

## Double win for Libya at ICC



*The refinery at the centre of the dispute*

Douglas Thomson  
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Two ICC arbitrations valued at over US\$1.4 billion have ended in wins for Libya's National Oil Corporation, with tribunals dismissing claims brought by the Emirati owner-operators of the country's biggest refinery and – in the most recent case – allowing a US\$116 million counterclaim.

National Oil Corporation (NOC) won a case against the Libyan Emirates Refining Company, or Lerco, which operates a refinery in the Libyan city of Ra's Lanuf, on 5 January, according to a statement published by the company last week. An ICC tribunal chaired by Austria's **Andreas Reiner** and including **Jacques Salès** of France and **Ian Glick QC** of the UK as co-arbitrators dismissed the monetary portions of the claim in their entirety and upheld NOC's substantial counterclaim.

At the same time, NOC revealed that a separate ICC tribunal dismissed claims brought against it by Trasta Energy, a subsidiary of Emirati investment group Al Ghurai, in November 2016. That tribunal was chaired by Irish-German arbitrator **Klaus Reichert SC** and included **Zachary Douglas QC** of Australia and **James Castello** of the United States as co-arbitrators. Trasta co-owns Lerco with NOC.

Lerco filed for arbitration in 2013 seeking US\$813 million damages for alleged breaches of an agreement for the supply of crude oil following the revolution which ousted Libyan leader Moammar Gaddafi. Lerco also raised claims relating to the pricing formulas in the contract.

NOC's counterclaim related to a number of pricing and supply issues and included a claim that Lerco had not paid for some shipments of crude which it had received. NOC said it stood to lose more than US\$10 billion, far more than the value of the dispute, if the tribunal accepted Lerco's interpretation of their contractual relationship.

In its award, the tribunal accepted only one of Lerco's claims – for declaratory relief relating to passing formula in the contract.

Trasta filed for arbitration about a month after Lerco, complaining that NOC had breached their shareholders' agreement.

Unlike the Lerco claim, which involved a two-week hearing with exchanges of evidence, the Trasta arbitration was resolved on legal arguments alone and thus concluded a year earlier than its counterpart.

In both cases the Al Ghurair claimants were represented by a team from K&L Gates led by **Louis Degos** in Paris, while Libya was represented by a team from Curtis Mallet-Prevost Colt & Mosle, including New York-based partner **Joseph Pizzurro** and counsel **Robert Garcia**, who was made partner at the start of the year.

Ra's Lanuf was severely damaged during the revolution and by subsequent terrorist attacks committed on behalf of ISIS militants. Reuters reported in March last year that facilities at Ra's Lanuf were still "largely deserted", and that it had managed to retain only a fraction of its nearly 6,000 foreign employees.

In response to the news of NOC's latest win, the company's chairman, Mustafa Sanalla, said, "NOC is the trusted guardian of Libyan oil wealth. We will make every effort to defend that wealth."

He added that the Ra's Lanuf refinery should be reopened "as soon as possible".

NOC's counsel team after last year's hearing in Paris, including Curtis partners Joseph Pizzurro (back, centre) and Robert Garcia (far right)



*Libyan Emirates Refining Co v  
National Oil Company of Libya*

## Tribunal

- **Andreas Reiner** (Austria) (chair)
- **Ian Glick QC** (UK) (nominated by Lerco)
- **Jacques Salès** (France) (nominated by NOC)

## Counsel to Lerco

- K&L Gates

Partner **Louis Degos** in Paris

## Counsel to NOC

- Curtis Mallet-Prevost Colt & Mosle

Partners **Joseph Pizzurro** and **Robert Garcia** in New York

*Trasta Energy Co v National Oil Company*

## Tribunal

- **Klaus Reichert SC** (Ireland/Germany) (chair)
- **James Castello** (US) (nominated by Trasta)
- **Zachary Douglas QC** (Australia) (nominated by NOC)

Counsel to Lerco

K&L Gates

Partner Louis Degos in Paris

## Counsel to NOC

- Curtis Mallet-Prevost Colt & Mosle

Partners **Joseph Pizzurro** and **Robert Garcia** in New York