced from three years to two years in line with established market practice
- The clawback provisions introduced in 2015 have been included in the policy

REMUNERATION POLICY TABLE

Fixed remuneration

Element	Purpose and link to strategy	Operation	Maximum opportunity	Performance measures
Salary	• To provide fixed remuneration which is balanced, taking into account the complexity of the role and the skills and experience of the individual	• The Committee takes into account a number of factors when setting salaries, including: – scope and complexity of the role – the skills and experience of the individual – salary levels for similar roles within the international industry – pay elsewhere in the Group – Salaries are reviewed, but not necessarily increased, annually with any increase usually taking effect in January	• While there is no defined maximum opportunity, salary increases are normally made with reference to the average increase for the Company's wider employee population • The Committee retains discretion to make higher increases in certain circumstances, for example, following an increase in the scope and/or responsibility of the role or the development of the individual in the role	None
Benefits	• To provide a simple and broadly market competitive benefit cash allowance	• A cash supplement is provided in lieu of benefits (including pension) • The cash supplement is not included in calculating bonus and long-term incentive quantum	• Cash supplement is set as a percentage of base salary and paid in lieu of all benefits (including pension) • While there is no defined maximum opportunity, the cash supplement is currently 25% of base salary • Should an individual participate in the Mandatory Pension Scheme provided by the Company to all UK based employees the cash supplement will be reduced in line with the Company contribution made • The Committee keeps the benefit policy and level of cash supplement under review. The Committee may adjust cash supplement levels in line with market movements	None

The Company is incorporated in Jersey rather than the UK. Accordingly, the Company does not have the benefit of the statutory protections afforded by the UK Companies Act 2006 in the event that there were to be any inconsistency between this Policy and any contractual entitlement or other rights of a Director. Therefore, in the event that there were to be any payment which was inconsistent with this Policy, the Company would not have the statutory right, under section 226E of the UK Companies Act 2006 to recover such payments from its Directors.

Variable remuneration

Element	Purpose and link to strategy	Operation	Maximum opportunity	Performance measures
Annual bonus	• To incentivise and reward the achievement of annual financial, operational and individual objectives which are key to the delivery of the Company's short-term strategy	• Awards are based on objectives set by the Committee over a combination of goals which may include financial, operational and individual goals measured over one financial year • Objectives and the mix of goals are set annually to ensure that they remain targeted and focused on the delivery of the Company's short-term goals • The Committee sets targets which require appropriate levels of performance, taking into account internal and external expectations of performance • As soon as practicable after the year-end, the Committee meets to review performance against objectives and determines payout levels • Bonus payments are made in cash, although there is the flexibility to pay in shares • No part of the bonus is currently subject to deferral, although the Committee retains the flexibility to apply deferral to all or part of the bonus (in cash or shares) in the future should it be considered appropriate	• Maximum award opportunity for Executive Directors is 150% of base salary for each financial year	• At least 70% of the award will be assessed against Group metrics including financial, operational, safety and environment, and CSR performance. Any remainder of the award will be based on performance against individual objectives • A sliding scale of between 0% and 100% of the maximum award is paid dependent on the level of performance

REMUNERATION POLICY TABLE continued
Variable remuneration

Element	Purpose and link to strategy	Operation	Maximum opportunity	Performance measures
Performance share plan ('PSP')	• To incentivise and reward the creation of long-term shareholder value • To align the interests of the Executive Directors with those of shareholders	• Awards granted under the PSP (normally in the form of conditional share awards or nil-cost options) vest subject to achievement of performance conditions measured over a period of at least three years • Awards can be reduced or cancelled in certain circumstances as set out below • Any shares that vest may benefit from the value of dividends (if any) which would have been paid during the period between award and vesting and may assume reinvestment in the Company's shares • Shares that vest are normally subject to a holding period of two years from the vesting date although the Committee retains the discretion to apply a different holding period, or no holding period • Any vested options must be exercised within ten years of the date of grant	• The usual maximum award opportunity in respect of a financial year is 200% of base salary • However, in circumstances that the Committee deems to be exceptional, awards of up to 300% of base salary may be made	• Vesting of awards is dependent on financial, operational and/or share price measures, as set by the Committee, which are aligned with long-term strategic objectives of the Company. No less than half of an award will be based on share price measures. The remainder will be based on either financial, operational or share price measures • At the minimum level of acceptable performance, no more than 30% of the award will vest rising to 100% for maximum performance
Restricted share plan ('RSP')	• Normally used to buy out awards forfeited by new Executive Directors on recruitment • Murat Özgül will not receive grants under this scheme following his appointment as CEO	• The Committee will where possible make buy-out awards on a like-for-like basis as set out in the recruitment policy • Awards can be reduced or cancelled in certain circumstances as set out below • Awards will vest on a date determined by the Committee at grant, subject to the individual's continued employment and, if the Committee considers appropriate, performance conditions • Any shares that vest may benefit from the value of dividends paid (if any) during the period between award and vesting which may assume reinvestment in the Company's shares	• The plan rules allow for a maximum award of 300% of base salary in respect of a financial year. Only in circumstances that the Committee deems to be exceptional will awards be made at this level	• Awards will only be made to Executive Directors in recruitment scenarios • The Committee may attach performance conditions to awards if appropriate

Notes to the policy table

The Committee reserves the right to make any remuneration payments and/or payments for loss of office (including exercising any discretions available to it in connection with such payments) notwithstanding that they are not in line with the Policy set out above where the terms of the payment were agreed (i) before the 2014 AGM (the date the Company's first shareholder-approved directors' remuneration policy came into effect); (ii) before the Policy set out above came into effect, provided that the terms of the payment were consistent with the shareholder-approved Directors' Remuneration Policy in force at the time they were agreed; or (iii) at a time when the relevant individual was not a Director of the Company and, in the opinion of the Committee, the payment was not in consideration for the individual becoming a Director of the Company. For these purposes 'payments' includes the Committee satisfying awards of variable remuneration and, in relation to an award over shares, the terms of the payment are 'agreed' at the time the award is granted.

Performance measures and targets

Annual bonus

The annual bonus performance measures are designed to provide an appropriate balance between incentivising Executive Directors to meet financial targets for the year and to deliver a combination of specific strategic, operational and personal goals. This balance allows the Committee to review the Company's performance in the round against the key elements of our strategy and appropriately incentivise and reward Executive Directors.

Bonus targets are set by the Committee each year to ensure that Executive Directors are focused on the key objectives for the next twelve months. In doing so, the Committee takes into account a number of internal and external reference points, including the Company's business plan.

PSP

The ultimate goal of our strategy is to provide long-term sustainable returns to shareholders. The Committee currently considers that a mix of absolute and relative TSR is the most appropriate measure to assess the underlying financial performance of the business while creating maximum alignment with shareholders and encouraging long-term value creation.

Malus provisions

Under the PSP and RSP, prior to vesting, the Committee may cancel or reduce the number of shares awarded or impose additional conditions on an award in circumstances where the Committee considers it to be appropriate. Such circumstances may include a material misstatement of the Company's audited financial results, a material breach of health and safety regulations, a material failure of risk management or serious reputational damage to the Company.

The Committee has considered malus provisions in the context of the annual bonus and is satisfied that malus is appropriately taken into account at the time the Committee approves a bonus payment.

Clawback provisions

Clawback provisions apply to the annual bonus, PSP and RSP awards where it is considered appropriate. Such circumstances may include a material misstatement of the Company's audited results, misconduct of the individual and any error in the calculation of any performance condition. Clawback may be applied up to one year after payment for bonus awards and two years after vesting for PSP and RSP awards.

Plan rules

The PSP and RSP shall be operated in accordance with the rules of the plans as approved by shareholders and amended from time to time in accordance with those rules. In particular:

- The plan rules provide for adjustments in certain circumstances, for example, awards may be adjusted in the event of variation of the Company's share capital, demerger, special dividend, re-organisation or similar event
- In the event of a change of control of the Company, existing share awards will vest in line with the plan rules to the extent the Committee determines, taking into account the extent to which any performance conditions (where applicable) have been satisfied and, unless the Committee determines otherwise, the time elapsed since that time. The Committee may, in the event of a winding-up of the Company, demerger, delisting, special dividend or other event which the Committee considers may affect the price of shares, allow awards to vest on the same basis
- The performance conditions may be replaced or varied if an event occurs or circumstances arise which cause the Committee, acting fairly and reasonably, to determine that a substituted or amended performance condition would be more appropriate (taking into account the interests of the shareholders of the Company) provided that the amended performance condition would not be materially less difficult to satisfy
- The Committee may elect, prior to vesting or exercise in the case of options, to deliver the value of vested awards as cash

Remuneration arrangements throughout the Company

The Remuneration Policy for Executive Directors is designed in line with the remuneration principles that underpin remuneration across the Company. When making decisions in respect of Executive Director remuneration arrangements, the Committee takes into consideration the pay and conditions for employees throughout the Company, including the local inflationary impact for the countries in which we operate. As stated in the policy table, salary increases are normally made with reference to the average increase for the wider employee population.

The Company places a significant focus on variable remuneration, ensuring that a meaningful proportion of remuneration across all employees is based on performance, through its operation of the annual bonus plan throughout the Company and participation in share incentive plans.

Genel is committed to strengthening and widening employee share ownership by the use of share incentives granted under our share plans. As a result approximately 90% of employees participate in our share plans.

The Committee does not directly consult with our employees as part of the process of determining executive pay. However, there is wide employee participation in our share plans.

CHAIRMAN AND NON-EXECUTIVE DIRECTORS

Element	Purpose and link to strategy	Operation	Maximum opportunity	Performance measures
Chairman fees	• To provide an appropriate reward to attract and retain a high-calibre individual with the relevant skills, knowledge and experience	• The fee for the Chairman is normally reviewed annually but not necessarily increased • The remuneration of the Chairman is set by the Committee • The Chairman receives a set fee for the role; no additional fees are payable for other Committee memberships • The fee is payable in cash, although the Committee retains the right to make payment in shares	• Whilst there is no maximum level, fees are set considering: – market practice for comparative roles – the time commitment and duties involved – the requirement to attract and retain the quality of individuals required by the Company • Expenses reasonably and wholly incurred in the performance of the role of Chairman of the Company may be reimbursed or paid for directly by the Company, as appropriate, and may include any tax due on the expense • The Chairman does not participate in any of the Group's incentive plans	• None
Non-Executive Director (NED) fees	• To provide an appropriate reward to attract and retain high-calibre individuals with the relevant skills, knowledge and experience	• The fees for the Non-Executive Directors are normally reviewed annually but not necessarily increased • The remuneration of the Non-Executive Directors is a matter for the Chairman and the Executive Directors • Non-Executive Directors receive a standard basic fee. Where applicable, they also receive additional fees for Committee chairmanship and for the membership of two or more Committees • Although no additional fee is currently paid for the role of the Senior Independent Director or the Chairman of the Nomination Committee, the Company retains the flexibility to pay such a fee if appropriate • The fee is payable in cash, although the Committee retains the right to make payment in shares	• Whilst there is no maximum level, fees are set considering: – market practice for comparative roles – the time commitment and duties involved – the requirement to attract and retain the quality of individuals required by the Company • Expenses reasonably and wholly incurred in the performance of the role of Non-Executive Director of the Company may be reimbursed or paid for directly by the Company, as appropriate, and may include any tax due on the expense • The Non-Executive Directors do not participate in any of the Group's incentive plans	• None

Non-Executive Directors may receive professional advice in respect of their duties with the Company which will be paid for by the Company. Non-Executive Directors are also covered by the Company's directors' and officers' insurance policy and provided with an indemity.

Recruitment policy

In determining remuneration for new appointments to the Board, the Committee will consider all relevant factors including, but not limited to, the calibre of the individual and their existing package, the external market and the existing arrangements for the Company's current Executive Directors, with a view that any arrangements offered are in the best interests of the Company and shareholders and without paying any more than is necessary.

Where the new appointment is replacing a previous Executive Director, salaries and total remuneration opportunity may be higher or lower than the previous incumbent. If the appointee is expected to develop into the role, the Committee may decide to appoint the new Executive Director to the Board at a lower than typical salary. Larger increases (above those of the wider employee population) may be awarded over a period of time to move closer to market level as their experience develops.

Benefits will normally be limited to those outlined in the remuneration policy table above. However, additional benefits may be provided by the Company where the Committee considers it reasonable and necessary to do so. Such circumstances may include where an Executive Director is required to relocate in order to fulfil their duties. In such cases, a cash payment higher than the 25% of salary that is ordinarily paid would normally be provided under the Company's standard expatriate policy in lieu of certain benefits, which may include the provision of a housing allowance, education support, health insurance, tax advice, a relocation or repatriation allowance and a home leave allowance.

It is expected that the structure and quantum of the variable pay elements would reflect those set out in the policy table above. However, the Committee recognises that, as an independent oil and gas company, it is competing with global firms for its talent. As a result, the Committee considers it important that the recruitment policy has sufficient flexibility in order to attract the calibre of individual that the Company requires.

Therefore:

- Under the annual bonus, the Committee reserves the right to provide either a one-off or ongoing maximum bonus opportunity of up to 200% of salary if this is required to secure an external appointment
- The Committee would also retain the discretion to flex the balance between annual and long-term incentives and the measures used to assess performance for these elements, whilst maintaining the intention that a significant portion of variable pay would be delivered in shares
- Variable pay could, in exceptional circumstances, be delivered via alternative structures, again with the intention that a significant portion would be share-based, but in all circumstances subject to an ongoing over-riding cap of 600% of salary. This cap excludes any awards made to compensate the Director for incentive awards or any other remuneration arrangements forfeited from their previous employer (see below)

The above flexibility will only be used if the Committee believes such action is absolutely necessary to recruit and motivate a candidate from the global market. The Committee commits to explain to shareholders the rationale for the relevant arrangements following any appointment.

Where an Executive Director is appointed from within the Group, the normal policy of the Company is that any legacy arrangements would be honoured in line with the original terms and conditions. Similarly, if an Executive Director is appointed following an acquisition of or merger with another company, legacy terms and conditions would be honoured.

The Committee retains the discretion to make appropriate remuneration decisions outside the standard policy to meet the individual circumstances of the recruitment, when an interim appointment to fill an Executive Director role is made on a short-term basis or a Non-Executive Director or the Chairman takes on an executive function on a short-term basis.

Buy outs

In order to facilitate recruitment, the Committee may make a one-off award to 'buy out' incentive awards and any other compensation arrangements that a new hire has had to forfeit on leaving their previous employer. In doing so, the Committee will take into account all relevant factors including any performance conditions attached to the forfeited awards, the likelihood of those conditions being met, the proportion of the vesting/performance period remaining and the form of the award (e.g. cash or shares). Where possible, the forfeited awards will normally be bought out on an estimated like-for-like basis.

The Committee is at all times conscious of the need to pay no more than is necessary, particularly when determining any possible buy-out arrangements.

Recruitment of Chairman and Non-Executive Directors

In the event of the appointment of a new Chairman and/or Non-Executive Director, remuneration arrangements will normally be in line with those detailed in the relevant table above.

Executive Director service contracts

The key employment terms and other conditions of the current Executive Director, as stipulated in his service contract, is set out below.

Element	Policy
Notice period	• 12 months' notice by either the Company or the Executive Director. This is also the policy for new recruits
Termination payment	• It is the Company's policy for new service contracts that it may terminate employment by making a payment in lieu of notice ('PILON') equivalent to (i) 12 months' base salary and (ii) the Executive Director's annual benefit allowance • Upon termination by the Company, an Executive Director has a duty to mitigate, and use reasonable endeavours to secure alternative employment as soon as reasonably practicable. In Murat Özgül's service contract, there are specific provisions requiring a reduction in any phased PILON payments in the event that he finds alternative employment
Remuneration and benefits	• Participation in all incentive schemes, including the annual bonus and the PSP, is non-contractual • Outstanding awards will be treated in accordance with the relevant plan rules

The service contract of an Executive Director may also be terminated immediately and with no liability to make payment in certain circumstances, such as the Executive Director bringing the Group into disrepute or committing a fundamental breach of their employment obligations.

Unless otherwise approved, an Executive Director may accept only one position as a Non-Executive Director (but not as a Non-Executive Chairman) of a FTSE 100 company that is not a competitor of the Company, subject to prior notification to the Chairman of the Company and the approval of the Board or duly authorised Committee thereof.

Policy on payment for loss of office

In the event that the employment of an Executive Director is terminated, any compensation payable will be determined in accordance with the terms of the service contract between the Company and the employee, as well as the rules of any incentive plans.

The Company considers a variety of factors when considering leaving arrangements for an Executive Director, including individual and business performance, the obligation for the Director to mitigate loss (for example by gaining new employment) and other relevant circumstances (e.g. ill health). The Committee may make other payments in connection with a Director's cessation of office or employment where the payments are made in good faith in discharge of an existing legal obligation (or by way of damages for breach of such an obligation) or by way of settlement of any claim arising in connection with the cessation of a Director's office or employment. Any such payments may include but are not limited to paying any fees for outplacement assistance and/or the Director's legal and/or professional advice fees in connection with his cessation of office or employment.

If the Executive Director's employment is terminated by the Company, the Executive Director may receive a time pro-rated bonus, subject to Remuneration Committee discretion.

The treatment of outstanding share awards is governed by the relevant share plan rules. The following table summarises the leaver provisions of share plans under which Executive Directors may currently hold awards.

Plan	Leaver reasons where awards may continue to vest	Vesting arrangements	Treatment for any other leaver reason
PSP and RSP	• Death • Injury, ill health or disability • Retirement • Sale of the Company or business by which the participant is employed outside the Group • Any other scenario in which the Committee determines good leaver treatment is justified (other than summary dismissal)	• Awards will vest to the extent determined by the Committee taking into account the achievement of any performance conditions at the relevant vesting date and, unless the Committee determines otherwise, the period of time which has elapsed between grant and cessation of employment • The vesting date for such awards will normally be the original vesting date, although the Committee has the flexibility to determine that awards can vest upon cessation of employment • In the event of death, all unvested awards will normally vest at that time to the extent determined by the Committee taking into account the achievement of any relevant performance conditions as at the date of death and, unless the Committee determines otherwise, the period of time that has elapsed since grant	• Awards lapse in full

Chairman and Non-Executive Director letters of appointment

The Chairman and Non-Executive Directors have letters of appointment which set out their duties and responsibilities. They do not have service contracts with either the Company or any of its subsidiaries.

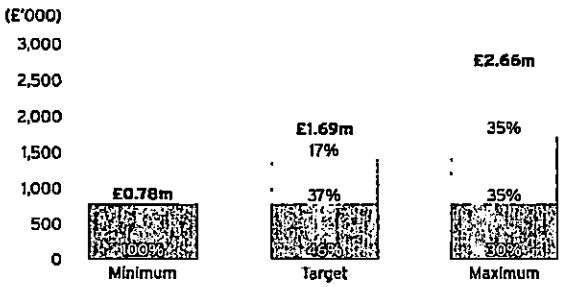
The key terms of the appointments are set out in the table below.

Provision	Policy
Period	• In line with the UK Corporate Governance Code, the Chairman and all Non-Executive Directors are subject to annual re-election by shareholders at each AGM • After the initial three-year term, the Chairman and the Non-Executive Directors are typically expected to serve a further three-year term
Termination	• The appointment of the Chairman and Non-Executive Directors is terminable by either the Company or the Director by giving three months' notice • The Chairman and Non-Executive Directors are not entitled to any compensation upon leaving office

Illustration of the Remuneration Policy

The chart that follows provides illustrative values of the remuneration package for the Executive Director under three assumed performance scenarios. The chart is for illustrative purposes only and actual outcomes may differ from those shown.

Chief Executive Officer
Murat Özgül



	Assumed performance	Assumptions used
FIXED PAY	All performance scenarios	• Consists of total fixed pay, consisting of base salary and cash supplement in lieu of benefits and pension • Base salary – salary effective as at 1 January 2017 • Benefits – 25% of base salary
VARIABLE PAY	Minimum performance	• No pay-out under the annual bonus • No vesting under the PSP
	Performance in line with expectations	• Two-thirds of the maximum pay-out under the annual bonus. This represents 100% of base salary for the CEO • 30% vesting under the PSP. This represents 60% of base salary for the CEO • Value of awards under the PSP based on the 2017 award under the Policy of 150% of salary
	Maximum performance	• The maximum pay-out under the annual bonus. This represents 150% of base salary for the CEO • 100% vesting under the PSP • Value of awards under the PSP based on the 2017 award under the Policy of 150% of salary

PSP awards have been shown at face value, with no share price growth, dividend accrual or discount rate assumptions.

Consideration of shareholder views

The Committee continues to be mindful of shareholder views when evaluating and setting ongoing remuneration strategy and we commit to consulting with shareholders prior to any significant changes to our Remuneration Policy.

It is the Committee's policy to correspond with shareholders that have engaged on remuneration matters during the year, which it has done and the Committee has considered their views at its meetings.

Minor Changes

The Committee may make minor amendments to the Policy set out above for regulatory, exchange control, tax or administrative purposes or to take account of a change in legislation without obtaining shareholder approval for that amendment.

ANNUAL REPORT ON REMUNERATION

ANNUAL REPORT ON REMUNERATION

This part of the Annual Report provides details of the implementation of the Directors' Remuneration Policy (the 'Policy') for the year ended 31 December 2016 and discusses how the Policy will be implemented in the 2017 financial year. Details of the Policy can be found on pages 52 to 59.

Audited information

Single total figure table showing remuneration for each Director

The following table sets out the total remuneration for Executive Directors and Non-Executive Directors for the period in office for the year ended 31 December 2016, and comparison figures for 2015.

