[unofficial translation from Dutch]

case number 200.005.269/01
28 April 2009

[Stamp: IN THE NAME OF THE QUEEN]

AMSTERDAM COURT OF APPEAL

THIRD THREE-JUDGE CIVIL SECTION

DECISION

in the matter of:

the company under the law of Luxembourg
YUKOS CAPITAL S.A.R.L.,
with registered seat in Luxembourg (Luxembourg),
APPELLANT,
counsel: B.F.H. Rumora-Scheltema, of Amsterdam,

versus

the legal person according to the law of Russian Federation
OAO ROSNEFT,
with registered seat in Moscow, Russian Federation,
DEFENDANT,
counsel: M. Deckers, of Amsterdam.

1. The course of the proceedings

1.1 Parties are referred to hereinafter as Yukos Capital and Rosneft.

1.2 By statement of appeal with exhibits, received by the registry of the court of appeal on 28 April 2008, presenting nine grounds for appeal, Rosneft filed appeal from a decision of 28 February 2008 by the Preliminary Relief Subdivision of the District Court of Amsterdam[1], under case and application number 365094 / KG RK 07-750 rendered between Yukos Capital as applicant and Rosneft as defendant. The statement of appeal, concisely put, requests that the court of appeal set aside the aforementioned decision and, again rendering judgment in a provisionally enforceable decision, will after all award Yukos Capital leave to enforce four arbitral awards rendered on 19 September 2006 by the International Court of Commercial Arbitration at Moscow in the arbitration proceedings to be mentioned hereinafter.

1.3 By a letter received by the court registry on 29 May 2008, Yukos Capital submitted a few initially lacking documents from the proceedings in first instance. By letter, received by the court registry on 20 August 2008, Yukos Capital submitted further exhibits.

1.4 By statement of defence, received by the registry of the court of appeal on 28 October 2008, Rosneft put forward a defence and, concisely put, argued that the contested decision be upheld and that Yukos Capital be ordered to pay the costs of the proceedings.

1.5 By letter, received by the registry of the court of appeal on 31 December 2008, Yukos Capital submitted further exhibits.

[1] Note from translator: The Preliminary Relief Subdivision of the District Court ("*Voorzieningenrechter*", which is also often translated as "Court in Summary Proceedings") is the competent court for requests for a leave for enforcement of a foreign arbitral award. Although the name of the competent court may suggest otherwise, the proceedings are not preliminary relief (or summary) proceedings, but full proceedings on the merits.

1.6 By letter, received by the registry of the court of appeal on 2 January 2009, Rosneft submitted a further exhibit.

1.7 By letter, received by the court registry on 8 January 2009, Yukos submitted a binder with copies of case law and literature to which it had referred in the case documents.

1.8 The oral hearing of arguments took place at the hearing of the court of appeal of 13 January 2009. Here parties argued their positions, Yukos Capital by G.J. Meijer and R.J. van Galen, lawyers of Amsterdam, and Rosneft by the aforementioned Deckers, at which occasion both parties submitted notes. Thereafter the hearing of the case was closed and judgment was scheduled.

2. The Facts

2.1 In the contested decision under 2 a to g inclusive the Court in Summary Proceedings deems a number of facts to have been established. This finding has not been disputed so that the court of appeal will also proceed from these facts. Taking these into account as well as on the one hand that which has been asserted on appeal and on the other hand that which has not, or at any rate insufficiently, been disputed and that which is shown by the contents of the submitted exhibits insofar as this has not been disputed, the following, concisely put, is undisputed by parties.

2.1.1 Four written loan agreements were entered into in July and August 2004 between Yukos Capital as the lender and the company under Russian law OJSC Yuganskneftegaz as borrower. At that time Yukos Capital and Yuganskneftegaz both formed part of the Yukos group, to which the company under Russian law Yukos Oil Company also belonged. At that time, Yukos Oil Company held all the shares in Yuganskneftegaz.

2.1.2 The loan agreements contain an arbitration clause, which entails that all disputes arising from the loan agreements (that cannot be solved by negotiation) are subject to arbitration by the International Court of Commercial Arbitration at the Chamber of Trade and Industry of the Russian Federation.

2.1.3 In connection with the tax assessments imposed on Yukos Oil Company by the Russian State, an enforced auction was held on 19 December 2004 at which all ordinary shares in Yuganskneftegaz (together constituting 76.79% of the issued share capital) were sold for an amount of over 260 billion roubles (€ 7 billion) to a Russian company called Baikal Financial Group, which had been incorporated a few weeks earlier. On 23 December 2004 Rosneft acquired all the shares in Baikal Financial Group. At the time the Russian state owned all the shares in Rosneft and it currently holds the overriding majority thereof.