	Salary/fees £'000		Benefits £'000		Bonus £'000		LTIP[1] £'000		Total £'000	
Name	**2016**	**2015**	**2016**	**2015**	**2016**	**2015**	**2016**	**2015**	**2016**	**2015**
Executive Directors										
Murat Özgül[2]	625	296	156	74	670	161	68	0	1,519	531
Tony Hayward[3]	-	374	-	94	-	0	-	0	-	468
Julian Metherell[4]	-	153	-	38	-	0	-	0	-	191

1. LTIP shares include shares under the Company's PSP and the RSP. The 2014 awards under the PSP lapsed following the announcement of the Company's results in 2017
2. Murat Özgül was appointed as a Director and CEO on 12 July 2015
3. Tony Hayward stepped down as CEO on 12 July 2015 and was subsequently appointed Chairman (see below)
4. Julian Metherell retired as a Director on 21 April 2015

	Salary/fees £'000		Benefits £'000		Bonus £'000		LTIP[1] £'000		Total £'000	
Name	**2016**	**2015**	**2016**	**2015**	**2016**	**2015**	**2016**	**2015**	**2016[7]**	**2015**
Non-Executive Directors										
Tony Hayward[1]	208	122	-	-	-	-	-	-	208	122
George Rose	96	120	-	-	-	-	-	-	96	120
Simon Lockett[2]	82	-	-	-	-	-	-	-	82	-
Mehmet Öğütçü	80	100	-	-	-	-	-	-	80	100
Nathaniel Rothschild	64	80	-	-	-	-	-	-	64	80
Chakib Sbiti	92	115	-	-	-	-	-	-	92	115
Gulsun Nazli Karamehmet Williams	64	80	-	-	-	-	-	-	64	80
Rodney Chase[3]	-	204	-	-	-	-	-	-	-	204
Jim Leng[4]	37	115	-	-	-	-	-	-	37	115
Sir Graham Hearne[4]	33	100	-	-	-	-	-	-	33	100
Mark Parris[5]	-	46	-	-	-	-	-	-	-	46
Murat Yazici[6]	-	77	-	-	-	-	-	-	-	77

1. Tony Hayward was appointed Chairman on 12 July 2015
2. Simon Lockett was appointed as a Director on 19 January 2016
3. Rodney Chase resigned as a Director on 12 July 2015
4. Jim Leng and Sir Graham Hearne retired as Directors on 27 April 2016
5. Mark Parris retired as a Director on 21 April 2015
6. Murat Yazici resigned as a Director on 15 December 2016
7. Non-Executive Director fees were reduced by 30% effective from 1 May 2016

Additional disclosures in respect of the single total figure table

Base salary

The table below shows base salaries which were effective during 2016.

	Base salary from 1 Jan 2016	Base salary from 1 Jan 2015 or at date of appointment
Murat Özgül	**£625,000**	**£625,000**
Tony Hayward[1]	**n/a**	**£705,000**

1. Tony Hayward received a fee for his role as Chairman of £260,000 per annum with effect from 12 July 2015 (the date of his appointment); this was reduced to £182,000 with effect from 1 May 2016

Salary information for 2017 is provided on page 66.

Benefits

In line with the Committee's aim to provide a simple, transparent package, the CEO receives a cash supplement of 25% of base salary in lieu of all benefits, including pension, private health insurance, life assurance and company car provision. The cash supplement is not used in the calculation of bonus and long-term incentive quantum. In the event that the CEO participates in the Mandatory Pension Plan offered by the Company the cash supplement will be reduced by the amount contributed by the Company into the Mandatory Pension Plan.

Tony Hayward ceased to receive a benefit allowance upon his appointment as Chairman.

Annual bonus

The 2016 annual bonus scorecard was approved based on the Company's performance against key business objectives (with a weighting of 70%) and individual performance (with a weighting of 30%). During the year the Committee agreed that given the strategic importance of the targets set out on the annual bonus scorecard, the CEO's performance for 2016 would be measured 100% on the achievement on the business objectives. These included progress against the gas project (35.8%), financial targets (21.4%), operational targets (21.4%) and health and safety performance (21.4%).

Although Genel delivered strong performance against the specific operational, financial and health and safety performance targets, progress on the gas project during the year was slower than anticipated. We announced that documentation had been finalised on previously agreed terms of amended and restated production shareing contracts and gas lifting agreements and accordingly only 50% of the gas target was achieved. Inevitability, the Company's overall financial performance was impacted by the extremely difficult trading environment, both globally and in the KRI. Details of the Company's performance against each of the objectives are set out below.

	2016 bonus	As % of maximum
Murat Özgül	**£670,000**	**71.4%**

2016 - Annual bonus, Remuneration Committee assessment of performance against targets

The 2016 annual bonus was assessed by the Committee based on the Company's performance against key business objectives. The Committee agreed at the mid-year review of progress against targets that the key business objectives were of such importance in securing the future strategic direction of the Company that the CEO should be measured 100% against delivery of those targets. Further detail is set out in the table below.

Bonus performance measures	Weighting	Performance targets	Assessment of performance against metrics	Performance assessment
Gas	35.8%	To demonstrably progress the gas project towards project sanction	Whilst progress was made on the commercialisation of the gas project during 2016; it was not until early 2017 that definitive gas agreements were signed. Performance against this target was significantly impacted by the fiscal challenges in the region, the fight against ISIS and the move to liberate Mosul as well as the attempted coup in Turkey	17.9%
Operational	21.4%	Working interest production at above 60k bopd	New production guidance in the range of 53-60k bopd was published during the year with final production at the lower end of the revised guidance	0%
		Meet capital expenditure KPIs	Capital expenditure was managed within target	10.7%

Bonus performance measure	Weighting	Performance target	Assessment of performance against metrics	Performance assessment
Financial	21.4%	Secure the financial strength of the Company though receipt of cash payments, managing the business on a cash flow neutral basis and managing ongoing work obligations	During 2016 payments have regularised and the cash receipts have increased significantly year on year. This has enabled the business to operate on a cash flow neutral basis. Ongoing work commitments are being actively managed	21.4%
Safety and Environment	21.4%	Maintain existing safety performance	Strong performance with zero LTIs, no serious incidents and no spills reported in 2016	21.4%
		Strengthen internal capability and contractor management	Improvements made to the contractor management system and all contract activities were executed safely with onsite HSE supervision	
		Continue to develop a robust operating management system and enhance the existing HSE culture	During the year we continued to build on the positive HSE culture through development of Genel's Life Saving Rules and by revising and updating the crisis management procedures. HSE training and development was delivered across all sites and will remain ongoing, thereby embedding a positive HSE culture	

Performance share plan awards made in 2016

PSP awards are granted in the form of a nil-cost conditional share award over shares in the Company with the number of conditional awards granted determined by reference to a percentage of base salary. As discussed on page 51, given the exceptional circumstances during 2016, the 2016 awards were based on a face value of 225% of salary for the CEO (as shown below).

The Committee decided that, for the 2016 awards, it would continue to measure the performance of the Company against that of its sectoral peers using a relative TSR measure. This involves comparing the TSR of the Company over a three-year performance period with the TSR of each of the companies in the sectoral peer group below. At the end of the performance period the companies are ranked and awards made under the PSP vest in accordance with the schedule below depending on the Company's TSR performance over the three-year period. The Committee considered that TSR was the most appropriate measure to create maximum alignment with shareholders and encourage long-term value creation. The sectoral peer group for the 2016 PSP awards was reviewed in February 2016 to ensure that it remained appropriate.

BP	Enquest	Ophir Energy	Seplat Petroleum
Cairn Energy	Gulf Keystone	Premier Oil	SOCO International
DNO	Nostrum Oil & Gas	Royal Dutch Shell	Tullow Oil

Awards will vest according to the following schedule:

TSR ranking of the Company	Proportion of award vesting
Below median	0%
Median	30%
Between median and upper quartile	Straight-line basis
Upper quartile	100%

The following table provides details of the awards made under the PSP on 7 May 2016. Performance for these awards is measured over the three financial years from 1 January 2016 to 31 December 2018.

	Type of award	Face value (£)	Face value (% of salary)	Threshold vesting (% of face value)	Maximum vesting (% of face value)	End of performance period
Murat Özgül	Conditional share award	£1,406,250	225%	30% (median)	100% (upper quartile)	31 Dec 2018

Face value has been calculated using the average share price 10 dealing days, prior to the date of grant, of 123.88 pence.

Share awards

The following table provides a summary of all share awards as at 31 December 2016. Further details of the Company's share plans are set out on page 103.

Scheme	Grant date	Exercise price	At 1 January 2016	Granted during the year	Vested during the year	Released during the year	Exercised during the year	Lapsed during the year	At 31 December 2016	Performance period end	Expiry date
Murat Özgül[2]											
SOP	19/12/2011	787.58	31,764	-	-	-	-	-	31,764	19/12/2014	19/12/2021
PSP	01/03/2013	Nil	49,009	-	-	-	-	49,009	-	31/12/2015	01/03/2023
PSP	21/03/2014[1]	Nil	34,588	-	-	-	-	-	34,588	31/12/2016	21/03/2024
PSP	15/04/2015	Nil	112,757	-	-	-	-	-	112,757	31/12/2017	15/03/2025
RSP	15/04/2015	Nil	260,210	-	-	65,052	-	-	195,158	n/a	15/04/2025
CEO award	21/08/2015	Nil	375,000		93,750	-	-	-	375,000	n/a	21/08/2025
PSP	07/05/2016	Nil	-	1,135,171	-				1,135,171	31/12/2018	07/05/2026
Tony Hayward[3]											
PSP	29/05/2012	Nil	102,131	-	-	-	-	-	102,131	31/12/2014	29/05/2022
PSP	01/03/2013	Nil	134,352	-	-	-	-	134,352	-	31/12/2015	01/03/2023
PSP	21/03/2014[1]	Nil	98,231	-	-	-	-	-	98,231	31/12/2016	21/03/2024
PSP	15/04/2015	Nil	212,030	-	-	-	-	-	212,030	31/12/2017	15/04/2025

1. The 2014 awards under the PSP will lapse following the announcement of the Company's results in 2017
2. Awards made to Murat Özgül prior to 12 July 2015 were made to him in his capacity as President, KRI and Turkey
3. Awards made to Tony Hayward prior to 12 July 2015 were made to him in his capacity as CEO

Payments to past Directors

In 2016, there were no payments made to past Directors during the year.

Payments for loss of office

In 2016, there were no payments to Directors for loss of office.

Statement of Directors' shareholding and share interests

The beneficial interests of the Directors in the Company's shares as at 31 December 2016 are shown in the table below. There have been no changes in the Directors' shareholdings and interests since 31 December 2016.

The Company does not currently operate a formal shareholding guideline as Executive Directors must normally hold any vested shares under the PSP for three years following vesting for share awards up to and including 2016 and for two years for awards made in 2017 and beyond. Executive Directors are expected to build up their holding over time.

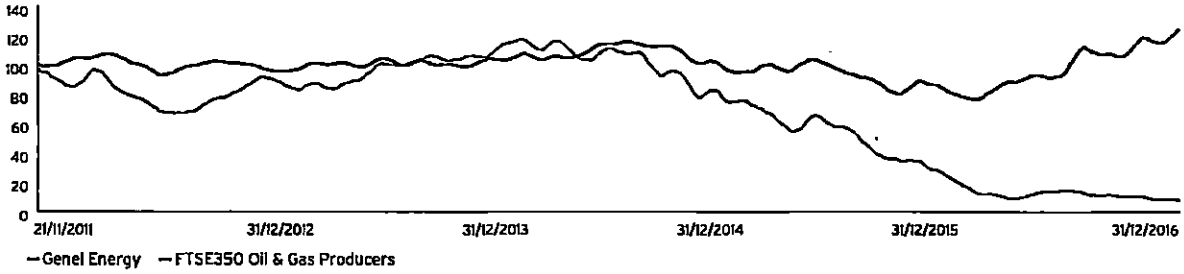
Director	Ordinary shares as at 31 December 2015 or date of leaving	Ordinary shares as at 31 December 2016 or date of leaving	Interest in share options granted under the Company share plans as at 31 December 2016
Murat Özgül	37,942	102,994	1,884,438
Tony Hayward	1,483,876	1,483,876	412,392
Simon Lockett	-	-	-
Mehmet Öğütçü	-	-	-
George Rose	90,000	90,000	-
Nathaniel Rothschild	22,119,970	22,119,970	-
Gulsun Nazli Karamehmet Williams	-	-	-
Chakib Sbiti	80,100	80,100	-
Jim Leng	50,000	50,000	-
Sir Graham Hearne	90,000	90,000	-

This represents the end of the audited section of the report.

Historical TSR performance and CEO remuneration outcomes

The following graph shows the Company's TSR since trading of Genel Energy plc's shares began on the London Stock Exchange on 21 November 2011 against the FTSE 350 Oil & Gas Producers Index. The Committee believes that the FTSE 350 Oil & Gas Producers Index remains the most appropriate index as these companies are Genel's direct UK listed comparators.

TOTAL SHAREHOLDER RETURN



The table below summarises the CEO single figure for total remuneration, annual bonus pay-outs and LTIP vesting levels as a percentage of maximum opportunity over the period since listing to the end of the 2016 financial year.

	2011	2012	2013	2014	2015	2015	2016
Chief Executive Officer					Tony Hayward	Murat Özgül	
CEO single figure remuneration (£'000)	139	1,691	1,779	2,521	468	531	1,519
Annual bonus pay-out (as a % of maximum opportunity)	n/a	90%	95%	90%	0%	36.25%	71.4%
Long-term incentive vesting out-turn (as a % of maximum opportunity)	n/a	n/a	n/a	82.5%	0%	0%[1]	0%

1. The Committee exercised its discretion to reduce the vesting the 2013 PSP awards from 30% to 0%

Percentage change in remuneration of the Chief Executive Officer

The table below shows the percentage change in the Chief Executive Officer's salary, benefits and annual bonus between the financial years ended 31 December 2015 and 31 December 2016 compared to the average for permanent employees of the Group.

	% change in base salary 2016/2015	% change in benefits 2016/2015	% change in annual bonus 2016/2015
Chief Executive Officer	(6.7%)	(7.0%)	316.1%
All employees	3.0%	(4.0%)	44.3%

The percentage change in base salary and benefits for the CEO comparison data in 2015 includes data for Tony Hayward up to 12 July 2015 and Murat Özgül thereafter. Murat Özgül received no salary increase in 2016 and accordingly the percentage change for the CEO base salary and benefits is in real terms 0%.

The percentage change in annual bonus for the CEO compares 2016 outcomes against 2015. 2015 includes data for Tony Hayward up to 12 July 2015 and Murat Özgül thereafter. Tony Hayward did not receive a bonus in 2015 and Murat Özgül's bonus represented the six months during 2015 that he was CEO. Therefore the year-on-year change in bonus awards for the CEO overstates the difference in performance and bonus outcomes.

Relative importance of the spend on pay

The table below illustrates the current year and prior year overall expenditure on pay. The regulations require that we report distributions received by shareholders through dividends and share buy-backs. It is currently the Company's policy not to pay dividends. We did not buy back shares during 2016.

Remuneration paid to all employees	$m
2015	41.0
2016	22.1

Remuneration paid to all employees represents total staff costs from continuing operations. The $18.9 million decrease in staff costs relates to a decrease in the number of employees (28% reduction during 2016).

Implementation of Remuneration Policy in 2017

This section provides an overview of how the Committee is proposing to implement our Remuneration Policy in 2017.

Base salary

In determining Executive Director salary increases for 2017, the Committee took into consideration a number of factors including:

- The individual's skills and experience
- Business performance
- Salary levels for similar roles within the industry
- Pay and conditions elsewhere in the Company

The Committee has decided that no salary increase would be made for Murat Özgül in 2017. The table below shows base salaries for 2017.

Base salary from 1 Jan 2017	
Murat Özgül	£625,000

Benefits

As outlined above, Murat Özgül receives a cash supplement in lieu of all benefits, including pension, private health insurance, life assurance and company car provision. The cash supplement is not included in calculating bonus and long-term incentive quantum.

For 2017, the cash supplement remains set at 25% of base salary.

2017 Benefits allowance	
Murat Özgül	£156,250

2017 – Annual bonus targets

The target bonus for Murat Özgül for 2017 remains at 100% of base salary, with a maximum bonus of 150% of base salary.

For 2017, the performance of the Executive Director will be measured 70% against Company metrics and 30% against individual performance. The metrics have been changed to place a greater emphasis in 2017 on operational and financial performance and 35% of the bonus will relate to operational and financial performance (50% of Company metrics compared to 42.8% in 2016).

Bonus performance measures	Specific targets	Percentage
Gas	Progress the commercialisation of the gas business	20%
Financial	Secure the financial strength of the Company	20%
	Secure clarity on the mechanism for the recovery of the receivable balance	
	Manage the Group on a cash flow neutral basis	
Safety and environment	Develop contractor capability and management	15%
	Maintain existing zero performance rate on LTI's, high potential incidents, fatalities and spills	
	Continue to embed HSE culture	
Operational	Manage the Group within guidance	15%
	Increase 2P reserves	

Performance share plan

PSP awards are granted in the form of nil-cost conditional share award over shares in the Company with the number of awards granted normally determined by reference to a percentage of base salary.

The Committee has reviewed the most appropriate measure to create maximum alignment with shareholders and encourage long-term value creation. As part of this review the Committee considered the likely outturn for the 2015 and 2016 PSP awards and the need to attract and retain executive talent whilst ensuring that the targets are no less stretching. Having considered all of these factors it was agreed that it would be appropriate to amended the PSP performance measures to 50% relative TSR and 50% absolute TSR. The Committee has reviewed the existing TSR peer group and accordingly the peer group for the measurement of the relative TSR element of the 2017 award will be as follows:

BP	Ophir Energy
Cairn Energy	Premier Oil
DNO	Royal Dutch Shell
Enquest	Seplat Petroleum
Gulf Keystone	SOCO International
Nostrum Oil & Gas	Tullow Oil

The relative TSR vesting schedule will remain the same as for awards made in 2016, as outlined on page 63.

The absolute TSR targets will be measured on compound annual growth rates (CAGR) as follows:

Absolute TSR of the Company	Proportion of element vesting
Below 15% p.a.	0%
15% p.a.	30%
Between 15% p.a. and 35% p.a.	Straight-line basis
35% p.a. or more	100%

The Committee is comfortable that these targets are appropriately stretching. The threshold target of 15% p.a. is set in line with Genel's cost of capital, ensuring this element vests only when shareholders make a return.

Chairman and Non-Executive Director remuneration

Following the 30% reduction applied to fees in 2016, the fee levels for the Chairman and Non-Executive Directors remain unchanged in 2017.

Role	Fee
Non-Executive Chairman	£182,000
Senior Independent Director additional fee	No additional fee
Non-Executive Director fee	£56,000
Additional fee for membership of two or more Board Committees	£14,000

Additional fee for Committee chairmanship:

Role	Fee
Audit Committee	£14,000
Remuneration Committee	£10,500
HSSE Committee	£10,500
Nomination Committee	No additional fee

The Committee is responsible for determining the Remuneration Policy for the Executive Directors and the Chairman of the Board. The Chairman of the Board together with the Executive Director determine the fees and overall remuneration for the Non- Executive Directors.

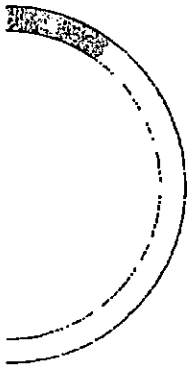
Activities of the Remuneration Committee

The Committee held three scheduled and four ad-hoc meetings during the year. Details of the attendance of Committee members at meetings during 2016 is set out on page 51 of this Annual Report. All of the members of the Committee are independent Non-Executive Directors.

Key activities during the year included the following:

- Review of the Remuneration Policy
- Preparation and approval of the Directors' Remuneration Report
- Review of the executive base salary level in the context of pay for the wider workforce and the current operating environment
- Review of performance objectives of the CEO and Executive Committee in order to determine the level of bonus earned in respect of the 2016 financial year
- Review of the TSR performance outcomes in respect of the 2014 PSP award
- Approval of the annual bonus plan framework for 2017
- Consideration of the remuneration arrangements of the Chief Executive Officer and members of the Executive Committee for 2017
- Consideration and determination of the performance criteria for the 2016 PSP awards
- Review and re-alignment of the performance measures applied to the 2017 PSP awards
- Approval of share plan awards, including to those below Board level
- Consideration of corporate governance and market practice developments

REMUNERATION COMMITTEE TIME SPENT



- All employee remuneration - 10%
- Executive Director remuneration - 40%
- Governance - 10%
- Long term incentive plans for all employees - 30%
- Remuneration policy for Executive Directors - 10%

Advisers to the Committee

The Committee has appointed Deloitte LLP ('Deloitte') to provide independent advice on remuneration matters under consideration by the Committee. Deloitte was appointed by the Committee as it was felt they had the most relevant experience and expertise to advise the Committee on remuneration related matters.

Deloitte is a leading remuneration adviser and a member of the Remuneration Consultants Group and as such voluntarily operates under the code of conduct in relation to executive remuneration consulting in the UK. Deloitte also provided support and advice to the Company including in respect of the operation of the Company's share plans during the year. The Committee is satisfied that the advice they have received has been objective and independent. Deloitte's fees in respect of advice to the Committee in the year under review were £58,050 and were charged on the basis of their standard terms of business for the advice provided.

The Committee also consulted during the year with the Chairman (Tony Hayward), CEO (Murat Özgül), the Company Secretary (Sarah Robertson) and the Head of Human Resources (Gozde Tutanc).

No member of the Committee nor any party from whom advice was sought participated in discussions regarding their own remuneration.

Shareholder voting

At the AGM held on 27 April 2016, votes cast by proxy and at the meeting in respect of the Annual Report on Remuneration for the year ended 31 December 2015 were as follows:

	Number of votes cast	For	% For	Against	% Against	Abstentions
To approve the Annual Report on Remuneration for the year ended 31 December 2015	174,041,025	158,059,457	90.82%	15,981,568		6,370,000

The Committee is pleased to note that the vast majority of our shareholders supported the Annual Report on Remuneration in 2016.

Chakib Sbiti
Chairman of the Remuneration Committee
29 March 2017

Other statutory and regulatory information

Principal activities
The Company is the holding company for the Group. The Group is principally engaged in the business of oil and gas exploration and production.

Results and dividends
Ordinary activities after taxation of the Group for the period 1 January 2016 to 31 December 2016 amounted to a loss of $1,248.9 million. No interim dividend was paid and the Directors are not recommending a final dividend for the period ended 31 December 2016.

Subsequent events
There have been no subsequent events since 31 December 2016.

Share capital
As at 29 March 2017, the Company had allotted and fully paid up share capital of 280,248,198 ordinary shares of 10 pence each with an aggregate nominal value of £28,024,819.80. 1,853,008 shares are held as treasury shares.

Resolutions in relation to share capital
At the AGM of the Company held on 27 April 2016, the shareholders granted the Company authority to make market purchases of up to 27,838,247 ordinary shares (representing approximately 10% of the aggregate issued ordinary share capital of the Company at 16 March 2016) and hold as treasury shares any ordinary shares so purchased.

Shareholders will be asked to renew this authority at the forthcoming AGM. Full details are included in the Notice of AGM.

Rights attaching to the ordinary shares
Holders of ordinary shares are entitled to attend, speak and vote at general meetings of the Company and may receive a dividend and, on a winding-up, may share in the assets of the Company.

As of 24 February 2016 the Company no longer has any suspended voting ordinary shares in issue.

Restrictions on transfer of shares
There are no specific restrictions on the transfer of shares in the Company other than (i) as set out in the articles of association (ii) pursuant to the Company's share dealing policy, (iii) as imposed from time to time by law and regulation and (iv) as set out in the Merger Agreement. Save as set out in the Merger Agreement and the Relationship Agreement, the Company is not aware of any arrangements or agreements between holders of the Company's shares that may result in restrictions on the transfer of securities or on voting rights. No person has any special rights of control over the Company's share capital and all issued shares are fully paid.

Employee share schemes
Details of the Company's employee share schemes are set out in note 18 to the financial statements of this Annual Report.

Articles of association of the Company
Under the Jersey Companies Law, the capacity of a Jersey company is not limited by anything contained in its memorandum or articles of association. Accordingly, the memorandum of association of a Jersey company does not contain an objects clause.

Certain provisions have been incorporated into the articles of association to enshrine rights that are not conferred by the Jersey Companies Law, but which the Company believes shareholders would expect to see in a company listed on the London Stock Exchange.

Provisions in the articles of association also require shareholders to make disclosures pursuant to chapter 5 of the Disclosure and Transparency Rules, and require the Directors to comply with chapter 3 of the Disclosure and Transparency Rules and themselves to require any persons discharging managerial responsibilities (within the meaning ascribed in the Disclosure and Transparency Rules) in relation to the Company who are not Directors to do so, and to use reasonable endeavours to procure that their own and such persons' connected persons do so. The articles of association may be amended by a special resolution of the shareholders.

Appointment and replacement of Directors
The rules for the appointment and replacement of Directors are set out in the articles of association. Certain additional provisions relating to the appointment of Directors are included in the Relationship Agreement between the Company and Focus.

Directors
The biographical details of the Directors of the Company who were in office during the year and as at the date of this Annual Report are set out on pages 36 and 37. Details of Directors' service agreements and letters of appointment are set out on pages 58 and 59.

Details of the Directors' interests in the ordinary shares of the Company and in the Group's long-term incentive schemes are set out in the Annual Report on Remuneration on page 64.

Details of Directors submitting themselves for election and re-election at the AGM are set out in the Notice of Meeting.

Service contracts and letters of appointment for all Directors are available for inspection at the registered office of the Company and will be available for inspection at the AGM.

Subject to applicable law and the articles of association and to any directions given by special resolution, the business of the Company will be managed by the Board, which may exercise all the powers of the Company.

Directors' indemnities
As at the date of this Annual Report, indemnities granted by the Company to the Directors are in force to the extent permitted under Jersey law. The Company also maintains directors' and officers' liability insurance cover, the level of which is reviewed annually.

Related party transactions
Details of transactions with Directors and Officers are set out in note 20 to the financial statements. There were no other related party transactions to which the Company was a party during the period.

Shareholder agreements
Merger Agreement
On 7 September 2011, the Company, Elysion Energy Holding B.V. (formerly Genel Energy Holdings B.V.), Focus Investments and PRM entered into a merger agreement (the 'Merger Agreement') pursuant to which the Company agreed to purchase, and the Sellers agreed to sell, the entire issued ordinary share capital of Genel Energy International Limited in consideration for the issue of 130,632,522 ordinary shares (the 'Consideration Shares'). The Merger Agreement was amended by a deed of amendment entered into on 29 October 2011.

Relationship Agreement
On 7 September 2011, the Company, Elysion and Focus Investments entered into a relationship agreement which regulates the ongoing relationship between Elysion, Focus Investments and the Company (the 'Relationship Agreement').

On 14 October 2015 Mehmet Sepil retired as President and on 18 November 2015 Mehmet Sepil's holding in the Company fell to below 10% of the voting rights in the Company. Accordingly, certain rights of Elysion under the Relationship Agreement ceased to have effect including the right to nominate a representative to the Genel Board.

The principal purpose of the Relationship Agreement is to ensure that the Company is capable at all times of carrying on its business independently of Focus Investments (and their Associates) and that all transactions and relationships between the Company and Focus Investments are at arm's length and on a normal commercial basis. For the purposes of the Relationship Agreement, the term 'Associate' includes, in the case of Focus Investments, Mehmet Emin Karamehmet.

On 12 February 2015 the Relationship Agreement was amended to reflect changes to the Listing Rules that apply to controlling shareholders. Whilst the Relationship Agreement reflected the majority of the requirements we felt it prudent to amend it to align it to the specific obligations under Listing Rule 6.1.4(d).

The Relationship Agreement will terminate upon the earlier of (i) the Company ceasing to have any of its ordinary shares listed on the Official List and admitted to trading on the London Stock Exchange's main market for listed securities, and (ii) Elysion and Focus Investments together with their respective Associates ceasing between them to be entitled to exercise, or control the exercise of, in aggregate 10% or more of the Voting Rights.

Pursuant to the terms of the Relationship Agreement, it has been agreed that, among other things:

(a) For so long as Focus Investments and its respective Associates are, entitled to exercise or control the exercise of, in aggregate, 10% or more of the Voting Rights, Focus Investments will, and will procure so far as it is reasonably able to do so, that each of its Associates will:
   i. not take any action which precludes or inhibits any member of the Group from carrying on its business independently of Focus Investments and its respective Associates;
   ii. not exercise any of its Voting Rights to procure any amendment to the articles of association of the Company which would be inconsistent with or breach any provision of the Relationship Agreement;
   iii. if and for so long as paragraph 11.1.7R(3) of the Listing Rules applies to the Company, abstain from voting on any resolution required by paragraph 11.1.7R(3) of the Listing Rules to approve a 'related party transaction' (as defined in paragraph 11.1.5R of the Listing Rules) involving Focus Investments or any of its Associates as the related party;
   iv. comply with all provisions of the Listing Rules, the Disclosure and Transparency Rules, the requirements of the London Stock Exchange and the FSMA that apply to it in connection with the Company;
   v. ensure that the business and affairs of the Company are conducted in accordance with its articles of association; and
   vi. exercise all of its Voting Rights in a manner consistent with the intention that at all times at least half of the Directors (excluding the Chairman) are independent Non-Executives and that certain committees of the Board shall comply with the UK Corporate Governance Code;
(b) For so long as Focus Investments and its respective Associates are, between them, entitled to exercise or control the exercise of, in aggregate, 10% or more of the Voting Rights, Focus Investments will, and will procure that each of its Associates will:
   i. conduct all transactions and arrangements with any member of the Group on arm's length and on normal commercial terms;
   ii. not take any action that would have the effect of preventing the Company from complying with its obligations under the Listing Rules; and
   iii. not propose or procure the proposal of a shareholder resolution which is intended or appears to be intended to circumvent the proper application of the Listing Rules;
(c) Provided that Focus Investments and its Associates are entitled to exercise or control the exercise of 10% or more of the Voting Rights, Focus Investments shall be entitled to nominate for appointment to the Board one Director by giving notice to the Company;
(d) For so long as Focus Investments together with their its Associates are entitled to exercise or to control the exercise of, in aggregate, 10% or more of the Voting Rights, subject to compliance by the Company with its legal and regulatory obligations, the Company shall procure that Focus Investments is provided with financial and other information as is necessary or reasonably required by them for the purposes of their accounting or financial control requirements or to comply with their legal or tax obligations as a shareholder of the Company.

The rights described at (b)-(d) above will terminate and cease to be of any effect in the event that Focus Investments (or any Affiliate (as defined in the Merger Agreement) of Focus Investments that holds any ordinary shares) ceases to be controlled by Mehmet Emin Karamehmet.

The Director nominated by Focus Investments pursuant to the Relationship Agreement is Gulsun Nazli Karamehmet Williams (Non-Executive Director).

Information in strategic report
Particulars of the Group's use of financial instruments, an indication of the Group's financial risk management objectives and policies, including its policy for hedging each major type of forecasted transaction for which hedge accounting is used and details of the exposure of the Group to price risk, credit risk, liquidity risk and cash flow risk are set out

in note [XX] to the financial statements and in the Strategic Report in this Annual Report.

Particulars of important events affecting the Group which have occurred since the last financial year and indications of likely future developments in the business of the Group are set out in the Strategic Report in this Annual Report. Details of our approach to greenhouse gas emissions are set out on pages 22 and 23.

Corporate responsibility
The Group is fully committed to high standards of environmental, health and safety management. The report on the Group's corporate responsibility programme, together with an outline of the Group's involvement in the community, are set out on pages 20 to 23.

Employment policies
We are an equal opportunities employer and base all decisions on individual ability regardless of race, religion, gender, sexual orientation, age or disability. Applications for employment by disabled persons will always be considered, having regard to their particular aptitudes and abilities. Should any employee become disabled, every practical effort is made to provide continued employment. Depending on their skills and abilities, they will enjoy the same career prospects and scope for realising their potential as other employees. Appropriate training will be arranged, including retraining for alternative work for those who become disabled, to promote their career development within the Group.

Diversity policy
Whilst the Company has not adopted a Diversity Policy the Board and the Company are committed to employing a diverse and balanced workforce. Diversity of ideas, skills, knowledge, experience, culture, ethnicity and gender are important when building an effective and talented workforce at all levels of the organisation, including the Board.

Substantial shareholdings
As at 31 December 2016, the Company had been notified of the following significant holdings (being 5% or more of the voting rights in the Company) in the Company's ordinary share capital, which are set out in next column.

Name	Number of ordinary shares
Focus Investments Limited	64,589,351
Bilgin Grup Doğal Gaz A.Ş.	28,059,225
NR Holdings Limited	22,119,970
Majedie Asset Management Limited	12,744,963

Between the 31 December 2016 and 29 March 2017 the Company has received a notification from Bilgin Grup Doğal Gaz A.Ş. that they hold 42,000,000 ordinary shares (15.09%).

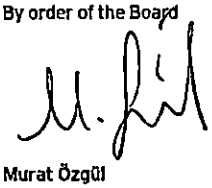
Political donations
No political donations were made, nor was any political expenditure incurred, by any Group company in the year ending 31 December 2016 (2015: nil).

Auditors and disclosure of relevant audit information
So far as each Director is aware, there is no relevant information of which the Company's auditor is unaware. Each Director has taken all steps that ought to have been taken as a Director to make him or herself aware of any relevant audit information and to establish that PwC are aware of that information.

Following a review of the independence and effectiveness of the auditor, a resolution to reappoint PricewaterhouseCoopers LLP as the Company's auditor will be proposed at the AGM.

AGM
Your attention is drawn to the Notice of AGM enclosed with this report, which sets out the resolutions to be proposed at the forthcoming AGM. The meeting will be held at J.P. Morgan, 60 Victoria Embankment, London EC4Y 0JP UK on Tuesday, 6 June 2017 at 11.00am.

By order of the Board



Murat Özgül
Chief Executive Officer

Statement of Directors' responsibilities

The Directors are responsible for preparing the Annual Report, Directors' Remuneration Report and the Group Financial Statements in accordance with applicable law and regulations.

The Directors prepare Financial Statements for each financial year. The Directors are required by the IAS Regulation to prepare the Group Financial Statements under International Financial Reporting Standards ('IFRS') as adopted by the European Union. The Directors must not approve the accounts unless they are satisfied that they give a true and fair view of the state of affairs of the Group and of the profit or loss of the Group for that period.

In preparing the Financial Statements, IAS 1 requires that Directors:

- Properly select and apply accounting policies
- Present information, including accounting policies, in a manner that provides relevant, reliable, comparable and understandable information
- Provide additional disclosures when compliance with the specific requirements in IFRS is insufficient to enable users to understand the impact of particular transactions, other events and conditions on the entity's financial position and financial performance and
- Make an assessment of the Group's ability to continue as a going concern

The Directors are responsible for keeping proper accounting records that are sufficient to show and explain the Group's transactions and disclose with reasonable accuracy at any time the financial position of the Group.

They are also responsible for safeguarding the assets of the Group and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

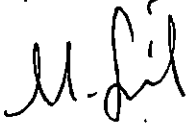
The Directors are responsible for the maintenance and integrity of the corporate and financial information included on the Company's website. Legislation in Jersey or the United Kingdom governing the preparation and dissemination of financial statements may differ from legislation in other jurisdictions.

Directors' responsibility statement

We confirm that to the best of our knowledge:

- the Audited Financial Statements, prepared in accordance with IFRS as adopted by the European Union, give a true and fair view of the assets, liabilities, financial position and profit or loss of the Group and the undertakings included in the consolidation taken as a whole;
- the Directors' Report contained in this Annual Report includes a fair review of the development and performance of the business and the position of the Company and the Group together with a description of the principal risks and uncertainties that they face; and
- the Annual Report and Audited Financial Statements, taken as a whole, is fair, balanced and understandable and provides the information necessary for shareholders to assess the Company's performance, business model and strategy.

By order of the Board



Murat Özgül
Chief Executive Officer

FINANCIAL STATEMENTS
INDEPENDENT AUDITORS' REPORT TO THE MEMBERS OF GENEL ENERGY PLC

REPORT ON THE GROUP FINANCIAL STATEMENTS

Our opinion

In our opinion, Genel Energy plc's group financial statements (the 'financial statements'):

- give a true and fair view of the state of the group's affairs as at 31 December 2016 and of its loss and cash flows for the year then ended;
- have been properly prepared in accordance with International Financial Reporting Standards ('IFRSs') as adopted by the European Union; and
- have been prepared in accordance with the requirements of the Companies (Jersey) Law 1991.

What we have audited

The financial statements, included within the Annual Report, comprise:

- the consolidated balance sheet as at 31 December 2016;
- the consolidated statement of comprehensive income for the year then ended;
- the consolidated cash flow statement for the year then ended;
- the consolidated statement of changes in equity for the year then ended; and
- the notes to the financial statements, which include a summary of significant accounting policies and other explanatory information.

The financial reporting framework that has been applied inw the preparation of the financial statements is IFRSs as adopted by the European Union, and applicable law.

Overview of our audit

Materiality	Areas of focus	Change in level of risk
$22m	- Revenue recognition	- No change
(2015: $35m)	- Recoverability and balance sheet classification of amounts receivable from the Kurdistan Regional Government ('KRG')	- No change
Based on 1% of total assets.	- Impairment reviews of oil producing assets	- No change
	- Impairment review of gas evaluation and other exploration assets	- Increase

Highlights of what we reported to the audit committee

- There are significant judgements and estimates in relation to revenue recognition and the recoverable values of the producing assets, KRG receivable and Gas evaluation assets.
- The judgements and estimates are within reasonable ranges to the extent that there is third party data to support an assumption, and otherwise agree to underlying plans, budgets and forecasts.
- The most significant judgement taken relates to the Gas evaluation assets and the level of project risk assumed in the carrying value.

Our audit approach

Context

The context for our audit is set by Genel's major activities in 2016 together with the steadily improved world oil prices. The group's cash flow generating assets continue to be its interests in the producing oil fields in the Kurdistan Region of Iraq ('KRI'), Tawke and Taq Taq. In 2016, the latter has seen a decline in production below initial expectations and at the year-end there was a further downgrade in expected reserves following assessments by management's experts. Regular payments have been received from the KRG in respect of export sales from these fields through most of the year in line with the proxy mechanisms announced in February 2016, which included an additional allowance for recovery of the outstanding receivable related to prior period production. Other notable events have included: the buy back of $55.4 million of bonds; the agreed sale of the Chia Surkh licence following assessment of drilling results in the year; and, in early 2017, alongside completing signature of the Gas Lifting Agreement and Production Sharing Contracts for the Miran and Bina Bawi gas fields, management have reassessed the likely development plan for these fields.

Materiality

The scope of our audit was influenced by our application of materiality. We set certain quantitative thresholds for materiality. These, together with qualitative considerations, helped us to determine the scope of our audit and the nature, timing and extent of our audit procedures on the individual financial statement line items and disclosures and in evaluating the effect of misstatements, both individually and on the financial statements as a whole.

Based on our professional judgement, we determined materiality for the financial statements as a whole as follows:

Overall group materiality **$22m**	$22 million (2015: $35 million) is based on 1% of total assets, consistent with FY15.
Rationale for the benchmark applied **1% of total assets**	We considered whether this measure continues to be appropriate and in concluding that it is, we considered the activities of the group and also materiality levels used by auditors of other similar upstream oil and gas companies. As a significant portion of the group's net assets is represented by exploration assets, we believe an asset measure is the most relevant. Consistent with prior years, we used a lower specific materiality for certain income statement financial statement line items. In 2016, we used 5% of EBITDAX ($7 million) (2015: $5 million) for revenue, production costs, and general and administrative costs.
Reporting level **$1.1m**	We agreed with the Audit Committee that we would report to them misstatements identified during our audit above $1.1 million (2015: $1.75 million) being 5% of our overall materiality. We also report misstatements below that amount that, in our view, warranted reporting for qualitative reasons.

How we tailored the audit scope

We tailored the scope of our audit to ensure that we performed enough work to be able to give an opinion on the financial statements as a whole, taking into account the geographic structure of the group, the accounting processes and controls, and the industry in which the group operates.

In prior years the group's business segments were based on geography, however with operations now almost solely based in the Kurdistan Region of Iraq, the group is now structured along three business segments being the type of assets it operates: Oil producing assets, Gas evaluation assets and Exploration assets. The group financial statements are a consolidation comprising the group's operating businesses in these segments as well as centralised functions.

Because of their size, the majority of our audit work was performed on two major segments, being (a) the main trading entity for the Kurdistan oil producing assets, Taq Taq and Tawke and (b) the entity that holds the evaluated gas assets, Miran and Bina Bawi.

We also performed specific procedures on certain financial statement line items elsewhere in the group including: exploration expenses related to the Moroccan and Somaliland exploration licences, operating expenses and related payables, cash and cash equivalents and borrowings.

PwC UK performed all of the audit work, both in the UK and at the group's operations in Ankara.

The scope of our audit and our areas of focus

We conducted our audit in accordance with International Standards on Auditing (UK and Ireland) ('ISAs (UK & Ireland)').

We designed our audit by determining materiality and assessing the risks of material misstatement in the financial statements. In particular, we looked at where the directors made subjective judgements, for example in respect of significant accounting estimates that involved making assumptions and considering future events that are inherently uncertain. As in all of our audits we also addressed the risk of management override of internal controls, including evaluating whether there was evidence of bias by the directors that represented a risk of material misstatement due to fraud.

The risks of material misstatement that had the greatest effect on our audit, including the allocation of our resources and effort, are identified as 'areas of focus' in the table below. We have also set out how we tailored our audit to address these specific areas in order to provide an opinion on the financial statements as a whole, and any comments we make on the results of our procedures should be read in this context. This is not a complete list of all risks identified by our audit.

Area of focus	How our audit addressed the area of focus
Revenue recognition (Note 1) All of the group's revenues arise from production on its two oil fields in Kurdistan, Taq Taq and Tawke. The Production Sharing Contracts ('PSCs') in respect of these fields, to which the group is party, are complex in nature and could be subject to alternative interpretation. The group recognises revenue in accordance with their interpretation of the terms of the PSCs, and on the assumption that it is probable that economic benefits will flow to the entity. This is based on continued payments from the KRG during 2016, together with public statements by the KRG of their intention to pay all amounts that are due. Invoices to the KRG are based on a proxy mechanism for the PSCs announced by the KRG in February 2016. As a result, the amounts invoiced by the group and revenue calculated in accordance with the PSC can differ, and this is taken into account when assessing the revenue recognised. Management maintain a revenue model which is developed from the terms in the PSCs, and to which the main inputs and assumptions are production volumes, oil price and netback adjustments, and capital expenditure (which is recovered at cost in accordance with the PSC). There is an inherent risk that these inputs, assumptions and estimates are inaccurate and that the interpretations and calculations made are not appropriate. The complexity of the PSCs and alternative interpretations could result in misstatements in a number of financial statement line items including revenue, cost of sales, property plant and equipment, trade and other receivables, trade and other payables and income taxes. **Change in level of risk:** No change	We designed our procedures to test the revenue calculated by management's PSC model by: • agreeing each element of entitlement included in revenue back to the relevant PSC, and • testing the mathematical accuracy of the model. We tested the key inputs as follows: • Volume of oil sold - for a sample of domestic and export sales, we agreed the internal daily production and loading reports to third party signed pipeline volume reports and the third party signed loading documents without exception. • Pricing of oil sold -for sales we agreed the prices to the Brent crude oil prices made available by third parties and to industry and market data available. Our testing of pricing did not identify any misstatements. • Netback adjustments - we compared the netback adjustment estimates to the request for payment statements sent out to the KRG on a monthly basis in 2016. This is considered the best evidence currently available in respect of these adjustments. • Capital expenditure - for a sample of transactions, we agreed expenditure to third party evidence without exception. • Capacity building payments - we recalculated the amounts owed under the PSC and compared this to managements calculation and actual payments made. We reconciled the financial statements to the revenue calculated in the PSC models. We did not identify any material exceptions. The differences between amounts owed under the PSC and amounts received in accordance with the proxy mechanism are discounted based on when management expects to receive this revenue. We recalculated the discount applied and compared this to management's calculations, noting no material differences. We reviewed the disclosure in note 1, significant estimates and judgements. We agreed with management that the netback adjustments to pricing is a significant judgement that leads to an estimate in the amount of revenue recorded.