2.1.4 By application of 27 December 2005 Yukos Capital instituted four arbitration proceedings against Yuganskneftegaz at the International Court of Commercial Arbitration in Moscow. In four arbitral awards of 19 September 2006 the arbitrators decided that Yuganskneftegaz must pay to Yukos Capital a total of approximately 13 billion roubles (excluding interest and costs).

2.1.5 On 1 October 2006 Yuganskneftegaz merged with Rosneft, in which all assets and liabilities of Yuganskneftegaz were transferred to Rosneft by universal title and Yuganskneftegaz ceased to exist.

2.1.6 On 19 December 2006 Yukos Capital summoned Rosneft to abide by the arbitral awards and on 20 December 2006, with the leave of the Court in Summary Proceedings of the District Court of Amsterdam, served prejudgment garnishment against Rosneft.

by court bailiff S. Paulusma of Amsterdam.

2.1.7 By judgments of 18 May 2007 and 23 May 2007 the Russian civil court (Arbitrazh Court of the City of Moscow), set aside the arbitral awards of 19 September 2006 following proceedings in a defended action instituted by Rosneft. By rulings of 13 August 2007 the Moscow court of appeal (Federal Arbitrazh Court of Moscow District) rejected the appeal instituted by Yukos Capital against the judgments of 18 May and 3 May 2007. The appeal in cassation instituted against this by Yukos Capital was rejected by the Supreme Arbitrazh Court of the Russian Federation, by ruling of 10 December 2007.

3. The assessment

3.1 In the proceedings at hand Yukos Capital is requesting leave on grounds of Section 1075 DCCP of the Dutch Code of Civil Procedure to enforce the arbitral awards in the Netherlands, with an order to Rosneft to pay the costs of obtaining leave for enforcement and with an order for Rosneft to pay the costs of the attachment mentioned hereinbefore under 2.1.6.

3.2 In the contested decision the Preliminary Relief Subdivision of the District Court rejected the relief sought. The Preliminary Relief Subdivision of the District Court assessed the request on the basis of the New York Convention of 1958 (Convention on the Recognition and Enforcement of Foreign Arbitrators Awards) and, concisely put, judged that the exequatur court must in principle respect the decision of the Russian civil court to set aside the arbitral awards, on the understanding that under exceptional circumstances (for instance the violation of generally accepted principles of due process in the proceedings leading up to the decision to set aside,

partiality and dependence of the civil court concerned and an utterly insufficient reasoning of its decisions) leave may be granted to enforce a set aside arbitral award. The Preliminary Relief Subdivision of the District Court judged that such circumstances had not been asserted by Yukos Capital, or at any rate had not been asserted with sufficient reasons.

3.3 The grounds of appeal presented by Yukos Capital serve to present the dispute in its full extent to the court of appeal and are therefore suited to be dealt with jointly. In essence the grounds for appeal raise the question whether the setting aside/nullification of the arbitral awards by the Russian civil courts does or does not impede the recognition and enforcement of said arbitral awards in the Netherlands.

3.4 In answering this question the court of appeal takes as its point of departure that the New York Convention 1958 pertains to the recognition and enforcement of arbitral decisions, but does not provide in the international recognition of decisions by civil courts to set aside or nullify arbitral awards. Article V of the New York Convention 1958 reads in the English text and insofar as here relevant:

> "1. Recognition and enforcement of the award may be refused, at the request of the party against whom it is envoked, only if that party furnishes to the competent authority where the recognition and enforcement is sought, proof that: (-.) (...) (e) The award has (...) been set aside (...) by a competent authority of the country in which (...) that award was made".

Though this provision takes as its point of departure that, in terms of the current case, the Russian civil court is the competent authority with respect to a claim to set aside or declare void the arbitral

awards, but neither this provision nor the further contents of the New York Convention 1958 nor any other convention compels the Dutch exequatur court to recognise such a decision by the Russian civil court just like that. The question whether the decision of the Russian civil court to set aside the arbitral awards can be recognised in the Netherlands must be answered on the basis of the rules of general private international law.

3.5 This means that, however the degree to which the New York Convention 1958 otherwise leaves scope for granting leave to enforce an arbitral award that has been set aside by a competent authority of the country where the award was granted, the Dutch court is in any rate not compelled to refuse the leave to enforce a set aside arbitral award if the foreign judgment under which the arbitral award was set aside, cannot be recognised in the Netherlands. This particularly applies if the manner in which said judgment was brought about does not satisfy the principles of due process and for that reason recognition of the judgment would lead to a conflict with Dutch public order. If the judgments of the Russian civil court to set aside the arbitral awards cannot be recognised in the Netherlands, it is so that when assessing the request to grant leave for enforcement of the arbitral awards the judgment to set aside said arbitral awards need not be taken into account.