Area of focus	How our audit addressed the area of focus
Recoverability and balance sheet classification of amounts receivable from the KRG (Note 10) The amounts receivable from the KRG reduced from $423m at 31 December 2015 to $264m at 31 December 2016 largely as a result of the receipt of cash against the opening receivable being offset by additions to the balance, and an impairment recorded of $180.3m.The recoverable value of trade receivables is a significant estimate with key judgements in relation to the amounts and timing of recovery. A detailed description with regards to how the group is recovering the amounts outstanding from the KRG, together with the judgements made in assessing the recoverable amount is set out on pages 86 and 87 of the financial statements. **Change in level of risk:** No change	We assessed management's review of the recoverability of the receivable and note that a number of significant assumptions were made in calculating the recoverable value of the trade receivable. The key assumption is that the KRG will continue to pay 5% of monthly revenue towards the historical receivable until the earlier of amounts being repaid or the end of field life. We agreed this is consistent with the KRG public announcement in February 2016, and also consistent with the requests for payment issued by the group during the year as well as payments received. This is a change in assumption from 31 December 2015, when management assumed an increasing % of collection linked to increasing oil prices. We consider this change to be appropriate based on the reasons set out in note 1 on page 87 as it reflects the evidence that has become available during the year. In order to calculate the recoverable value of the receivable the 5% assumption is applied to expected revenue from each asset over the lives of those assets. This is based on production profiles, future oil price assumptions and netback adjustments which we agreed to the inputs used in the impairment models for both Taq Taq and Tawke. For which we set out our testing below. As explained in note 10, within the calculation management have, in accordance with accounting standards, discounted future receipts using the effective interest rate for the period in which the related revenue was recognised. We compared these rates to the yield on Iraqi bonds adjusted for maturity and credit risk and consider the rates used appropriate. We also assessed the classification of the trade receivable between current and non-current and checked that the current portion represents amounts expected to be received in 2017. As there is uncertainty in the pace of recovery of the KRG receivable we agreed that the judgements made by management are significant and that appropriate disclosure has been made in note 1 and note 10 to the financial statements including appropriate sensitivities.
Impairment reviews of oil producing assets (Note 9) In 2016, the performance of the group's Taq Taq producing asset was below expectation levels, which is an indicator of impairment. In addition the group's market capitalisation continues to be below consolidated net assets which is also an indicator of impairment. Management performed an impairment assessment of each of its producing assets in accordance with the requirements of IAS 36 - *Impairment of assets* ('IAS 36') as at 31 December 2016. Both producing assets, Taq Taq and Tawke, were impaired and a charge of $195.6m (2015: $1,038m) was recorded. This reflects the further reduction in reserves and amended production outlook for Taq Taq, together with the impact of an increase in the discount rate across both fields. Further information can be found in note 9. **Change in level of risk:** No change	We considered management's evaluation of its producing assets in Kurdistan and agree that impairment triggers exist. The recoverable amounts for Taq Taq and Tawke have been assessed on a fair value less costs of disposal (FVLCD) basis using a discounted cash flow. We tested the mathematical accuracy of the impairment models provided by management, and checked that the valuation approach was in accordance with the requirements of IAS 36. We tested the key inputs and assumptions used in the models as follows: • Reserves and production profile - for both producing assets, we compared these to the Competent Person's Report (CPR) issued in 2017. We discussed the key assumptions with management, read minutes of the Reserves Committee and inspected approved budgets. There were no issues arising from this work. • Expenditure - the capital and operating expenditure for Taq Taq has been compared to the CPR. For Tawke, we compared the forecasts to the operator's estimates used to prepare the CPR, without exception. • Oil prices - we compared short and long term price assumptions used by management to the consensus prices from a collection of 14 brokers and 3 independent consultants. We found that management's assumptions up to 2019 are close to average, but in the medium to long term move towards the higher end of the brokers' range. Netback adjustments to the oil prices were agreed to those used in the current PSC model which has been discussed above. • Discount rate - Our valuations experts independently calculated an appropriate post-tax discount rate range which is consistent with management's assumption of 15%. We identified an error in the application of discounting in both the oil producing and gas evaluation asset models, which was adjusted by management. We assessed the sufficiency of the impairment charge and the extent of disclosure made in note 9 and consider these to be appropriate.

Area of focus	How our audit addressed the area of focus
Impairment review of gas evaluation and other exploration assets (Note 8) **Evaluated gas assets** - The Production Sharing Contracts ('PSC's) and Gas Lifting Agreements ('GLA's) for both Miran and Bina Bawi gas fields were finalised by the end of 2016 and approved by the KRG in 2017. This was accompanied by a reassessment of the likely field development plan, which together with the ongoing gap between the group's market capitalisation and the value of consolidated net assets, required an assessment for impairment indicators in accordance with IFRS 6 - *Exploration for and evaluation of mineral resources* ('IFRS 6') as at the year end. An impairment charge of $552m was recorded in accordance with IAS 36. **Exploration assets** - Management also assessed each of its exploration assets for impairment indicators in accordance with the requirements of IFRS 6. The evaluation of results from drilling at the Chia Surkh exploration asset resulted in an agreement to transfer the group's interest to the operator, Petoil Inc and an impairment of $198m was recorded. In the current year, there have been no impairment indicators noted under IFRS 6 in respect of exploration interests in Somaliland and Tawke Peshkabir. **Change in level of risk:** Increased year on year due to the impairment indicators and complexity of impairment calculations undertaken by management.	**Evaluated gas assets** - For the Miran and Bina Bawi gas assets we tested the mathematical accuracy of the model provided by management and assessed the compliance of the model with the requirements of IAS 36. As with the producing assets, the impairment model assesses recoverable value based on FVLCD based on a discounted cash flow. We tested the key inputs as follows: • Recoverable oil and gas resources, production and expenditure profile - we compared these to the estimates prepared by qualified reservoir engineers and assessed the relevant persons' qualifications, experience and independence in this context. Where possible we agreed management's assumptions to the 2013 CPR which is the latest available external data. • Oil prices - the assumptions are consistent with those used in the Taq Taq and Tawke models, which we assessed as set out above. • Gas price - we agreed the fixed price to the GLA without exception. • Timing of first oil / gas - there is a considerable amount of uncertainty on timing of the final investment decision, sale of first oil and first gas and identifying a farm-in partner and these factors are inter-dependant. Based on our enquiries and sensitivity analysis we consider management's estimates on timing of these to be within a reasonable range. We independently assessed the discount rate for the project and compared this with the discount rate applied by management to the cash flows in the model, which was higher. This allowed us to assess the level of project risk implicit in management's calculated net present value. We concluded that the level of project risk implied was such that the resulting net present value was at the higher end of an acceptable range for this type of asset and its stage of development. We assessed the sufficiency of the impairment charge and the extent of disclosure made including relevant sensitivities in note 8 to the financial statements. We considered the impairment charges and the disclosure provided to be appropriate. **Exploration assets** - We assessed management's evaluation of each of the exploration assets in both the Africa and Kurdistan portfolios and corroborated this evaluation by reading minutes of meetings, making enquiries of management and reading information in the public domain such as press releases from joint operation partners. Based on our assessment, we agreed with management on carrying the value of the Somaliland and Tawke Peshkabir exploration assets and the write off of all expenditure incurred on Chia Surkh as at 31 December 2016.

Going concern

The directors have voluntarily complied with Listing Rule 9.8.6(R)(3)(a) of the Financial Conduct Authority and provided a statement in relation to going concern, set out on page 84, note 1, required for companies with a premium listing on the London Stock Exchange.

The directors have requested that we review the statement on going concern as if the company were a premium listed company. We have nothing to report having performed our review.

The directors have chosen to voluntarily report how they have applied the UK Corporate Governance Code (the 'Code') as if the company were a premium listed company. Under ISAs (UK & Ireland) we are required to report to you if we have anything material to add or to draw attention to in relation to the directors' statement about whether they considered it appropriate to adopt the going concern basis in preparing the financial statements. We have nothing material to add or to draw attention to.

As noted in the directors' statement, the directors have concluded that it is appropriate to adopt the going concern basis in preparing the financial statements. The going concern basis presumes that the group has adequate resources to remain in operation, and that the directors intend it to do so, for at least one year from the date the financial statements were signed. As part of our audit we have concluded that the directors' use of the going concern basis is appropriate. However, because not all future events or conditions can be predicted, these statements are not a guarantee as to the group's ability to continue as a going concern.

OTHER REQUIRED REPORTING

Consistency of other information

ISAs (UK & Ireland) reporting

As a result of the directors' voluntary reporting on how they have applied the Code, under ISAs (UK & Ireland) we are required to report to you if, in our opinion:

- information in the Annual Report is:
  - materially inconsistent with the information in the audited financial statements; or
  - apparently materially incorrect based on, or materially inconsistent with, our knowledge of the group acquired in the course of performing our audit;
  - or otherwise misleading.
- the statement given by the directors on page 44, in accordance with provision C.1.1 of the Code, that they consider the Annual Report taken as a whole to be fair, balanced and understandable and provides the information necessary for members to assess the group's position and performance, business model and strategy is materially inconsistent with our knowledge of the group acquired in the course of performing our audit.
- the section of the Annual Report on page 44, as required by provision C.3.8 of the Code, describing the work of the Audit Committee does not appropriately address matters communicated by us to the Audit Committee.

We have no exceptions to report.

The directors' assessment of the prospects of the group and of the principal risks that would threaten the solvency or liquidity of the group

As a result of the directors' voluntary reporting on how they have applied the Code, under ISAs (UK & Ireland) we are required to report to you if we have anything material to add or to draw attention to in relation to:

- the directors' confirmation on page 29 of the Annual Report, in accordance with provision C.2.1 of the Code, that they have carried out a robust assessment of the principal risks facing the group, including those that would threaten its business model, future performance, solvency or liquidity.
- the disclosures in the Annual Report that describe those risks and explain how they are being managed or mitigated.
- the directors' explanation on page 32 of the Annual Report, in accordance with provision C.2.2 of the Code, as to how they have assessed the prospects of the group, over what period they have done so and why they consider that period to be appropriate, and their statement as to whether they have a reasonable expectation that the group will be able to continue in operation and meet its liabilities as they fall due over the period of their assessment, including any related disclosures drawing attention to any necessary qualifications or assumptions.

We have nothing material to add or to draw attention to.

Adequacy of information and explanations received

Under the Companies (Jersey) Law 1991 we are required to report to you if, in our opinion, we have not received all the information and explanations we require for our audit. We have no exceptions to report arising from this responsibility.

Other voluntary reporting

Opinions on additional disclosures

Strategic Report and Directors' Report and Governance

In our opinion, the information given in the Strategic Report and the 'Directors' Report and Governance' for the financial year for which the financial statements are prepared is consistent with the financial statements.

Directors' Remuneration Report

The company voluntarily prepares a Directors' Remuneration Report in accordance with the provisions of the UK Companies Act 2006. The directors have requested that we audit the part of the Directors' Remuneration Report specified by the Companies Act 2006 to be audited as if the parent company were a UK Registered listed company.

In our opinion, the part of the Directors' Remuneration Report to be audited has been properly prepared in accordance with the Companies Act 2006.

Corporate governance statement

The company voluntarily prepares a corporate governance statement that includes the information with respect to internal control and risk management systems and about share capital structures required by the Disclosure Guidance and Transparency Rules sourcebook of the Financial Conduct Authority. The directors have requested that we report on the consistency of that information with the financial statements.

In our opinion the information given in the Corporate Governance Statement set out page 42 with respect to internal control and risk management systems and about share capital structures is consistent with the financial statements. .

Matter on which we have agreed to report by exception

Corporate governance statement

The company's voluntary Corporate Governance Statement includes details of the company's compliance with the UK Corporate Governance Code. The directors have requested that we review the parts of the Corporate Governance Statement relating to the company's compliance with the ten further provisions of the UK Corporate Governance Code specified for auditor review by the Listing Rules of the Financial Conduct Authority as if the company were a premium listed company. We have nothing to report having performed our review.

Responsibilities for the financial statements and the audit

Our responsibilities and those of the directors

As explained more fully in the Statement of Director's Responsibilities set out on page 72, the directors are responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view.

Our responsibility is to audit and express an opinion on the financial statements in accordance with applicable law and ISAs (UK & Ireland). Those standards require us to comply with the Auditing Practices Board's Ethical Standards for Auditors.

This report, including the opinions, has been prepared for and only for the company's members as a body in accordance with Article 113A of the Companies (Jersey) Law 1991 and for no other purpose. We do not, in giving these opinions, accept or assume responsibility for any other purpose or to any other person to whom this report is shown or into whose hands it may come save where expressly agreed by our prior consent in writing.

What an audit of financial statements involves

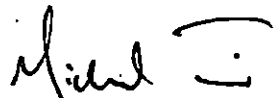
An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of:

- whether the accounting policies are appropriate to the group's circumstances and have been consistently applied and adequately disclosed;
- the reasonableness of significant accounting estimates made by the directors; and
- the overall presentation of the financial statements.

We primarily focus our work in these areas by assessing the directors' judgements against available evidence, forming our own judgements, and evaluating the disclosures in the financial statements.

We test and examine information, using sampling and other auditing techniques, to the extent we consider necessary to provide a reasonable basis for us to draw conclusions. We obtain audit evidence through testing the effectiveness of controls, substantive procedures or a combination of both.

In addition, we read all the financial and non-financial information in the Annual Report to identify material inconsistencies with the audited financial statements and to identify any information that is apparently materially incorrect based on, or materially inconsistent with, the knowledge acquired by us in the course of performing the audit. If we become aware of any apparent material misstatements or inconsistencies we consider the implications for our report.



Michael Timar
for and on behalf of PricewaterhouseCoopers LLP
Chartered Accountants and Recognized Auditors
London, United Kingdom
29 March 2017

(a) The maintenance and integrity of the Genel Energy plc website is the responsibility of the directors; the work carried out by the auditors does not involve consideration of these matters and, accordingly, the auditors accept no responsibility for any changes that may have occurred to the financial statements since they were initially presented on the website.

(b) Legislation in the Jersey governing the preparation and dissemination of financial statements may differ from legislation in other jurisdictions.

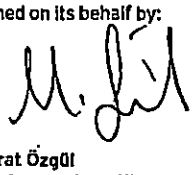
FINANCIAL STATEMENTS
CONSOLIDATED STATEMENT OF COMPREHENSIVE INCOME
For the period ended 31 December 2016

	Notes	2016 $m	2015 $m
Revenue		190.7	343.9
Production costs	3	(35.1)	(36.3)
Depreciation of oil and gas assets	3	(127.8)	(172.0)
Gross profit		27.8	135.6
Impairment of exploration assets	3	(779.0)	(144.1)
Exploration expense	3	(36.1)	(28.9)
Impairment of property, plant and equipment	3	(218.3)	(1,038.0)
Impairment of receivables	3	(191.3)	-
General and administrative costs	3	(26.0)	(28.7)
Operating loss		(1,222.9)	(1,104.1)
Operating loss is comprised of:			
EBITDAX		130.7	279.4
Depreciation and amortisation	3	(128.9)	(172.5)
Impiarment of exploration assets	3	(779.0)	(144.1)
Exploration expense	3	(36.1)	(28.9)
Impairment of property, plant and equipment	3	(218.3)	(1,038.0)
Impairment of receivables	3	(191.3)	-
Gain arising from bond buy-back	15	19.2	-
Finance income	5	16.2	1.3
Finance expense	5	(61.0)	(57.8)
Loss before income tax		(1,248.5)	(1,160.6)
Income tax expense	6	(0.4)	(1.0)
Total comprehensive expense		(1,248.9)	(1,161.6)
Attributable to:			
Shareholders' equity		(1,248.9)	(1,161.6)
		(1,248.9)	(1,161.6)
Loss per ordinary share		¢	¢
Basic	7	(448.60)	(417.30)
Diluted	7	(448.60)	(417.30)

CONSOLIDATED BALANCE SHEET
At 31 December 2016

	Notes	2016 $m	2015 $m
Assets			
Non-current assets			
Intangible assets	8	916.7	1,672.7
Property, plant and equipment	9	622.0	929.4
Trade and other receivables	10	172.6	365.3
		1,711.3	2,967.4
Current assets			
Trade and other receivables	10	94.6	79.0
Restricted cash	11	19.5	-
Cash and cash equivalents	11	407.0	455.3
		521.1	534.3
Total assets		2,232.4	3,501.7
Liabilities			
Non-current liabilities			
Trade and other payables	12	(87.7)	(78.0)
Deferred income	13	(39.2)	(46.0)
Provisions	14	(23.0)	(25.2)
Borrowings	15	(648.2)	(694.1)
		(798.1)	(843.3)
Current liabilities			
Trade and other payables	12	(95.3)	(80.6)
Deferred income	13	(5.6)	(3.0)
		(100.9)	(83.6)
Total liabilities		(899.0)	(926.9)
Net assets		1,333.4	2,574.8
Owners of the parent			
Share capital	17	43.8	43.8
Share premium account		4,074.2	4,074.2
Retained earnings		(2,784.6)	(1,543.2)
Total equity		1,333.4	2,574.8

These consolidated financial statements on pages 80 to 105 were authorised for issue by the Board of Directors on 29 March 2017 and were signed on its behalf by:



Murat Özgül
Chief Executive Officer

Ben Monaghan
Chief Financial Officer

FINANCIAL STATEMENTS
CONSOLIDATED STATEMENT OF CHANGES IN EQUITY
For the period ended 31 December 2016

	Share capital $m	Share premium $m	Retained earnings $m	Total shareholders' equity $m	NCI $m	Total equity $m
At 1 January 2015	43.8	4,074.2	(392.3)	3,725.7	7.8	3,733.5
Total comprehensive expense	-	-	(1,161.6)	(1,161.6)	-	(1,161.6)
Share-based payments	-	-	2.9	2.9	-	2.9
Release of NCI[1]	-	-	7.8	7.8	(7.8)	-
At 31 December 2015 and 1 January 2016	43.8	4,074.2	(1,543.2)	2,574.8	-	2,574.8
Total comprehensive expense	-	-	(1,248.9)	(1,248.9)	-	(1,248.9)
Share-based payments	-	-	7.5	7.5	-	7.5
At 31 December 2016	**43.8**	**4,074.2**	**(2,784.6)**	**1,333.4**	**-**	**1,333.4**

1. The non-controlling interest of $7.8m was released following the expiry of the C shares of Genel Energy Holding Company Limited.

CONSOLIDATED CASH FLOW STATEMENT

For the period ended 31 December 2016

	Notes	2016 $m	2015 $m
Cash flows from operating activities			
Loss for the period		(1,248.9)	(1,161.6)
Adjustments for:			
Gain on bond buy-back	15	(19.2)	-
Finance income	5	(16.2)	(1.3)
Finance expense	5	61.0	57.8
Taxation	6	0.4	1.0
Depreciation and amortisation	3	128.9	172.5
Exploration expense		36.1	10.7
Impairment of exploration assets	3	779.0	144.1
Impairment of property, plant and equipment	3	218.3	1,038.0
Impairment of receivables	3	191.3	-
Other non-cash items		7.5	1.1
Changes in working capital:			
Proceeds against overdue receivable		53.9	-
Trade and other receivables		(49.6)	(190.2)
Trade and other payables and provisions		(13.2)	(0.9)
Cash generated from operations		129.3	71.2
Interest received		2.0	1.0
Taxation paid		(0.3)	(1.0)
Net cash generated from operating activities		131.0	71.2
Cash flows from investing activities			
Purchase of intangible assets		(20.7)	(130.2)
Purchase of property, plant and equipment		(51.2)	(120.2)
Restricted cash	11	(19.5)	-
Acquisition of intangibles		-	(3.9)
Net cash used in investing activities		(91.4)	(254.3)
Cash flows from financing activities			
Repurchase of Company bonds	15	(35.4)	-
Net proceeds from bond issuance		-	196.2
Interest paid		(52.0)	(46.1)
Net cash generated from/(used in) financing activities		(87.4)	150.1
Net decrease in cash and cash equivalents		(47.8)	(33.0)
Foreign exchange loss		(0.5)	(0.8)
Cash and cash equivalents at 1st January	11	455.3	489.1
Cash and cash equivalents at 31 December	11	407.0	455.3

1. Summary of significant accounting policies

1.1 Basis of preparation

The consolidated financial statements of Genel Energy Plc ('the Company') have been prepared in accordance with International Financial Reporting Standards as adopted by the European Union and interpretations issued by the IFRS Interpretations Committee (together 'IFRS') and are prepared under the historical cost convention except as where stated and comply with Jersey company law. The significant accounting policies are set out below and have been consistently applied throughout the period.

Items included in the financial information of each of the Company's entities are measured using the currency of the primary economic environment in which the entity operates (the functional currency). The consolidated financial statements are presented in US dollars to the nearest million ($m) rounded to one decimal place, except where otherwise indicated.

For explanation of the key judgements and estimates made by the Company in applying the Company's accounting policies, refer to significant accounting estimates and judgement on pages 85 and 87.

The Company provides non-Gaap measures to provide greater understanding of its financial performance and financial position. EBITDAX is presented in order for the users of the accounts to understand the underlying cash profitability of the Company, which excludes the impact of costs attributable to exploration activity, which tend to be one-off in nature, and the non-cash costs relating to depreciation, amortisation and impairments. Free cash flow is presented in order to show the free cash flow generated that is available for the Board to use to finance or invest in the business. Net debt is reported in order for users of the accounts to understand how much debt remains unpaid if the Company paid its debt obligations from its available cash. There have been no changes in related parties since year-end and there are not significant seasonal or cyclical variations in the Company's total revenues.

Going concern

At the time of approving the consolidated financial statements, the directors have a reasonable expectation that the Company has adequate resources to continue in operational existence for the 12 months from the balance sheet date and therefore its consolidated financial statements have been prepared on a going concern basis.

Foreign currency

Foreign currency transactions are translated into the functional currency of the relevant entity using the exchange rates prevailing at the dates of the transactions or at the balance sheet date where items are re-measured. Foreign exchange gains and losses resulting from the settlement of such transactions and from the translation at period-end exchange rates of monetary assets and liabilities denominated in foreign currencies are recognised in the statement of comprehensive income within finance income or finance costs.

Consolidation

The consolidated financial statements consolidate the Company and its subsidiaries. These accounting policies have been adopted by all companies.

Subsidiaries

Subsidiaries are all entities over which the Company has control. The Company controls an entity when it is exposed to, or has rights to, variable returns from its involvement with the entity and has the ability to affect those returns through its power over the entity. Subsidiaries are fully consolidated from the date on which control is transferred to the Company. They are deconsolidated from the date that control ceases. Transactions, balances and unrealised gains on transactions between companies are eliminated.

Joint arrangements

Arrangements under which the Company has contractually agreed to share control with another party, or parties, are joint ventures where the parties have rights to the net assets of the arrangement, or joint operations where the parties have rights to the assets and obligations for the liabilities relating to the arrangement. Investments in entities over which the Company has the right to exercise significant influence but neither control nor joint control are classified as associates.

The Company recognises its assets and liabilities relating to its interests in joint operations, including its share of assets held jointly and liabilities incurred jointly with other partners.

Acquisitions

The Company uses the acquisition method of accounting to account for business combinations. Identifiable assets acquired and liabilities and contingent liabilities assumed in a business combination are measured at their fair values at the acquisition date. The Company recognises any non-controlling interest in the acquiree at fair value at time of recognition or at the non-controlling interest's proportionate share of net assets. Acquisition-related costs are expensed as incurred.

Farm-in/farm-out

Farm-out transactions relate to the relinquishment of an interest in oil and gas assets in return for services rendered by a third party or where a third party agrees to pay a portion of the Company's share of the development costs (cost carry). Farm-in transactions relate to the acquisition by the Company of an interest in oil and gas assets in return for services rendered or cost-carry provided by the Company.

Farm-in/farm-out transactions undertaken in the development or production phase of an oil and gas asset are accounted for as an acquisition or disposal of oil and gas assets. The consideration given is measured as the fair value of the services rendered or cost-carry provided and any gain or loss arising on the farm-in/farm-out is recognised in the statement of comprehensive income. A profit is recognised for any consideration received in the form of cash to the extent that the cash receipt exceeds the carrying value of the associated asset.

Farm-in/farm-out transactions undertaken in the exploration phase of an oil and gas asset are accounted for on a no gain/no loss basis due to inherent uncertainties in the exploration phase and associated difficulties in determining fair values reliably prior to the determination of commercially recoverable proved reserves. The resulting exploration and evaluation asset is then assessed for impairment indicators under IFRS6.

1.2 Significant accounting judgements, estimates and assumptions

The preparation of the financial statements in accordance with IFRS requires the Company to make judgements and assumptions that affect the reported results, assets and liabilities. Where judgements and estimates are made, there is a risk that the actual outcome could differ from the judgement or estimate made. The Company has assessed the following as being areas where changes in judgements, estimates or assumptions could have a significant impact on the financial statements.

Estimation of future oil price

The estimation of future oil price has a significant impact throughout the financial statements, primarily in relation to the estimation of the recoverable value of property, plant and equipment, intangible assets and trade receivables. It is also relevant to the assessment of going concern and the viability statement.

The Company's forecast of average Brent oil price for future years is based on a range of publicly available market estimates and is summarised in the table below, with the 2021 price then inflated at 2% per annum.

$/bbl	2017	2018	2019	2020	2021
Forecast	**55**	**60**	**68**	**72**	**76**
Prior year forecast	45	55	65	75	77

Estimation of the hyrdrocarbon reserves and resources and associated production profiles

Estimates of hydrocarbon reserves and resources are inherently imprecise, require the application of judgement and are subject to future revision. The Company's estimation of the quantum of oil and gas reserves and resources and the timing of its production and monetisation impact the Company's financial statements in a number of ways, including: testing recoverable values for impairment; the calculation of depreciation and amortisation; assessing the cost and likely timing of decommissioning activity and associated costs; and the carrying value of trade receivables. This estimation also impacts the assessment of going concern and the viability statement.

Proven and probable reserves are estimates of the amount of hydrocarbons that can be economically extracted from the Company's assets. The Company estimates its reserves using standard recognised evaluation techniques. Proven and probable reserves ('2P' - generally accepted to have circa 50% probability) are used for the assessment of the Company's assets classified as property, plant and equipment and therefore form the basis of testing for depreciation and testing for impairment. Under PRMS definition, 2P reserves only refers to projects that are currently sanctioned or are already in development.

Hydrocarbons that are not assessed as 2P are considered to be resources and are classified as exploration and evaluation assets. Estimates of resources for undeveloped or partially developed fields are subject to greater uncertainty over their future life than estimates of reserves for fields that are substantially developed and being depleted.

As a field goes into production, the amount of proved reserves will be subject to future revision once additional information becomes available through, for example, the drilling of additional wells or the observation of long-term reservoir performance under producing conditions. As those fields are further developed, new information may lead to revisions.

Assessment of reserves and resources are determined using estimates of oil and gas in place, recovery factors and future commodity prices, the latter having an impact on the total amount of recoverable reserves.

Change in accounting estimate

The Company has updated its estimated reserves and resources with the accounting impact summarised below under estimation of oil and gas asset values and estimation of recoverable value of trade receivables.

Estimation of oil and gas asset values

Estimation of the asset value of oil and gas assets is calculated from a number of inputs that require varying degrees of estimation. Principally oil and gas assets are valued by estimating the future cash flows based on a combination of reserves and resources, costs of appraisal, development and production, production profile and future sales price and discounting those cash flows at an appropriate discount rate.

Future costs of appraisal, development and production are estimated taking into account the level of development required to produce those reserves and are based on past costs, experience and data from similar assets in the region, future petroleum prices and the planned development of the asset. However, actual costs may be different from those estimated.

Discount rate is assessed by the Company using various inputs from market data, external advisers and internal calculations. Discount rates used for impairment testing are disclosed in the relevant note.

Change in accounting estimate - Gas assets (intangible assets)
The gas assets have been tested for impairment as a result of a revision to the assumed date of project sanction and phasing together with updated cost estimates. The combination of these factors has resulted in both a reduction and delay in the timing of the cash flows associated with the asset and a consequent reduction in its carrying value. In addition, the estimate of the discount rate used for impairment testing of gas assets has increased from 12.5% to 15%. This increase reflects investor perception of a sustained increase in both Turkish and KRI risk given the continued political and financial uncertainty in both countries. The revised estimates and assumptions have resulted in an impairment expense of $581.3 million. Sensitivities to oil price and discount rate are provided in note 8.

Change in accounting estimate - Oil assets (property, plant and equipment)
In early 2017, the Company updated its estimation of the reserves and production profiles of Taq Taq and Tawke and commissioned an update of the Competent Persons Report for Taq Taq and of the technical assessment for Tawke. This process has resulted in an amendment to the estimated oil reserves at Taq Taq, where estimated 2P oil reserves were reduced. These reserves assessments were used, together with updated estimates for the other components of the assessment, to perform impairment testing on both assets. In addition, the discount rate used for impairment testing of oil assets has increased from 12.5% to 15%. This increase reflects market perception of a sustained increase in KRI risk given continued political and financial uncertainty. The calculated present values of the assets have resulted in an impairment expense of $218.3 million. Sensitivities to oil price, discount rate and production are provided in note 9.

Estimation of netback price and entitlement used to calculate reported revenue, trade receivables and forecast future cash flows
Netback price is used to value the Company's revenue, trade receivables and its forecast cash flows used for impairment testing and viability. The Company does not have direct visibility on the components of the netback price because sales are managed by the KRG, but invoices are currently raised for payments on account using a netback price that has been temporarily agreed with the KRG for the purpose of receiving interim payments. For revenue recognition, the Company has estimated the netback price using the methodology agreed with the KRG for receiving these payments on account.

In line with its IOC payment process that began in September 2015 and was given structure by its announcement on 1 February 2016, the KRG has commenced an audit of cost, production and revenue, including detailed analysis of the components of netback. The Company expects to then reach agreement with the KRG on the appropriate netback adjustment to use in the calculation of the Company's entitlement under the PSC and the resulting trade receivable balance. The audit and reconciliation process began this year, but is not complete and may take some time and conversations with the KRG are ongoing.

The outputs of the reconciliation and settlement process may result in changes to the estimates made by the Company. A $1/bbl difference in netback price would impact current year revenue by circa $4 million and reported trade receivables by circa $4 million.

Estimation of the recoverable value of trade receivables
Trade receivables of $253.5 million relates to money owed by the KRG principally for export sales that were made after mid-2014. The KRG has stated publicly on a consistent basis that it intends to pay full entitlement following a reconciliation process.

When assessing the nominal value of the receivable the Company has taken into account the latest information on the entitlement it is owed under the PSC for oil that has been sold but not yet paid for. In addition, a calculation has been made for the interest that has accrued on the balance under the terms of the PSC at LIBOR plus 2%. The Company has excluded consideration of any value for export sales that were made before mid-2014 (including exports marketed by the State Oil Marketing Organisation ('SOMO') where payment is outstanding). The total unrecognised receivable balance relating to these sales excluding interest is estimated at circa $300m.

The Company expects that ultimately a reconciliation calculating full entitlement under the terms of the PSC will be agreed with the KRG - this reconciliation will form the basis for calculating amounts owed and for agreeing a mechanism to settle the balance.

Subject to the reconciliation process that has been started by the KRG, the Company is fully confident of its contractual right to the nominal value of the receivable. The Company expectation is that it will be settled with cash, although it is possible that the debt could be settled in a number of ways such as with assets or through an improvement in future contractual terms. The success and pace of the recovery of the balance depends on some or all of a number of factors, including: the financial environment in the KRI and the financial budget of the KRG; oil price; volumes of production from the KRI as a whole as well as from the Company's fields; and ongoing negotiations with regard to various sources of potential finance for the KRI.

On 1 February 2016, the KRG announced an interim mechanism to make monthly payments to the IOCs. The mechanism has two components: the first component is a proxy for monthly entitlement due under the terms of the PSC; the second component is intended to contribute towards repayment of the receivable. The contribution towards the receivable was set at and currently remains at 5% of field revenue. The KRG stated that it intends to increase this percentage as the oil price improves.

Previously when assessing the recoverable value of the receivable, the Company assessed that the percentage of field revenue paid towards the receivable would be increased to 10% from July 2017 and to 20% from January 2018. Whilst the KRG made the current 5% payments relatively consistently over the current year and at half year was broadly up to date, by year-end payments were two months in arrears against the agreed schedule. In addition, contrary to the KRG's stated intention to increase payments, there has been no increase in payments despite oil price increasing from $30/bbl in February 2016 to over $50/bbl. Although the Company expects either an increase in payments, or an alternative structure to be agreed to accelerate the recovery of the receivable, the Company has assessed that there is not sufficient evidence to offset existing contrary evidence and support the use of these expectations as assumptions for impairment testing. Consequently the Company has used the current basis of payment of 5% of field revenue for the purposes of assessing impairment and does not currently take into account the potential for increased payments or alternative methods of settling the balance.

The carrying value of trade receivables is compared to the present value of the forecast monthly contributions using the effective interest rate for the period in which the revenue was recognised. For the period over which the receivable was recognised, the Company has assessed the effective interest rate to be between 8% and 13% using an adjusted prevailing Iraqi government 2028 bond as a proxy, resulting in a blended rate of 8.3%.

Change in accounting estimate

As explained above, for the purposes of impairment testing the Company has assumed the percentage of field revenue paid towards the receivable is fixed at the current mechanism of 5%. When combined with the updated production, reserves and oil price outlook this resulted in an impairment of $191.3 million.

Business combinations

The recognition of business combinations requires the excess of the purchase price of acquisitions over the net book value of assets acquired to be allocated to the assets and liabilities of the acquired entity. The Company makes judgements and estimates in relation to the fair value allocation of the purchase price.

The fair value exercise is performed at the date of acquisition. Owing to the nature of fair value assessments in the oil and gas industry, the purchase price allocation exercise and acquisition-date fair value determinations require subjective judgements based on a wide range of complex variables at a point in time. The Company uses all available information to make the fair value determinations.

In determining fair value for acquisitions, the Company utilises valuation methodologies including discounted cash flow analysis. The assumptions made in performing these valuations include assumptions as to discount rates, foreign exchange rates, commodity prices, the timing of development, capital costs, and future operating costs. Any significant change in key assumptions may cause the acquisition accounting to be revised.

1.3 Accounting policies

Revenue

Revenue for petroleum sales is recognised when the significant risks and rewards of ownership are deemed to have passed to the customer, it can be measured reliably and it is assessed as probable that economic benefit will flow to the Company. For exports this is when the oil enters the export pipe, for domestic sales this is when oil is collected by truck by the customer.

Revenue is recognised at fair value. The fair value is comprised of entitlement due under the terms of the PSC and royalty income. Entitlement has two components: cost oil, which is the mechanism by which the Company recovers its costs incurred on an asset, and profit oil, which is the mechanism through which profits are shared between the Company, its partners and the KRG. The Company pays capacity building payments on profit oil, which becomes due for payment once the Company has received the relevant proceeds. Profit oil revenue is always reported net of any capacity building payments that will become due. Royalty income is earned on partner sales from the Taq Taq field and is recognised when it becomes due or, when received in advance, amortised in line with partner entitlement.

The Company's oil sales are made to the KRG and are valued at a netback price, which is calculated from the estimated realised sales price for each barrel of oil sold, less selling, transportation and handling costs and estimates to cover additional costs. A netback adjustment is used to estimate the price per barrel that is used in the calculation of entitlement and is explained further in significant accounting estimates and judgements.

Income tax arising from the Company's activities under production sharing contracts is settled by a third party at no cost and on behalf of the Company. However the Company is not able to measure the tax that has been paid on its behalf and consequently revenue is not reported gross of income tax paid.

Intangible assets

Exploration and evaluation assets

Oil and gas assets classified as exploration and evaluation assets are explained under Oil and Gas assets below.

Other intangible assets

Other intangible assets (predominately software) that are acquired by the Company are stated at cost less accumulated amortisation and less accumulated impairment losses. Amortisation is expensed on a straight-line basis over the estimated useful lives of the assets of between 3 and 5 years from the date that they are available for use.

Property, plant and equipment

The Company's oil and gas assets classified as property, plant and equipment are explained under Oil and Gas assets below.

Other property, plant and equipment

Other property, plant and equipment are principally the Company's leasehold improvements and other assets and are carried at cost, less any accumulated depreciation and accumulated impairment losses. Costs include purchase price and construction cost. Depreciation of these assets commences is expensed on a straight-line basis over their estimated useful lives of between 3 and 5 years from the date they are available for use.

Oil and gas assets

Costs incurred prior to obtaining legal rights to explore are expensed to the statement of comprehensive income.

Exploration, appraisal and development expenditure is accounted for under the successful efforts method. Under the successful efforts method only costs that relate directly to the discovery and development of specific oil and gas reserves are capitalised as exploration and evaluation assets within intangible assets. Costs of activity that do not identify oil and gas reserves are expensed.

All lease and licence acquisition costs, geological and geophysical costs and other direct costs of exploration, evaluation and development are capitalised as intangible assets or property, plant and equipment according to their nature. Intangible assets comprise costs relating to the exploration and evaluation of properties which the directors consider to be unevaluated until assessed as being 2P reserves and commercially viable. Once assessed as being 2P reserves they are tested for impairment and transferred to property, plant and equipment as development assets. Where properties are appraised to have no commercial value, the associated costs are expensed as an impairment loss in the period in which the determination is made. Development expenditure is accounted for in accordance with IAS 16 - Property, plant and equipment.

Assets are depreciated once they are available for use and are depleted on a field-by-field basis using the unit of production method. The sum of carrying value and the estimated future development costs are divided by total forecast 2P production to provide a $/barrel unit depreciation cost. Changes to depreciation rates as a result of changes in reserve quantities and estimates of future development expenditure are reflected prospectively.

The estimated useful lives of property, plant and equipment and their residual values are reviewed on an annual basis and changes in useful lives are accounted for prospectively. The gain or loss arising on the disposal or retirement of an asset is determined as the difference between the sales proceeds and the carrying amount of the asset and is recognised in the statement of comprehensive income for the relevant period.

Where exploration licences are relinquished or exited for no consideration or costs incurred are neither derisking nor adding value to the asset, the associated costs are expensed to the income statement.

Subsequent costs

The cost of replacing part of an item of property and equipment is recognised in the carrying amount of the item if it is probable that the future economic benefits embodied within the part will flow to the Company, and its cost can be measured reliably. The net book value of the replaced part is expensed. The costs of the day-to-day servicing and maintenance of property, plant and equipment are recognised in the statement of comprehensive income.

Leases

Leases in which a significant portion of the risks and rewards of ownership are retained by the lessor are classified as operating leases. Payments made under operating leases (net of any incentives received from the lessor) are expensed to the statement of comprehensive income on a straight-line basis over the period of the lease.

Financial assets and liabilities

Classification

The Company assesses the classification of its financial assets on initial recognition as either at fair value through profit and loss, loans and receivables or available for sale. The Company assesses the classification of its financial liabilities on initial recognition at either fair value through profit and loss or amortised cost.

Recognition and measurement

Regular purchases and sales of financial assets are recognised at fair value on the trade-date - the date on which the Company commits to purchase or sell the asset. Loans and receivables are subsequently carried at amortised cost using the effective interest method.

Trade and other receivables

Trade receivables are amounts due from crude oil sales, sales of gas or services performed in the ordinary course of business. If payment is expected within one year or less, trade receivables are classified as current assets otherwise they are presented as non-current assets.

Trade receivables are recognised initially at fair value and subsequently measured at amortised cost using the effective interest method, less provision for impairment.

Cash and cash equivalents
In the consolidated balance sheet and consolidated statement of cash flows, cash and cash equivalents includes cash in hand, deposits held on call with banks, other short-term highly liquid investments and includes the Company's share of cash held in joint operations.

Interest-bearing borrowings
Borrowings are recognised initially at fair value, net of any discount in issuance and transaction costs incurred. Borrowings are subsequently carried at amortised cost; any difference between the proceeds (net of transaction costs) and the redemption value is recognised in the statement of comprehensive income over the period of the borrowings using the effective interest method.

Fees paid on the establishment of loan facilities are recognised as transaction costs of the loan to the extent

that it is probable that some or all of the facility will be drawn down. In this case, the fee is deferred until the draw-down occurs. To the extent there is no evidence that it is probable that some or all of the facility will be drawn down, the fee is capitalised as a pre-payment for liquidity services and amortised over the period of the facility to which it relates.

Borrowings are presented as long or short-term based on the maturity of the respective borrowings in accordance with the loan or other agreement. Borrowings with maturities of less than twelve months are classified as short-term. Amounts are classified as long-term where maturity is greater than twelve months. Where no objective evidence of maturity exists, related amounts are classified as short-term.

Trade and other payables
Trade and other payables are recognised initially at fair value. Subsequent to initial recognition they are measured at amortised cost using the effective interest method.

Provisions
Provisions are recognised when the Company has a present obligation as a result of a past event, and it is probable that the Company will be required to settle that obligation. Provisions are measured at the Company's best estimate of the expenditure required to settle the obligation at the balance sheet date, and are discounted to present value where the effect is material. The unwinding of any discount is recognised as finance costs in the statement of comprehensive income.

Decommissioning
Provision is made for the cost of decommissioning assets at the time when the obligation to decommission arises. Such provision represents the estimated discounted liability for costs which are expected to be incurred in removing production facilities and site restoration at the end of the producing life of each field. A corresponding cost is capitalised to property, plant and equipment and subsequently depreciated as part of the capital costs of the production facilities. Any change in the present value of the estimated expenditure attributable to changes in the estimates of the cash flow or the current estimate of the discount rate used are reflected as an adjustment to the provision.

Offsetting
Financial assets and liabilities are offset and the net amount reported in the balance sheet when there is a legally enforceable right to offset the recognised amounts and there is an intention to settle on a net basis or realise the asset and settle the liability simultaneously.

Impairment
Oil and gas assets
The carrying amounts of the Company's oil and gas assets are reviewed at each reporting date to determine whether there is any indication of impairment. If any such indication exists then the asset's recoverable amount is estimated.

The recoverable amount of an asset or cash-generating unit is the greater of its value in use and its fair value less costs of disposal. For value in use, the estimated future cash flows arising from the Company's future plans for the asset are discounted to their present value using a pre-tax discount rate that reflects market assessments of the time value of money and the risks specific to the asset. For fair value less costs of disposal, an estimation is made of the fair value of consideration that would be received to sell an asset less associated selling costs.

For the purpose of impairment testing, assets are grouped together into the smallest group of assets that generates cash inflows from continuing use that are largely independent of the cash inflows of other assets or groups of assets (cash generating unit).

The estimated recoverable amount is then compared to the carrying value of the asset. Where the estimated recoverable amount is materially lower than the carrying value of the asset an impairment loss is recognised if the carrying amount of an asset or its cash-generating unit exceeds its recoverable amount. Non-financial assets that suffered impairment are reviewed for possible reversal of the impairment at each reporting date.

Property, plant and equipment and intangible assets
Impairment testing of oil and gas assets are explained above.

When impairment indicators exist for other non-financial assets, impairment testing is performed based on the higher of value in use and fair value less costs to sell.

Financial assets
A financial asset is assessed at each reporting date to determine whether there is any objective evidence that it is impaired. A financial asset is considered to be impaired if objective evidence indicates that one or more events have had a negative effect on the estimate of future cash flows of that asset. An impairment loss in respect of a financial asset measured at amortised cost is calculated as the difference between its carrying amount, and the present value of the estimated future cash flows discounted at the original effective interest rate. All impairment losses are recognised as an expense in the statement of comprehensive income.

An impairment loss is reversed if the reversal can be related objectively to an event occurring after the impairment loss was recognised.

Explanation of impairment testing of trade receivables is provided under significant accounting estimates and judgements.

Share capital
Ordinary shares are classified as equity.

Employee benefits
Short-term benefits
Short-term employee benefit obligations are expensed to the statement of comprehensive income as the related service is provided. A liability is recognised for the amount expected to be paid under short-term cash bonus or profit-sharing plans if the Company has a present legal or constructive obligation to pay this amount as a result of past service provided by the employee and the obligation can be estimated reliably.

Share-based payments
The Company operates a number of equity-settled, share-based compensation plans. The economic cost of awarding shares and share options to employees is recognised as an expense in the statement of comprehensive income equivalent to the fair value of the benefit awarded. The fair value is determined by reference to option pricing models, principally Monte Carlo and adjusted Black-Scholes models. The charge is recognised in the statement of comprehensive income over the vesting period of the award.

At each balance sheet date, the Company revises its estimate of the number of options that are expected to become exercisable. Any revision to the original estimates is reflected in the statement of comprehensive income with a corresponding adjustment to equity immediately to the extent it relates to past service and the remainder over the rest of the vesting period.

Finance income and finance costs
Finance income comprises interest income on cash invested, foreign currency gains and the unwind of discount on any assets held at amortised cost. Interest income is recognised as it accrues, using the effective interest method.

Finance expense comprises interest expense on borrowings, foreign currency losses and discount unwind on any liabilities held at amortised cost. Borrowing costs directly attributable to the acquisition of a qualifying asset as part of the cost of that asset are capitalised over the respective assets.

Taxation
Under the terms of the KRI PSCs, the Company is not required to pay any cash taxes although it is uncertain whether the Company is exempt from tax or whether tax has been paid on its behalf. If tax has been paid on its behalf by the government, then it is not known at what rate tax has been paid due to uncertainty in relation to the workings of any existing tax payment mechanism. It is estimated that the tax rate would be between 0% and 40%. If tax has been paid it would result in a gross up of revenue with a corresponding debit entry to taxation expense with no net impact on the income statement or on cash. In addition, it would be assessed whether any deferred tax asset or liability was required to be recognised.

Segmental reporting
IFRS8 requires the Company to disclose information about its business segments and the geographic areas in which it operates. It requires identification of business segments on the basis of internal reports that are regularly reviewed by the CEO, the chief operating decision maker, in order to allocate resources to the segment and assess its performance.

Related parties
Parties are related if one party has the ability, directly or indirectly, to control the other party or exercise significant influence over the party in making financial or operational decisions. Parties are also related if they are subject to common control. Transactions between related parties are transfers of resources, services or obligations, regardless of whether a price is charged and are disclosed separately within the notes to the consolidated financial information.

New standards
Effective 1 January 2016, the Company has adopted the following amendments to standards: Annual Improvements to IFRSs 2012-2014 Cycle; Amendments to IFRS 10 Consolidated Financial Statements; Amendments to IFRS 11 Joint Arrangements; Amendments to IFRS 12 Disclosure of Interests in Other Entities; Amendments to IAS 1 Presentation of Financial Statements; Amendments to IAS 16 Property, Plant and Equipment; Amendments to IAS 27 Separate Financial Statements; Amendments to IAS 28 Investments in Associates and Joint Ventures; Amendments to IAS 38 Intangible Assets. The adoption of these amendments has had no material impact on the Company's results or financial statement disclosures.

The following new standards issued by the IASB and endorsed by the EU have yet to be adopted by the Group: IFRS 9 Financial Instruments (effective 1 January 2018); IFRS 15 Revenue from Contracts with Customers (effective 1 January 2018). The Company's review of IFRS15 and IFRS9 is underway but is not yet completed, with neither currently expected to have a material impact on the results or financial statements of the Company.

The following new accounting standards and amendments to existing standards have been issued but are not yet effective and have not yet been endorsed by the EU: IFRS 16 Leases (effective 1 January 2019); Amendments to IFRS 2 Share Based Payments (effective 1 January 2018); Amendments to IAS 7 Statement of Cash Flows (effective 1 January 2017); Amendments to IAS 12 Income Taxes (effective 1 January 2017); Clarifications to IFRS 15 Revenue from Contracts with Customers (effective 1 January 2018). The Company is currently assessing the impact of adopting the new accounting standards noted above on its audited consolidated financial statements. The Group has not early adopted any other standard, amendment or interpretation that was issued but is not yet effective.

2. Segmental information

The Company has three reportable business segments: oil, gas and exploration. Capital expenditure decisions for the oil segment are considered in the context of the cash flows expected from the production and sale of crude oil. The segments have been changed from geographical to asset type in order to better reflect how the Chief Operating Decision Maker now considers the deployment of capital. The oil segment is comprised of the producing assets, Taq Taq and Tawke, which are located in the KRI and make predominantly all sales to the KRG; the gas segment is comprised of the upstream and midstream activity on Miran and Bina Bawi also in the KRI; the exploration segment is comprised of the company's exploration activity, principally located in the KRI, Somaliland and Morocco.

For the period ended 31 December 2016	Oil $m	Gas $m	Exploration $m	Other $m	Total $m
Revenue	190.7	-	-	-	190.7
Cost of sales	(162.9)	-	-	-	(162.9)
Gross profit	27.8	-	-	-	27.8
Exploration expense	-	(0.7)	(35.4)	-	(36.1)
Impairment of exploration assets	-	(581.3)	(197.7)	-	(779.0)
Impairment of property, plant and equipment	(218.3)	-	-	-	(218.3)
Impairment of receivables	(191.3)	-	-	-	(191.3)
General and administrative costs	-	-	-	(26.0)	(26.0)
Operating loss	(381.8)	(582.0)	(233.1)	(26.0)	(1,122.9)
Operating loss is comprised of:					
EBITDAX	155.7	-	-	(25.0)	130.7
Depreciation	(127.9)	-	-	(1.0)	(128.9)
Exploration expense	-	(0.7)	(35.4)	-	(36.1)
Impairment of exploration assets	-	(581.3)	(197.7)	-	(779.0)
Impairment of property, plant and equipment	(218.3)	-	-	-	(218.3)
Impairment of receivables	(191.3)	-	-	-	(191.3)
Gain arising from bond buy-back	-	-	-	19.2	19.2
Finance income	14.3	-	-	1.9	16.2
Finance expense	(1.1)	(0.1)	-	(59.8)	(61.0)
Loss before tax	(368.6)	(582.1)	(233.1)	(64.7)	(1,248.5)
Capital expenditure	40.6	12.1	8.5	-	61.2
Total assets	933.1	872.5	59.7	367.1	2,232.4
Total liabilities	(93.3)	(97.9)	(47.3)	(660.5)	(899.0)

Total assets and liabilities in the other segment are predominantly cash and debt balances. 'Other' includes corporate assets, liabilities and costs, elimination of intercompany receivables and intercompany payables, which are non-segment items.

2. Segmental information continued

For the period ended 31 December 2015	*Restated*[1] Oil $m	*Restated*[1] Gas $m	*Restated*[1] Exploration $m	*Restated*[1] Other $m	*Restated*[1] Total $m
Revenue	343.9	-	-	-	343.9
Cost of sales	(208.3)	-	-	-	(208.3)
Gross profit	135.6	-	-	-	135.6
Exploration expense	-	-	(28.9)	-	(28.9)
Impairment of exploration assets	-	-	(144.1)	-	(144.1)
Impairment of property, plant and equipment	(1,038.0)	-	-	-	(1,038.0)
General and administrative costs	(2.6)	-	-	(26.1)	(28.7)
Operating loss	(905.0)	-	(173.0)	(26.1)	(1,104.1)
Operating loss is comprised of:					
EBITDAX	305.0	-	-	(25.6)	279.4
Depreciation	(172.0)	-	-	(0.5)	(172.5)
Exploration expense	-	-	(28.9)	-	(28.9)
Impairment of exploration assets	-	-	(144.1)	-	(144.1)
Impairment of property, plant and equipment	(1,038.0)	-	-	-	(1,038.0)
Finance income	-	-	-	1.3	1.3
Finance expense	(0.9)	(0.1)	-	(56.8)	(57.8)
Profit/(Loss) before tax	(905.9)	(0.1)	(173.0)	(81.6)	(1,160.6)
Capital expenditure	109.2	18.3	29.7	-	157.2
Total assets	1,438.2	1,430.5	256.1	376.9	3,501.7
Total liabilities	(105.5)	(87.5)	(23.4)	(710.5)	(926.9)

1. The Company has changed its assessment of segments as explained above and consequently has restated its prior year segmental reporting.

Total assets and liabilities in the other segment are predominantly cash and debt balances. 'Other' includes corporate assets, liabilities and costs, elimination of intercompany receivables and intercompany payables, which are non-segment items.

All of the oil and gas segments are located in the KRI, with the exploration segment located principally in the KRI, Somaliland and Morocco.

All revenue relates to sales made to the KRG.

3. Operating costs

	2016 $m	2015 $m
Production costs	35.1	36.3
Depreciation of oil and gas assets	127.8	172.0
Cost of sales	162.9	208.3
Impairment of exploration assets	779.0	144.1
Exploration expense	36.1	28.9
Exploration costs	815.1	173.0
Impairment of property, plant and equipment (note 9)	218.3	1,038.0
Impairment of receivables (note 10)	191.3	-
Corporate cash costs	17.4	26.7
Corporate share based payment expense	7.5	1.5
Depreciation and amortisation of corporate assets	1.1	0.5
General and administrative expenses	26.0	28.7

Depreciation has reduced as a result of a lower carrying value of assets and lower production volumes, offset by an increase in estimates of future capital expenditure.

Corporate cash costs have reduced as a result of restructuring programmes. The expensing of the cost of share based payments and depreciation and amortisation of corporate assets has increased as a result of reduced capitalisation because of reduced capital activity.

Impairment of exploration assets is explained in note 8. Exploration expense relates to accruals for costs or obligations relating to licences where there is ongoing activity or that have been, or are in the process of being, relinquished.

Fees payable to the Company's auditors:

	2016 $m	2015 $m
Audit of consolidated financial statements and subsidiary accounts	0.4	0.4
Tax and advisory services	0.1	0.2
Total fees	0.5	0.6

4. Staff costs and headcount

	2016 $m	2015 $m
Wages and salaries	20.9	38.1
Social security costs	1.2	2.9
Share based payments	7.5	2.7
	29.6	43.7

Reduction in staff costs caused by the restructuring programme have been partly offset by a normalised share based payment charge compared to the prior year, which inclued the reversal of previously expensed costs due to the lapsing of options. Average headcount was:

	2016	2015
Turkey	73	102
KRI	19	25
UK	21	32
Somaliland	24	24
	137	183

5. Finance expense and income

	2016 $m	2015 $m
Bond interest payable	(51.0)	(50.1)
Unwind of discount on liabilities	(10.0)	(7.7)
Finance expense	(61.0)	(57.8)
Bank interest income	2.0	1.3
Unwind of discount on trade receivables	14.2	-
Finance income	16.2	1.3

Annual bond interest has increased because there has been a full year of interest payable on the $230 million nominal value of bonds issued in March 2015, offset by the buy-back of $55.4m nominal value of bonds in March 2016 (see note 15).

6. Taxation

A taxation charge of $0.4 million (2015: $1.0 million) was made in the Turkish and UK services companies. All other corporation tax due has been paid on behalf of the Company by the government from the government's share of revenues and there is no tax payment required or expected to be made by the Company.

Under the terms of the KRI PSCs, the Company is not required to pay any cash taxes although it is uncertain whether the Company is exempt from tax or whether tax has been paid on its behalf. If tax has been paid on its behalf by the government, then it is not known at what rate tax has been paid due to uncertainty in relation to the workings of any existing tax payment mechanism. It is estimated that the tax rate would be between 0% and 40%. If tax has been paid it would result in a gross up of revenue with a corresponding debit entry to taxation expense with no net impact on the income statement or on cash. In addition, it would be assessed whether any deferred tax asset or liability was required to be recognised.

7. Earnings per share

Basic

Basic earnings per share is calculated by dividing the profit attributable to equity holders of the Company by the weighted average number of shares in issue during the period.

	2016	2015
Loss attributable to equity holders of the Company ($m)	(1,248.9)	(1,161.6)
Weighted average number of ordinary shares - number[1]	278,395,190	278,351,746
Basic earnings per share - cents per share	(448.60)	(417.30)

1. Excluding the purchase of own shares now held as treasury shares

Diluted

Because the Company reported a loss in both years, diluted EPS is anti-dilutive and therefore diluted EPS is the same as basic EPS.

	2016	2015
Loss attributable to equity holders of the Company ($m)	(1,248.9)	(1,161.6)
Weighted average number of ordinary shares – number[1]	278,395,190	278,351,746
Adjustment for performance shares, restricted shares and share options	1,853,008	1,896,452
Total number of shares	280,248,198	280,248,198
Diluted earnings per share – cents per share	(448.60)	(417.30)

1. Excluding the purchase of own shares now held as treasury shares.

8. Intangible assets

	Exploration and evaluation assets $m	Other assets $m	Total $m
Cost			
At 1st January 2015	1,676.6	5.8	1,682.4
Acquisitions	101.0	-	101.0
Additions	48.0	0.5	48.5
Other	2.4	-	2.4
Exploration costs written off	(144.1)	-	(144.1)
Transfer to property, plant and equipment (note 9)	(12.9)	-	(12.9)
Balance at 31 December 2015 and 1st January 2016	1,671.0	6.3	1,677.3
Additions	20.9	-	20.9
Discount unwind of contingent consideration	9.8	-	9.8
Impairment of exploration assets and transfer to assets held for sale	(199.7)	-	(199.7)
Exploration costs written off	(4.6)	-	(4.6)
Balance at 31 December 2016	1,497.4	6.3	1,503.7
Accumulated amortisation and impairment			
At 1st January 2015	-	(3.1)	(3.1)
Amortisation charge for the period	-	(1.5)	(1.5)
At 31 December 2015 and 1 January 2016	-	(4.6)	(4.6)
Amortisation charge for the period	-	(1.1)	(1.1)
Impairment of gas assets	(581.3)	-	(581.3)
At 31 December 2016	(581.3)	(5.7)	(587.0)
Net book value			
At 31st December 2016	916.1	0.6	916.7
At 31st December 2015	1,671.0	1.7	1,672.7

8. Intangible assets continued

Exploration and evaluation assets are principally: the Company's PSC interests in exploration and appraisal assets in the Kurdistan Region of Iraq, comprised of the Miran (book value: $528.6 million, 2015: $754.9 million) and Bina Bawi (book value: $338.4 million, 2015: $671.9 million) gas assets; and its interest in licences in Somaliland.

Impairment of Miran and Bina Bawi is explained in significant accounting estimates and judgements in note 1.

In addition, costs of $197.7 million have been written off in relation to the Chia Surkh licence following the drilling of CS-12. The Company has agreed to sell the asset for an initial consideration of $2.0 million, with further consideration of up to $25 million contingent on the asset achieving specified production milestones – completion is conditional on KRG consent being obtained. The balance has been transferred to assets held for sale within debtors. The net book value of $0.6 million (2015: $1.7 million) of other assets is principally software.

Sensitivities

	Miran $m	Bina Bawi $m
Long term Brent price +/- $10/bbl	69 / (74)	14 / (14)
Discount rate +/- 2.5%	141 / (106)	127 / (93)

9. Property, plant and equipment

	Oil and gas assets $m	Other assets $m	Total $m
Cost			
At 1st January 2015	2,432.8	9.2	2,442.0
Additions	109.2	-	109.2
Transfer from intangible assets (see note 8)	12.9	-	12.9
Other	4.0	(0.3)	3.7
At 31 December 2015 and 1st January 2016	2,558.9	8.9	2,567.8
Addition	40.3	-	40.3
At 31 December 2016	2,599.2	8.9	2,608.1
Accumulated depreciation and impairment			
At 1st January 2015	(422.1)	(4.7)	(426.8)
Depreciation charge for the period	(172.0)	(1.6)	(173.6)
Impairment	(1,038.0)	-	(1,038.0)
At 31 December 2015 and 1st January 2016	(1,632.1)	(6.3)	(1,638.4)
Depreciation charge for the period	(127.8)	(1.6)	(129.4)
Impairment	(218.3)	-	(218.3)
At 31 December 2016	(1,978.2)	(7.9)	(1,986.1)
Net book value			
At 31 December 2016	621.0	1.0	622.0
At 31 December 2015	926.8	2.6	929.4

Oil and gas assets are the Company's share of oil assets at the Taq Taq and Tawke producing fields in the Kurdistan Region of Iraq. Impairment of Taq Taq and Tawke is explained in significant accounting estimates and judgements in note 1.

Sensitivities

	Taq Taq $m	Tawke $m
Carrying value	140	481
Long term Brent price +/- $10/bbl	+/- 8	+/- 24
Discount rate +/- 2.5%	+/- 9	+/- 40
Production and reserves +/- 10%	+/- 16	+/- 36

10. Trade and other receivables

	2016 $m	2015 $m
Trade receivables - non current	172.6	365.3
Trade receivables - current	80.9	57.6
Other receivables and prepayments	13.7	21.4
	267.2	444.3

Trade receivables are monies owed by the KRG for export sales made via the KRG pipeline since mid-2014. The total amount owed by the KRG is estimated to be $515.9 million. For the significant balance that is overdue, caused by non-payment in the past, the Company has calculated its carrying value assuming the percentage of field revenue paid towards the receivable is fixed at the current mechanism of 5%. This assumption has been combined with updated production, reserves and oil price outlook, resulting in the carrying value of trade receivables being $253.5 million. Further information is provided in in the significant accounting estimates and judgements in note 1.

Ageing of trade receivables

Under the terms of the PSC, payment is due within 30 days. Proceeds received are allocated between current and past sales in accordance with the allocation provided by the KRG under the current payment mechanism. Proceeds allocated to the receivable are allocated on a first-in-first-out basis.

	Year of sale of amounts overdue				
Period ended 31 December 2016	Not due $m	2016 $m	2015 $m	2014 $m	Total $m
Trade receivables at 31 December 2016	17	30	-	207	254

	Year of sale of amounts overdue			
Year-ended 31 December 2015	Not due $m	2015 $m	2014 $m	Total $m
Trade receivables at 31 December 2015	23	168	232	423

Movement on trade receivables in the period

	2016 $m	2015 $m
Carrying value at 1 January	422.9	232.9
Revenue excluding royalty	186.2	338.6
Net proceeds	(182.8)	(148.2)
Discount unwind	14.2	-
Impairment	(191.3)	-
Other	4.3	(0.4)
Carrying value at period end	253.5	422.9

10. Trade and other receivables continued

Recovery of the carrying value of the receivable

Explanation of the assumptions and estimates in testing the KRG receivable for impairment are provided in note 1. The estimated recovery of the carrying value of the receivable based on the existing mechanism is summarised in the following table, which summarises the cash flows arising on payments being received based on 5% of field revenue:

	2017	2018	2019	2020+	Total
Nominal balance recovered in the period	81	36	41	159	317
Net present value of total cash flows					254

Sensitivities

The key sensitivity to the carrying value of trade receivables is the KRG prioritisation of payments of amounts owed to IOCs.

The KRG has paid 5% of field revenue through 2016. It is the Company's assumption that the KRG will continue to pay IOCs and if a combination of oil price, KRG production volumes and KRG cost reductions increase KRG cash generation, the KRG will increase the percentage of field revenue paid towards the receivable.

Impairment testing is sensitive to a number of inputs, but principally: the cash generated from field revenue; and the percentage of field revenue paid towards the receivable.

Cash generated from field revenue

Cash generated from field revenue is an output of production volumes in the period, netback price and timing of payments. The sensitivity of the carrying value of the receivable to changes in cash generated from field revenue is provided in the table below:

	-20%	-10%	Base	+10%	+20%
Current payment mechanism (5%)	236	245	254	261	269

Percentage of field revenue paid towards the receivable

Impairment testing assumes that the receivable is recovered from a percentage of field revenues. In the downside case this would be nil – either through interrupted production or non-payment by the KRG. The Company has analysed KRG cash generation and estimates that it is possible that the KRG will increase payments towards the receivable in the future. Sensitivity to a stepped increase in payments is provided below:

	% of field revenue paid towards receivable				NPV at different effective interest rates		
	2017	2018	2019	2020+	Base less 2.5%	Base 8.3%[1]	Base plus 2.5%
Current payment mechanism	5%	5%	5%	5%	269	254	240
Stepped increase in payments	5%	10%	15%	20%	404	378	355

1. The weighted average rate is 8.3%, see significant accounting estimates and judgements for further explanation.

Fair value

The fair value of the receivable, based on the current 5% payment mechanism, has been estimated as circa $200 million. The Company assess the KRG receivable to be categorised as Level 3 under IFRS13. Fair value has been calculated using the cash flows assuming 5% of field revenue is paid towards the receivable, from 2P production profiles using the price deck disclosed in the accounting policies note. The resulting cash flows are discounted using the estimated appropriate discount rate for the KRG receivable. The discount rate is estimated by taking the discount rate calculated for current KRG sales using the approach outlined in the significant accounting estimates and judgements section of the accounting policies note and adding an additional premium to reflect the inferior credit quality of the receivable to the KRG's current sales.

Amounts owed for export sales marketed by the Federal Government of Iraq

In addition to the trade receivables owed by the KRG for sales made principally from mid- 2014, the Company is owed monies for export sales that were made prior to mid-2014. These were export sales made through the FGI controlled pipe and consequently the marketing and collection of cash was controlled by the State Oil Marketing Organisation (SOMO) of the FGI. No revenue or receivable has been recognised for these sales because the directors assessed that it was not probable that economic benefit would flow - consequently it is also not considered for the purposes of impairment testing of trade receivables. It is estimated that the Company is owed circa $300 million excluding interest for these export sales.

11. Cash and cash equivalents and restricted cash

	2016 $m	2015 $m
Cash and cash equivalents	407.0	455.3
Restricted cash	19.5	-
	426.5	455.3

Restricted cash of $19.5 million is principally related to the Company's exploration activities in Morocco.

12. Trade and other payables

	2016 $m	2015 $m
Trade payables	13.6	15.1
Other payables	37.3	15.2
Accruals	49.4	50.3
Deferred consideration for Bina Bawi asset	82.7	78.0
	183.0	158.6
Non-current	87.7	78.0
Current	95.3	80.6
	183.0	158.6

The Company's payables are predominantly short-term in nature or are repayable on demand and, as such, for these payables there is minimal difference between contractual cash flows related to the financial liabilities and their carrying amount.

Deferred consideration includes a balance of $82.7m originally recognised at its discounted fair value. The nominal value of this balance is $145.0 million and its payment is contingent on gas production at the Bina Bawi asset meeting certain volume thresholds. The unwind of the deferred consideration is capitalised against the asset and the balance reassessed at each balance sheet date.

13. Deferred income

	2016 $m	2015 $m
Non-current	39.2	46.0
Current	5.6	3.0
	44.8	49.0

Deferred income relates to payments received in the past relating to future royalty income and is recognised in line with the explanation provided in the revenue section of the accounting policies note.

14. Provisions

	2016 $m	2015 $m
Balance at 1st January	25.2	19.4
Interest unwind	0.9	0.8
Additions	0.6	5.0
Reversal	(3.7)	-
Balance at 31 December	23.0	25.2
Non-current	23.0	25.2
Current	-	-
Balance at 31 December	23.0	25.2

Provisions cover expected decommissioning and abandonment costs arising from the Company's assets. The decommissioning and abandonment provision is based on the Company's best estimate of the expenditure required to settle the present obligation at the end of the period discounted at 4%. The cash flows relating to the decommissioning and abandonment provisions are expected to occur between 2031 and 2039.

15. Borrowings and net debt

	1 Jan 2016 $m	Bond buy-back $m	Discount unwind $m	Net other changes in cash $m	31 Dec 2016 $m
2014 Bond issue maturing May 2019	694.1	(54.6)	8.7	-	648.2
Cash	(455.3)	35.4	-	12.9	(407.0)
Net Debt	238.8	(19.2)	8.7	12.9	241.2

In March 2016, the Company repurchased $55.4 million nominal value of its own bonds for net cash of $35.4m. The purchased bonds had a book value of $54.6 million and have been retained by the Company with it being most likely that the bonds will be cancelled. Consequently Company net debt was reduced by $19.2 million and the $730 million bond is reported net of the $55.4m nominal value of bonds held by the Company. The bond is reported net of unamortised discount on issuance and issuance costs. The fair value of the net $675m bond at 31 December 2016 was $549 million (FY2015: fair value of $730 million bond was $511m).

	1 Jan 2015 $m	New Bond Issue $m	Merger of bonds $m	Discount unwind $m	Net other changes in cash $m	31 Dec 2015 $m
2014 Bond issue maturing May 2019	491.4	-	196.2	6.5	-	694.1
2015 Bond issue maturing May 2019	-	196.2	(196.2)	-	-	-
Cash	(489.1)	(196.2)	-	-	230.0	(455.3)
Net Debt	2.3	-	-	6.5	230.0	238.8

On 10 April 2015, the Company issued a new $230m bond with a maturity of May 2019 and an annual coupon of 7.5% payable twice annually. The new bond was then merged with the existing $500m bond maturing May 2019, resulting in a merged $730m nominal value bond with a maturity date of May 2019 paying a coupon of 7.5%.

16. Financial risk management

Credit risk

Credit risk is managed on a Company basis, except for credit risk relating to trade receivable balances, which is explained in significant accounting estimates and judgements in note 1.

Credit risk arises from cash and cash equivalents, trade and other receivables and other assets.

The carrying amount of financial assets represents the maximum credit exposure. The maximum credit exposure to credit risk at 31 December was:

	2016 $m	2015 $m
Trade and other receivables	265.8	440.1
Cash and cash equivalents	407.0	455.3
	672.8	895.4

Credit risk for trade receivables is explained in note 10. There are no other receivables overdue at the period end and no provision for doubtful debt has been made.

Cash is deposited in US treasury bills or on term deposits with banks that are assessed as appropriate based on, among other things, sovereign risk, CDS pricing and credit rating.

Liquidity risk

The Company is committed to ensuring it has sufficient liquidity to meet its payables as they fall due. At 31 December 2016 the Company had cash and cash equivalents of $407.0 million (2015: $455.3 million).

Currency risk

As substantially all of the Company's transactions are measured and denominated in US dollars, the exposure to currency risk is not material and therefore no sensitivity analysis has been presented.

16. Financial risk management continued

Interest rate risk

The Company reported borrowings of $648.2 million (2015: $694.1 million) in the form of a bond maturing in May 2019, with fixed coupon interest payable of 7.5% on the nominal value of $675 million. Although interest is fixed on existing debt, whenever the Company wishes to borrow new debt or refinance existing debt, it will be exposed to interest rate risk. A 1% increase in interest rate payable on a balance similar to the existing debt of the Company would result in an additional cost of $6.8m per annum.

Capital management

The Company manages its capital to ensure that it remains sufficiently funded to support its business strategy and maximise shareholder value. The Company's short term funding needs are met principally from the cash flows generated from its operations and available cash of $407.0 million.

17. Share capital

	Suspended Voting Ordinary shares	Voting Ordinary shares	Total Ordinary Shares
At 1 January 2015 – fully paid[1]	33,538,301	246,709,897	280,248,198
Conversion of suspended ordinary voting shares on 13 February 2015 as a result of a sale of 2,000,000 and 1,400,000 voting ordinary shares by affiliated shareholders to third parties on 10 December 2014 and 16 December 2014 respectively	(3,916,616)	3,916,616	-
At 31 December 2015 and 1 January 2016	29,621,685	250,626,513	280,248,198
Conversion of suspended voting ordinary shares on 24 February 2016 as a result of a sale of 27,339,017 voting ordinary shares by affiliated shareholders to third parties between 22 September 2015 and 13 February 2016	(29,621,685)	29,621,685	-
At 31 December 2016 – fully paid[1]	-	280,248,198	280,248,198

1. Voting ordinary shares includes 1,853,008 (2015: 1,865,720) treasury shares

On the sale of voting ordinary shares from an affiliated shareholder to a third party, the affiliated shareholders have a right of conversion of suspended voting ordinary shares to voting ordinary shares in order to maintain their voting ordinary share percentage at just below 30% of the Company. Details of those sales and resulting conversions are set out below.

Between the 22 September 2015 and 13 February 2016 27,339,017 voting ordinary shares were transferred from affiliated shareholders to third parties. On 24 February 2016 29,621,685 suspended voting ordinary shares were converted to ordinary shares in accordance with the terms of the suspended voting ordinary shares.

On 13 February 2015 3,916,616 suspended voting ordinary shares were converted to voting ordinary shares in accordance with the terms of the suspended voting ordinary shares.

There have been no changes to the authorised share capital since it was determined to be 10,000,000,000 ordinary shares of £0.10 per share.

1B. Share based payments

The Company has three share-based payment plans: a performance share plan, restricted share plan and a share option plan. The main features of these share plans are set out below.

Key features	PSP	RSP	SOP
Form of awards	Performance shares. The intention is to deliver the full value of vested shares at no cost to the participant (e.g. as conditional shares or nil-cost options).	Restricted shares. The intention is to deliver the full value of shares at no cost to the participant (e.g. as conditional shares or nil-cost options).	Market value options. Exercise price is set equal to the average share price over a period of up to 30 days to grant.
Performance conditions	Performance conditions will apply. For awards granted to date, these are based on relative TSR measured against a Group of industry peers over a three-year period.	Performance conditions may or may not apply. For awards granted to date, there are no performance conditions.	Performance conditions may or may not apply. For awards granted to date, there are no performance conditions.
Vesting period	Awards will vest when the Remuneration Committee determines whether the performance conditions have been met at the end of the performance period.	Awards typically vest over three years.	Awards typically vest after three years. Options are exercisable until the 10th anniversary of the grant date.
Dividend equivalents	Provision of additional cash/shares to reflect dividends over the vesting period may or may not apply. For awards granted to date, dividend equivalents do not apply.	Provision of additional cash/shares to reflect dividends over the vesting period may or may not apply. For awards granted to date, dividend equivalents do not apply.	Provision of additional cash/shares to reflect dividends over the vesting period may or may not apply. For awards granted to date, dividend equivalents do not apply.

In 2016, awards were made under the performance share plan and restricted share plan, no awards were made under the share option plan, the numbers of outstanding shares under the PSP, RSP and SOP as at 31st December 2016 are set out below:

	PSP Options (nil cost)	RSP Options (nil cost)	SOP	CEO award (nil cost)
Outstanding at the beginning of the year	1,748,823	968,138	325,727	375,000
Granted during the year	3,399,136	2,118,008	-	-
Forfeited/lapsed during the year	(794,621)	(334,429)	(89,131)	-
Exercised during the year	-	(275,308)	-	-
Outstanding at the end of the year	**4,353,338**	**2,476,409**	**236,596**	**375,000**
Exerciseable at the end of the year	102,131	63,802	140,088	93,750

The range of exercise prices for share options outstanding at the end of the period is nil to 1,046.00p. The weighted average remaining contractual life of the outstanding share options is 2 years. The blended exercise price for SOPs is 890p.

Fair value of options granted has been measured either by use of the Black-Scholes pricing model or by use of a formula based on past calculations. The model takes into account assumptions regarding expected volatility, expected dividends and expected time to exercise. In the absence of sufficient historical volatility for the Company, expected volatility was estimated by analysing the historical volatility of FTSE-listed oil and gas producers over the three years prior to the date of grant. The expected dividend assumption was set at 0%. The risk-free interest rate incorporated into the model is based on the term structure of UK Government zero coupon bonds. The inputs into the fair value calculation for RSP and PSP awards granted in 2015 and fair values per share using the model were as follows:

18. Share based payments continued

	RSP 7/5/2016	RSP 8/5/2016	RSP 19/9/2016	PSP 7/5/2016	PSP 8/5/2016
Share price at grant date	125p	110p	110p	125p	125p
Exercise price	-	-	-	-	-
Fair value on measurement date	125p	110p	110p	32p	32p
Expected life	1-3 years	1-3 years	1-3 years	3-6 years	3-6 years
Expected dividends	-	-	-	-	-
Fair value on measurement date	125p	110p	110p	32p	32p
Share price at balance sheet date	72p	72p	72p	72p	72p
Change in share price between grant date and 31 December 2016	-36%	-23%	-23%	-36%	-36%

The weighted average fair value for PSP awards granted in the period is 32p and for RSP awards granted in the period is 125p.

Total share based payment charge for the year was $7.5m (2015:$2.9 million), which is fixed using the share price at the date of grant. In the previous year the charge included the reversal of previously expensed costs principally caused by the non-vesting of options.

19. Capital commitments and operating lease commitments

Under the terms of its PSCs and JOAs, the Company has certain commitments that are generally defined by activity rather than spend. The Company's capital programme for the next few years is explained in the operating review and is in excess of the activity required by its PSCs and JOAs.

The Company leases temporary production and office facilities under operating leases. During the period ended 31 December 2016 $3.8 million (2015: $4.0 million) was expensed to the statement of comprehensive income in respect of these operating leases.

Drill rigs are leased on a day-rate basis for the purpose of drilling exploration or development wells. The aggregate payments under drilling contracts are determined by the number of days required to drill each well and are capitalised as exploration or development assets as appropriate.

The Company had no material outstanding commitments for future minimum lease payments under non-cancellable operating leases.

20. Related parties

The directors have identified related parties of the Company under IAS24 as being: the shareholders; members of the Board; and members of the executive committee, together with the families and companies, associates, investments and associates controlled by or affiliated with each of them. The compensation of key management personnel including the directors of the Company is as follows:

	2016 $m	2015 $m
Board remuneration	1.0	1.8
Key management emoluments and short-term benefits	7.4	9.0
Share-related awards	0.1	1.6
	8.5	12.4

There are no other significant related party transactions.

21. Subsidiaries and joint arrangements

For the period ended 31st December 2016 the principal subsidiaries and joint operations of the Company were the following:

Entity name	Country of Incorporation	Ownership % (ordinary shares)
Genel Energy Holding Company Limited[1]	Jersey	100
Genel Energy Finance Plc[2]	UK	100
Genel Energy Finance 2 Plc[1]	Jersey	100
Genel Energy Finance 3 Plc[2]	UK	100
Genel Energy Netherlands Holding 1 Cooperatief B.A.[3]	Netherlands	100
Genel Energy Netherlands Holding 2 B.V.[3]	Netherlands	100
Genel Energy International Ltd[4]	Anguilla	100
Taq Taq Operating Company Limited[4]	BVI	55
Genel Energy Miran Bina Bawi Limited[2]	UK	100
A&T Petroleum Company Limited[5]	Cayman Islands	100
Genel Energy Africa Exploration Limited[2]	UK	100
Genel Energy Africa Limited[2]	UK	100
Genel Energy Exploration 2 Limited[2]	UK	100
Genel Energy Limited[2]	UK	100
Genel Energy Somaliland Limited[2]	UK	100
Genel Energy Gas Company Limited[1]	UK	100
Phoenicia Energy Company Limited[6]	Malta	100
Genel Energy UK Services Limited[2]	UK	100
Genel Energy Yonetim Hizmetleri Anonim Sirketi[7]	Turkey	100
Genel Energy Petroleum Services Limited[2]	UK	100
Barrus Petroleum Limited[8]	Isle of Man	100
Barrus Petroleum Cote d'Ivoire Sarl[9]	Cote d'Ivoire	100
Taq Taq Petroleum Refinery Company Limited[10]	BVI	100
Taq Taq Drilling Company Limited[11]	BVI	55

1. Registered office is 12 Castle Street, St Helier, Jersey JE2 3RT
2. Registered office is Fifth Floor, 36 Broadway, London SW1H 0DB
3. Registered office is Prins Bernhardplein 200, 1097 JB, Amsterdam, Netherlands
4. Registered office is PO Box 1338, Maico Building, The Valley, Anguilla and is a joint operation service company through which the Company jointly operates the Taq Taq PSC with its partner
5. Registered office is PO box 309 Ugland House, Grand Cayman, KY1-1104, Cayman Islands
6. Registered office is 85 St John Street, Valletta, VLT 1165, Malta
7. Registered office is Next Level Is Merkezi, Eskisehir Yolu, Dumlupinar Bulvari, No:3A-101, Söğütözü, Ankara, 06500, Turkey
8. Registered office is 6 Hope Street, Castletown, IM9 1AS, Isle of Man
9. Registered office is 7 Boulevard Latrille Cocody, 25 B.P. 945 Abidjan 25, Cote d'Ivoire
10. Registered office is Ellen L Skelton Building, Fishers Lane, Road Town, Tortola, BVI
11. Registered office is 3rd Floor, Geneva Place, Waterfront Drive, PO Box 3175, Road Town, Tortola BVI

22. Annual report

Copies of the 2016 annual report will be despatched to shareholders in April 2017 and will also be available from the Company's registered office at 12 Castle Street, St Helier, Jersey JE2 3RT and at the Company's website – www.genelenergy.com.

OTHER INFORMATION
REPORT ON PAYMENTS TO GOVERNMENTS FOR THE YEAR 2016

Introduction and basis for preparation

This report sets out details of the payments made to governments by Genel Energy plc and its subsidiary undertakings ("Genel") for the year ended 31 December 2016 as required under the Disclosure and Transparency Rules of the UK Financial Conduct Authority (the 'DTRs') and in accordance with our interpretation of the draft Industry Guidance issued for the UK's Report on Payments to Governments Regulations 2014, as amended in December 2015 ('the Regulations'). The DTRs require companies in the UK and operating in the extractives sector to publically disclose payments made to governments in the countries where they undertake exploration, prospection, development and extraction of oil and natural gas deposits or other materials.

This report is available to download at www.genelenergy.com/investor-relations/results-reports-presentations.

Governments

All of the payments made in relation to licences in the Kurdistan Region of Iraq ('KRI') have been made to the Ministry of Natural Resources of the Kurdistan Regional Government ('KRG'). All other payments have been made to the national governments of the relevant country where the licence is based.

Production entitlements

Production entitlements are the host government's share of production during the reporting period from projects operated by Genel. Production entitlements from projects that are not operated by Genel are not covered by this report. The figures reported have been produced on an entitlement basis rather than on a liftings basis. Production entitlements are paid in-kind and the monetary value disclosed is derived from management's calculation of revenue from the field.

Royalties

Royalties represent royalties paid in-kind to governments during the year for the extraction of oil. The terms of the Royalties are described within our Production Sharing Contracts and can vary from project to project. Royalties have been calculated on the same barrels of oil equivalent basis as production entitlements.

Licence fees

These are fees and other sums paid as consideration for acquiring a licence for gaining access to an area where extractives are performed.

Materiality threshold

Total payments below £86,000 made to a government are excluded from this report as permitted under the Regulations.

PAYMENTS TO GOVERNMENTS - 2016

Country/Licence	Kurdistan Total[1]	Taq Taq[2]	Tawke[3]	Morocco Total	Mir Left	Somaliland Total	Odewayne	SL-10B/ SL-13
Payments in bbls								
Production entitlement (bbls)	**13,799,444.39**	13,799,444.39	-	-	-	-	-	-
Royalties in kind (bbls)	**2,201,957.06**	2,201,957.06	-	-	-	-	-	-
Total (bbls)	**16,001,401.45**	16,001,401.45	-	-	-	-	-	-
***Estimated value in $millions (this amount is not paid to the KRG, and is calculated to meet the reporting requirements under the Regulations)**								
Value of production entitlements ($million)	**522.94***	522.94	-	-	-	-	-	-
Value of royalties ($million)	**83.17**	83.17	-	-	-	-	-	-
Licence fees ($million)	**-**	-	-	**0.15**	0.15	**0.49**	0.15	0.34
Capacity building payments[4]	**24.5**	13.6	10.9					
Total ($million)	**630.61**	619.71	10.9	**0.15**	0.15	**0.49**	0.15	0.34

1. Under the lifting arrangements implemented by the KRG, the KRG takes title to crude at the wellhead and then transports it to Ceyhan in Turkey by pipeline. The crude is then sold by the KRG into the international market. All proceeds of sale are received by or on behalf of the KRG, out of which the KRG then makes payment for cost and profit oil in accordance with the PSC to Genel, in exchange for the crude delivered to the KRG. Under these arrangements, payments are in fact made by or on behalf of the KRG to Genel, rather than by Genel to the KRG. For the purposes of the reporting requirements under the Regulations however, we are required to characterise the value of the KRG's entitlement under the PSC (for which they receive payment directly from the market) as a payment made to the KRG.
2. The amount reported for Taq Taq, with the exception of Capacity Building Payments, is the gross payment made to the KRI by the operating company (TTOPCO), Genel's share of these payments is equal to 55%.
3. Payments in relation to Tawke are made by the Operator with the exception of capacity building payments which are made directly by Genel in relation to our interest in the Tawke Production Sharing Contract.
4. Capacity building payments reported are payments made by Genel directly to the KRI in cash as required by the Production Sharing Contract.

GLOSSARY OF TECHNICAL TERMS

'AGM'	annual general meeting
'Companies Act 2006'	Companies Act 2006, as amended
'Company'	Genel Energy plc
'CPR'	competent person's report
'Elysion'	Elysion Energy Holding B.V.
'Focus Investments'	Focus Investments Limited
'FRC'	UK Financial Reporting Council
'FSMA'	the Financial Services and Markets Act 2000 of the UK, as amended
'FTSE'	FTSE International Limited
'GHG'	greenhouse gases
'GLA'	gas lifting agreement
'Group'	the Genel Energy group of companies
'HSE'	health, safety and environment
'ICMM Sustainable Development Framework'	the sustainable development framework set out by the International Council on Mining and Metals
'IDP'	internally displaced person
'IFC Performance Standard'	the performance standards set out by the International Finance Corporation
'IOC'	International Oil Company
'Jersey Companies Law'	Companies (Jersey) Law 1991 (as amended)
'KRG'	the Kurdistan Regional Government
'KRI'	the Kurdistan Region of Iraq
'Listing Rules'	the Listing Rules of the UK Listing Authority
'LoPC'	loss of primary containment
'LTI'	lost time incident
'LTIF'	lost time incident frequency: the number of lost time incidents per million work hours
'NGO'	non-governmental organisation
'NOC'	Northern Oil Company
'Ordinary Shares'	the voting ordinary shares and/or the suspended voting ordinary shares as the context requires
'PRM'	Petroleum Resources Management N.V.
'PSC'	production sharing contract
'PSP'	performance share plan
'PwC'	PricewaterhouseCoopers LLP
'RSP'	restricted share plan
'SOMO'	State Oil Marketing Organisation
'SOP'	share option plan
'Standard Listing'	a standard listing under Chapter 14 of the Listing Rules
'TSR'	total shareholder return
'TTOPCO'	Taq Taq Operating Company Limited
'UKLA'	UK Listing Authority

GLOSSARY OF TECHNICAL TERMS continued

Certain resources and reserves terms

'1P'	proved reserves
'2P'	proved plus probable reserves
'3P'	proved plus probable plus possible reserves
'2C'	contingent resources

Units of measurement

'bbl'	barrel
'bcma'	billion cubic metres per annum
'bnboe'	billion barrel oil equivalent
'bopd'	barrels of oil per day
'boepd'	barrels of oil equivalent per day
'km'	kilometres
'mcf'	thousand cubic feet
'MMbbls'	millions of barrels
'MMboe'	million barrels of oil equivalent
'tcf'	trillion cubic feet
'tCO_2e'	tonnes of CO_2 equivalent

SHAREHOLDER INFORMATION

ShareGift
If you hold a small number of shares and find it uneconomical to sell them, you may wish to donate your shares to charity free of charge through ShareGift. ShareGift collects donations of unwanted shares, sells them and donates the proceeds to UK charities. Further details are available at www.sharegift.org or by calling +44 (0) 20 7930 3737.

AGM
This year's AGM will be held at J.P. Morgan, 60 Victoria Embankment, London EC4Y 0JP, UK on Tuesday, 6 June 2017 at 11.00am.

Details of the business to be considered at the AGM are set out in the accompanying notice of meeting.

Dividend and dividend history
We have not paid any dividends to shareholders to date and no final dividend is proposed in respect of the year ended 31 December 2016.

Registrars
Our registrars are Equiniti Registrars.

All enquiries relating to the administration of shareholdings should be directed to Equiniti Registrars, Aspect House, Spencer Road, Lancing, West Sussex, BN99 6DA.

Telephone: 0371 384 2030 lines are open Monday – Friday excluding UK Bank Holidays, 8.30am – 5.30pm (from outside the UK: +44 121 415 7047).

Share price information
The current price of the Company's shares is available on the Company's website at www.genelenergy.com

Contacts and Auditors

Registrar
Equiniti (Jersey) Limited
PO Box 75
26 New Street
St Helier
Jersey
Channel Islands
JE4 8PP

Independent Auditors
PricewaterhouseCoopers LLP
1 Embankment Place
London
WC2N 6RH

Registered Office
12 Castle Street
St Helier
Jersey
JE2 3RT

London Office
Fifth Floor
36 Broadway
Victoria
London
SW1H 0DB

Ankara Office
Next Level İş Merkezi
Eskişehir Yolu
Dumlupınar Bulvarı No: 3A-101
Söğütözü 06500
Ankara, Turkey

Consultancy, design and production by Luminous
www.luminous.co.uk

Genel Energy

Registered Office
12 Castle Street
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JE2 3RT

London Office
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36 Broadway
Victoria
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Ankara Office
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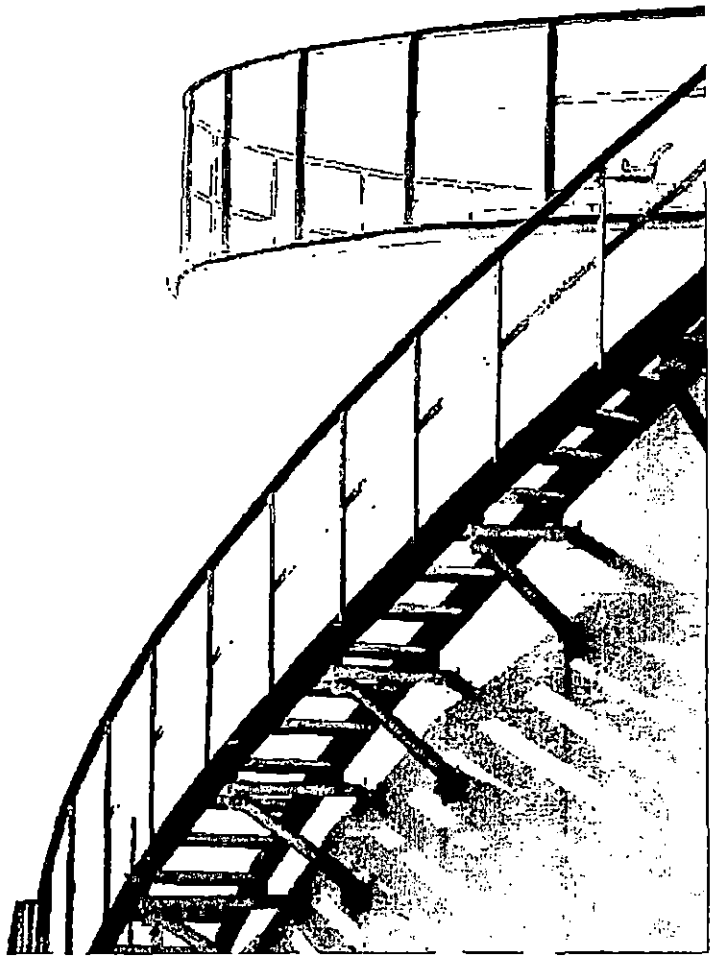
Eskişehir Yolu
Dumlupınar Bulvarı No:3A-101
Söğütözü 06500
Ankara, Turkey

www.genelenergy.com



Civil Action No. **2017-081 CBJ**

METHOD OF FILING

The foregoing

PLAINTIFF'S SUPPLEMENTAL OPPOSITION TO DEFENDANT MEHMET EMIN KARAMEHMET'S MOTION TO DISMISS; DECLARATION OF SEGUN OKUNTOKUN W/EXHIBITS

was filed with the High Court in Majuro on the date below-written with

Clerk of Courts – High Court
P.O. Box 378
Majuro, MH 96960
Marshall.Islands.Judiciary@Gmail.com

CERTIFICATE OF SERVICE

I hereby certify that an exact duplicate of the document(s) filed above was duly served upon the below-named person(s) on the date below written by sending him a copy by

(x) by Email to the address listed below his name.
( ) by Mail to the address below his name
( ) by Hand Delivery to his office

Dennis J. Reeder
REEDER & SIMPSON
P.O. Box 601
Majuro, MH 96960
DReeder.RMI@gmail.com

Attorney for the Defendant
Mehmet Emin KARAMEHMET

Dated: 22 December 2017
Majuro Atoll

By: /s/ *James McCaffrey*
JAMES McCAFFREY
Attorney for Plaintiffs

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IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

Samsung Heavy Industries Co, LTD, a korean corporation
Plaintiff
v
Focus Investments LTD, a marshall islands corporation and Mehm
Defendant

Criminal Case No. 2017-081

CERTIFICATE OF SERVICE

I, Item I. Note, Asst. Clerk of the Courts, hereby certify that on 11/1/2017

I served the Order Re Scheduling Stipulation

filed 11/14/2017 in the above captioned matter on:

1. James McCaffrey by ☑ Email ☐ Fax ☐ Personal Hand Delivery
2. Dennis Reeder by ☑ Email ☐ Fax ☐ Personal Hand Delivery
3. _____ by ☐ Email ☐ Fax ☐ Personal Hand Delivery
4. _____ by ☐ Email ☐ Fax ☐ Personal Hand Delivery

Attached is a copy of my ☒ Sent Email / ☐ Fax Confirmation.

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Asst. Clerk of the Courts
Marshall Islands Judiciary

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CA2017-081

Marshall Islands Judiciary <marshall.islands.judiciary@gmail.com> 9
to James, Dennis

Iakwe All,

I have attached a Order Re Scheduling Stipulation regarding the above mentioned case,

Regards,

Item

Marshall Islands Judiciary <marshall.islands.judiciary@gmail.com> 9
to James, Dennis

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IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO LTD, a Korean corporation Plaintiff, vs. FOCUS INVESTMENTS LTD, a Marshall Islands corporation, and MEHMET EMIN KARAMEHMET, Defendants	CIVIL ACTION NO. 2017-081 **ORDER RE SCHEDULING STIPULATION**

TO: James McCaffrey, counsel for plaintiff
Dennis Reeder, counsel for defendants

Having reviewed the parties' November 13, 2017 Scheduling Stipulation regarding supplemental briefing, the Court orders as follows:

1. On or before 4:30 p.m. on December 22, 2017, the parties must file and serve their opening briefs; and

2. On or before 4:30 p.m. on January 26, 2018, the parties must file and serve their oppositions to the opposing parties' opening brief.

The Court shall rule on the defendants' Motion to Dismiss without further argument, unless the Court orders otherwise.

Ordered and Entered: November 13, 2017.

Carl B. Ingram
Chief Justice

Dennis J. Reeder
Bar Certificate No. 80
P.O. Box 601
Majuro, MH 96960
Telephone: 692-625-3602
Honolulu Telephone: 808-352-0749
Email: dreeder.rmi@gmail.com

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NOV 13 2017

CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

IN THE HIGH COURT

REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO LTD Plaintiff, v. FOCUS INVESTMENTS LTD., et. al. Defendants.	High Court Civil Action No. 2017-081 **SCHEDULING STIPULATION**

The parties through counsel, Dennis J. Reeder and James McCaffrey, hereby stipulate to the following pursuant to the courts request at the November 10, 2017, hearing on the Motion to Dismiss for the parties to submit additional briefs in further support of their respective positions regarding the Motion.

Each party shall have until 4:30P.M., Friday, December 22, 201, Majuro date, to submit their opening briefs.

Each party shall have until 4:30P.M., Friday, January 26, 2018, Majuro date, to submit an opposition to the opening briefs filed on December 22, 2017.

11/11/17

Dennis J. Reeder Date
Defendants

James McCaffrey Date 11/13/17
For Plaintiff

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

Samsung
Plaintiff
v
Focus Investments
Petitioner(s)

Civil Case No. 2017-081

CERTIFICATE OF SERVICE

I, Tanya Lomae, Asst. Clerk of the Courts, hereby certify that on 9/4/17

I served the Order for Scheduling Oral Argument

filed 09/04/2017 in the above captioned matter on:

1. James McCaffrey by ☑ Email ☐ Fax ☑ Personal Hand Delivery
2. Dennis Reeder by ☑ Email ☐ Fax ☐ Personal Hand Delivery
3. _____ by ☐ Email ☐ Fax ☐ Personal Hand Delivery
4. _____ by ☐ Email ☐ Fax ☐ Personal Hand Delivery

Attached is a copy of my ☒ Sent Email / ☐ Fax Confirmation.

Tanya Lomae
Asst. Clerk of the Courts
Marshall Islands Judiciary

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to James, Dennis

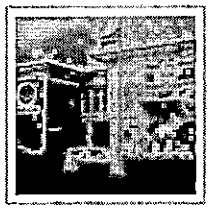
Iakwe Counsel,

Please view attached Or

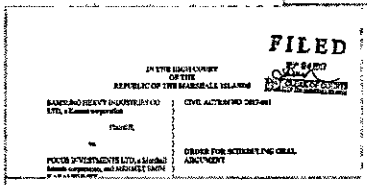
Kommol,
Tanya

Marshall Islands Judiciary (you)

marshall.islands.judiciary@gmail.com



Emails



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IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO LTD, a Korean corporation Plaintiff, vs. FOCUS INVESTMENTS LTD, a Marshall Islands corporation, and MEHMET EMIN KARAMEHMET, Defendants	CIVIL ACTION NO. 2017-081 **ORDER FOR SCHEDULING ORAL ARGUMENT**

TO: James McCaffrey, counsel for plaintiff
Dennis Reeder, counsel for defendants

Having consulted with counsel, the Court sets the defendants' Motion to Dismiss for oral argument at 10:00 a.m. on November 8, 2017.

Ordered and Entered: September 4, 2017.

Carl B. Ingram
Chief Justice

Dennis J. Reeder
Bar Certificate No. 80
P.O. Box 601
Majuro, MH 96960
Telephone: +1-692-625-3602
Honolulu: 808-352-0749
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Attorney for Defendant Mehmet Emin Karamehmet.

IN THE
HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO LTD Plaintiff, vs. FOCUS INVESTMENTS LTD, a Marshall Islands corporation, and MEHMET EMIN KARAMEHMET Defendants.	CIVIL ACTION NO. 2017-081 **DEFENDANT MEHMET EMIN KARAMEHMET'S REPLY TO PLAINTIFF"S OPPOSITION TO THE MOTION TO DISIMSS; CERTIFICAE OF SERVICE**

Defendant Mehmet Emin Karametmet, by and through counsel Dennis J. Reeder, hereby respectfully submits the attached Reply to Plaintiff's Opposition to the Motion to Dismiss.

Dennis J. Reeder – September 1, 2017 (Majuro Date)

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IN THE HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO LTD, Plaintiff, vs. FOCUS INVESTMENTS LTD, a Marshall Islands corporation, and MEHMET EMIN KARAMEHMET Defendants.	CIVIL ACTION NO. 2017-081 **REPLY OF DEFENDANT KARAMEHEMET TO PLAINTIFF'S OPPOSITION TO THE MOTION TO DISMISS.**

Plaintiff Samsung Heavy Industries Co., Inc. ("Samsung" or "Plaintiff"), counters the motion to dismiss for lack of personal jurisdiction by attempting to change the nature of its Complaint from an *in personam* claim to restrain Defendant Karamehmet from transferring shares of the Republic of the Marshall Islands (the "RMI"), corporation Focus Investments Ltd ("Focus"), to an *in rem* action against the Focus shares themselves, which Samsung alleges are located in the RMI. Samsung's argument is flawed for several reasons. First, Samsung has not alleged an *in rem* claim against the Focus shares nor sought attachment of the shares. Second, and more importantly, the shares of Focus are not located in the RMI under the applicable statutory and common law. Without jurisdiction over the defendant Karamehmet or property located in the RMI, Samsung cannot have its foreign judgment recognized, let alone enforced, here.

I. THE SITUS OF THE FOCUS SHARES IS NOT THE MARSHALL ISLANDS

Samsung argues that United States common law provides that the situs of shares for the purposes of attachment is where the corporation is domiciled and urges this Court to adopt a similar rule. Samsung, however, has misstated the U.S. law on this point. The Delaware "rule" locating

stock at the place of incorporation for the purposes of attachment and other suits concerning the shares is statutory and there is no comparable RMI statutory provision.

The common law rule is "well settled that, in the absence of statute, shares of stock in a corporation are not subject to levy and sale on execution." *Shares of Corporate Stock as Subject of Execution or Attachment,* 1 A.L.R. 653 (Originally published in 1919) (citing numerous cases). "Under common law, corporate stock was generally regarded as in the nature of a chose in action, and therefore within the rule that choses in action are not, at common law, subject to execution." *Id.* "The modern proceeding by attachment is statutory." *Id.* Hence, as was said in *Lipscomb v. Gordon,* 56 W. Va. 416 (1904), "If the statutes governing the remedy by attachment do not make shares liable under it, it is clear that they cannot be subjected to the payment of debts by such proceedings." *Id. See also, 11 Fletcher Cyc. Corp.* § 5093 ("At common law, a share of stock was considered a chose in action, and hence, not tangible property.").[1]

It is these statutes, of which Section 169 of the Delaware General Corporations Law ("DCGL") is one, that provided that the situs of shares for the sake of attachment and other actions, such as to quiet title, is the place of incorporation. Other statutory provisions, such as the Uniform Stock Transfer Act, located the stock, for attachment purposes, where the physical shares could be found.[2] Currently, the Uniform Commercial Code ("U.C.C.") governs the situs of the shares for levy or attachment. The U.C.C. provides that certificated shares may only be seized where the certificates are located; uncertificated shares may be executed upon only at the corporation's chief executive office. *See e.g. N.Y. U.C.C.* § 8-112; *10 Fletcher Cyc. Corp.* § 4803.20. Under most states' statutory law, the place of incorporation is not even one of the choices of where the shares may be attached or executed on by a creditor. Thus, in *United States v. 105,800 Shares of Common Stock of FirstRock Bancorp, Inc.*, 825 F. Supp. 191, 195 (N.D. Ill. 1993), the Illinois court declined to follow DCGL § 169 when considering the correct venue for the seizure of shares of a Delaware

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1 The common law rule was reiterated in a later annotation entitled *Situs of corporate stock (or stock in joint stock company) for purpose of attachment, garnishment, or execution* which provides: "It should be remembered that corporate stock was not subject to attachment or garnishment at common law. See annotation above referred to, in 1 A.L.R. 653. But in most jurisdictions statutes have been enacted in more or less general terms, which, in enumerating the character of the property which may be attached or garnished, include the interest of a stockholder in a corporation. That such statutes apply to the stock of domestic corporations, and expressly change the common-law rule to the contrary, may here be conceded; and whether they also apply to the stock of a foreign corporation is one of the questions under annotation." 122 A.L.R. 338 (Originally published in 1939).

2 The Uniform Stock Transfer Act provided in pertinent part "as a condition precedent to attachment of or levy on a share either (1) seizure of the certificate or (2) its surrender to the corporation or (3) an injunction directed against its holder." *Attachment of Corporate Stock: The Conflicting Approaches of Delaware and the Uniform Stock Transfer Act,* 73 Harv. L. Rev. 1579, 1580 (1960)

corporation and instead followed the U.C.C. to determine the proper location. In doing so the court stated: **"Claimant . . . also argues common law recognizes the situs of stock as the place of incorporation of the issuing corporation. This is an incorrect proposition."** Id. at 195 (emphasis added).

Samsung attempts to distinguish *Yandall Investments PTY Ltd. v. White River Gold Limited*, High Ct. Civ. No. 2010-158 (High Ct. 2011), a decision directly on point, by stating that it appears that the plaintiff in *Yandall* forgot to argue the common law rule that the situs of shares is where the corporation is domiciled. Whether or not this supposition is correct, the *Yandall* Court found that the RMI does not have an analogue to DGCL § 169 and that it is not "the rule in the Marshall Islands, for a non-resident domestic corporation incorporated in the Marshall Islands, that the place of incorporation is the legal situs of the stock of such corporation". High Ct. Civ. No. 2010-158 at p. 3. Samsung also attempts to distinguish *Yandall* by arguing it dealt with *in personam* jurisdiction, not *in rem* jurisdiction. Samsung, however, has not sued anything *in rem*. Samsung is seeking an injunction over Mr. Karamehmet, a person, and therefore personal jurisdiction is required.

II. SAMSUNG'S FOREIGN JUDGEMENT CANNOT BE RECOGNIZED BECAUSE THERE IS NO PROPERTY OF THE DEFENDANT IN THE MARSHALL ISLANDS

Samsung admits in its Opposition Brief ("Opp. Brief") "the presence of the judgment debtor's property . . . [in the Marshall Islands] is required to provide a basis for jurisdiction" in order for this court to recognize the foreign judgment. (Opp. Brief heading I(A)). This comports with U.S. case law. Thus in *Electrolines, Inc. v. Prudential Assurance Co., Ltd.*, 260 Mich. App. 144, 155, 677 N.W.2d 874, 882 (2003), the Michigan Court of Appeals found that a Liberian judgment could not be enforced because there was no personal jurisdiction over, or property of, the judgment-debtor in Michigan. The court commented that:

> We have not found any authorities indicating that the foundational requirement of demonstrating a trial court's jurisdiction over a person or property is inapplicable in enforcement proceedings. To the contrary, the pertinent Restatement provides that "enforcement of a debt arising out of a foreign judgment must be initiated by civil action, and the judgment creditor must establish a basis for the exercise of jurisdiction by the enforcing court over the judgment debtor or his property." *1 Restatement Foreign Relations Law, supra*, part IV, ch. 8, subch. A, 481, comment g (1986). *See also Silberman, supra*, 688 *Prac L Inst*, p. 489 (opining that jurisdiction over a judgment debtor in an action brought to enforce the judgment

> must be acquired and that the action may be brought "against the defendant where he may be found or domiciled or the property of the judgment debtor may be attached as a basis of jurisdiction to enforce").

Id. at 884.

Indeed, the stated purpose of the plaintiff in *Electrolines* was recognition of a Liberian judgment in the United States so that it could subsequently be enforced in the United Kingdom, which would refuse recognition of the original Liberian judgment. This attempted legitimization of a foreign judgment should clearly be discouraged and is one reason why this Court should require at least some property of the judgment debtor be located in the forum prior to recognition.[3]

As noted by Samsung, one reported New York state court decision held that neither personal jurisdiction nor property are a requirement to recognize a foreign judgment, (see *Abu Dhabi Commercial Bank PJSC v. Saad Trading, Contracting & Fin. Servs. Co.*, 117 A.D. 3d 609 (1st Dept. 2014)), however this position appears to be an outlier. Indeed, the ALI - a U.S. national organization of distinguished legal professionals – has specifically addressed this issue in its revision of the *Restatement of The Foreign Relations Law of the United States.* On May 19, 2014, the ALI approved a draft of sections concerning jurisdiction, which states that "[a] person seeking recognition of a foreign judgment through a civil proceeding must obtain jurisdiction over any person against whom the judgment will operate" such that "the persons whom the judgment will bind have sufficient contacts with the forum to satisfy due process . . . Although enforcement of a foreign judgment depends on that judgment's prior recognition, the presence of assets will suffice to sustain a proceeding that simultaneously recognizes and enforces a foreign money judgment. A few State courts have misread *Shaffer* to dispense with the requirement of personal jurisdiction altogether. The better reading is that *Shaffer's* exception is limited to actions to enforce a judgment where the defendant has property in the enforcing jurisdiction." *Restatement (Fourth) of Foreign Relations Law: Jurisdiction* § 402 TD No. 1 (2014)(citations omitted).

In addition, courts called upon to recognize and enforce arbitration awards under the New York Convention, 9 U.S.C. § 207, uniformly hold that there must be jurisdiction over the judgment

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[3] Samsung does not even allege that Mr. Karamehmet owns shares in Focus, merely that he is believed to have an interest an unnamed entity that allegedly owns the Focus shares. However, the Complaint is devoid of allegations supporting a corporate veil piercing argument. Under Delaware law, piercing the corporate veil "requires that the corporate structure cause fraud or similar injustice. Effectively, the corporation must be a sham and exist for no other purpose than as a vehicle for fraud." See, e.g., *Wallace ex rel. Cencom Cable Income Partners II, Inc., L.P. v. Wood*, 752 A.2d 1175 (Del. Ch. 1999).

debtor or its property in the district to confirm an award. In *Frontera Resources Azerbaijan Corp. v. State Oil Co. of Azerbaijan*, 582 F.3d 393 (2d Cir. 2009), the Second Circuit Court of Appeals was required to determine whether a district court could confirm a foreign arbitration award when the defendant had no presence or property in the forum. The New York Convention, like the RMI Uniform Foreign Money-Judgments Recognition Act, 30 MIRC Ch. 4 (the "Recognition Act"), has enumerated defenses to recognition. 9 U.S.C. § 207. Neither the New York Convention nor the Recognition Act name "lack of jurisdiction of the recognizing court" as a potential defense. This failure to list lack of jurisdiction was the primary reason that the court in *Abu Dhabi Commercial Bank PJSC* interpreted New York's version of the Recognition Act as not requiring personal jurisdiction or property in the recognizing state. The Second Circuit, however, held that the enumerated defenses pertain to substantive matters rather than to procedure. Although these enumerated defenses are the exclusive way to challenge a request for confirmation, it does not "alter the fundamental requirement of jurisdiction over the party against whom enforcement is being sought." *Frontera Resources* at 397. *See also, Glencore Grain Rotterdam B. V. v. Shivnath Rai Harnarain Co.*, 284 F.3d 1114, 1120-22 (9th Cir. 2002) (observing that either personal jurisdiction over defendant or its property is required to confirm arbitral award); *Base Metal Trading, Ltd. v. OJSC Novokuznetsky Alum. Factory*, 283 F.3d 208, 212-213 (4th Cir. 2002) (indicating that the presence or attachment of property in a state is insufficient alone to bring an action to confirm an arbitral award).

There must be some connection between a defendant and the forum before a court should exercise jurisdiction. This comports with basic due process and fairness. "Considering the complications inherent to the foreign-country judgment recognition process and the potential impact on rights and liabilities, it is fundamentally unfair to require a judgment debtor to appear and dispute recognition in any jurisdiction in which they have no property and no meaningful contacts." Debashish Bakshi, *The Restatement (Fourth) of Foreign Relations Law: Discouraging State Courts from Recognizing Foreign-Country Money Judgments in Absence of Debtor's Assets*, 12 Hastings Bus. L.J. 281, 299 (2016).

III. SAMSUNG IS NOT ENTITLED TO JURISDICTIONAL DISCOVERY

As the party opposing dismissal and requesting jurisdictional discovery, Samsung bears the burden of showing that discovery is needed. When seeking discovery on personal jurisdiction, a plaintiff must make a "preliminary showing of jurisdiction" before being entitled to such

discovery. *Fielding v. Hubert Burda Media, Inc.*, 415 F.3d 419, 429 (5th Cir. 2005); *Nat'l Surety Corp. v. Ferguson Enterprises, Inc.*, No. 3:13–CV–2045–M, 2014 WL 5472436, at *1 (N.D.Tex. Oct. 29, 2014; *Hansen v. Neumueller GmbH*, 163 F.R.D. 471, 474 (D. Del. 1995) ("Courts are wary of allowing discovery absent *some* showing of personal jurisdictional facts if a defendant has challenged plaintiff's assertion of personal jurisdiction over him." emphasis in original) "When the lack of personal jurisdiction is clear, discovery would serve no purpose and should not be permitted." *Nat'l Surety Corp.* 2014 WL 5472436 at *1.

Samsung has not pointed to any contacts that defendant Karamehmet has with the RMI other than hearsay that he may indirectly own shares in an entity that holds shares in a non-resident domestic RMI corporation, which as a matter of law is not permitted to do business in the RMI other than the specific activities allowed under Section 2(o) of the RMI Business Corporations Act (none of which are applicable here). This is not a contact with the RMI at all. Indeed, Samsung's Complaint is devoid of any jurisdictional allegations, in clear violation of Marshall Islands Rule of Civil Procedure 8(a)(1). Samsung does not describe the discovery it contends should be allowed, what facts it hopes to obtain from such discovery, or how it would produce information that would support jurisdiction over Karamehmet. For these reasons Samsung's request for jurisdictional discovery must be denied.

IV. DISMISSAL FOR FORUM NON CONVENIENS IS PROPER

Because there is no jurisdiction over Karamehmet, or *in rem* jurisdiction over his property, the Court need not reach the question of *forum non conveniens* to dismiss. However it is apparent that none of the public or private interest factors favor the RMI as a forum. There is not a single witness or piece of evidence here. Having a Turkish or Korean witnesses travel to the RMI would be extraordinarily expensive, cumbersome, and inconsistent with the efficient administration of justice.

The whole purpose of this action is to obtain the alleged interest in Genel Energy plc, a public company listed in the United Kingdom, that Karamehmet is alleged to own indirectly through Focus and another company. Karamehmet apparently submitted to jurisdiction in England. The judgments sought to be recognized are from English courts. England would clearly be a more convenient and appropriate forum. However the courts in the United Kingdom would not ignore the corporate existence of Focus and other intermediate companies. This is the real reason why Samsung has not even tried to enforce in England.

V. CONCLUSION

Samsung has failed to show that there is jurisdiction over Karamehmet or that any of his property is located here. In these circumstances, there is simply no basis for the Court to exercise jurisdiction over this matter or recognize the English court judgment. The matter should therefore be dismissed in its entirety.

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IN THE HIGH COURT OF THE

REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO LTD Plaintiff, v. FOCUS INVESTMENTS LTD, a Marshall Islands Corporation, and MEHMET EMIN KARAMEHMET Defendants.	H. Ct. Civil Action No. 2017-081 CERTIFICATE OF SERVICE

I hereby certify that on September 1, 2017, Majuro date, a true and correct copy of the Defendant Mehmet Emin Karamehmet's Reply to Plaintiff's Opposition to the Motion to Dismiss was served on James McCaffrey, Derek J.T.Adler, and Ryan Y. Kim, Attorneys for Plaintiff, by sending to them via email transmission pdf. format to: James@McCaffreyFirm.com, Derek.Adler@HughesHubbard.com, and Ryan.Kim@HughesHubbard.com

Dennis J. Reeder - September 1, 2017 (Majuro Date)

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

SAMSUNG HEAVY INDUSTRIES CO LTD, a Korean corporation Plaintiff, vs. FOCUS INVESTMENTS LTD, a Marshall Islands corporation, and MEHMET EMIN KARAMEHMET, Defendants	CIVIL ACTION NO. 2017-081 **ORDER FOR SCHEDULING ORAL ARGUMENT**

TO: James McCaffrey, counsel for plaintiff
Dennis Reeder, counsel for defendants

Having consulted with counsel, the Court sets the defendants' Motion to Dismiss for oral argument at 10:00 a.m. on November 8, 2017.

Ordered and Entered: September 4, 2017.

Carl B. Ingram
Chief Justice