3.6 Therefore the court of appeal will first follow general law to see whether the decisions of the Russian civil court to set aside the arbitral awards of 19 September 2006 can be recognised in the Netherlands. The starting point applied here is that a foreign judgment, regardless of its nature and purport, is recognised if a number of minimum requirements have been met, which include that the

foreign judgment was brought about after due process of law. There is no due process of law if it must be assumed that the foreign judgment was passed by a judicial instance that is not impartial and independent.

3.7 Yukos Capital has asserted that the Russian judiciary is partial and dependent and, in particular in decisions that are politically sensitive and strategic, allows itself to be led by the interests of the Russian state and is instructed by the Russian executive branch. More specifically, Yukos Capital takes the position that the setting aside of the arbitral awards is part of the actions by the Russian state since the summer of 2003, which are aimed at(a) the dismantling of the Yukos group and (b)obtaining control of the assets of the Yukos group and (c) the elimination of its political opponents. According to Yukos Capital, the Russian judiciary is an instrument that is used by the Russian state in pursuing these goals.

3.8 From that which Yukos Capital has presented to demonstrate the abovementioned assertions the following, inter alia, comes to the fore:

3.8.1 The Russian journalist Anna Politkovskaya, who was murdered on 7 October 2006, writes the following about the state of the Russian judiciary in her book Putin's Russia published in 2004:

> "The fact of the matter is that our courts were never as independent as you might have thought from our Constitution. At the present time, however, the judicial system is cheerfully mutating into a condition of total subservience to the executive. It is reaching unprecedented levels of 'supine pozvonochnost'. This word is used in Russia to refer to the phenomenon of a judge delivering a verdict in accordance

> with what has been dictated to him in the course of a phone call (zvonok) by representatives of the executive branch of the government. Pozvonochnost is an everyday phenomenon in Russia"

3.8.2 Ms Leutheusser-Schnarrenberg, member of the Parliamentary Assembly of the Council of Europe and former minister of justice of the Federal Republic of Germany, writes the following, among other things, in her report of 29 November 2004 on the circumstances surrounding the arrest and prosecution of the executives of Yukos Oil Company:

> "In view of the numerous procedural shortcomings and other factors pertaining to the political and economic background detailed in the report, the draft resolution concludes that the circumstance of the arrest and prosecution of leading Yukos executives suggest that the interest of the State's action in these cases goes beyond the mere pursuit of criminal justice, to include such elements as to weaken an outspoken political opponent, to intimidate other wealthy individuals, and to regain control of strategic economic assets.
>
> (...)
>
> In my interviews with retired Constitutional Court Vice-President Morshchokva, I learnt that recent legislative reforms have done nothing to improve the independence of the courts, or have even gone in the opposite direction. (...)
> The distribution of cases among judges is left entirely to the discretion of the court president. This state of affairs - to make sure sensitive cases come before "responsible" judges - was confirmed by several official interlocutors."

3.5.3 After the publication, on 24 January 2005, of an addendum, to the abovementioned report of 29 November 2004, the Parliamentary Assembly of the Council of Europe adopted a resolution on 25 January 2005, which entailed, inter alia:

> "6. The Assembly stresses the importance of the independence of the judiciary, and of the independent status of judges in particular, and regrets that legislative reforms introduced in the Russian Federation in December 2001 and March 2002 have not protected judges better from undue influence from the executive and have made them more

> vulnerable. Recent studies and highly publicised cases have shown that the courts are still highly susceptible to undue influence. (...)
>
> 13. The circumstances of the sale by auction of Yuganskneftegaz to "Baikal Finance Group" and the swift takeover of the latter by state-owned Rosneft raises additional issues related tot the protection of property (ECHR, Additional Protocol, Article 1). This, concerns both the circumstances of the auction itself, resulting in a price far below market-value, and the way Yukos was forced to sell off its principal asset, by way of trumped-up tax reassessments leading to a total tax-burden far exceeding that of Yukos' competitors, and for 2002 even exceeding Yukos' total revenue for that year."

3.8.4 On the Corruption Perception Index 2006 drawn up by Transparency International, an international non-governmental organisation that aims to increase government accountability and counter international and national corruption, Russia holds the 126th place on the list of least corrupt countries. On the 2007 Index Russia ranks in the 143th place. The Global Corruption Report 2007 by Transparency International includes the following:

> "Prior to the perestroika process, the judiciary was largely perceived as: 'Nothing more than a machine to process and express in Legal form decisions which had been taken within the [Communist] Party.' The independence of the judiciary was one aspect of the changes called for by Mikhail Gorbachev in his groundbreaking speech to the 27th Party Congress in 1986.
>
> The reality - a supine, underpaid judiciary, ill-equipped to withstand corruptive practises and the influence of economic or political interests - has proven slow to change, despite a series of reforms by Boris Yeltsin and his successor, President Vladimir Putin."

3.8.5 The report published in April 2008 by the EU-Russia Centre, an international non-governmental organisation, includes an article written by Rupert D'Cruz, secretary of the British-Russian Law Association,

titled The Rule of Law and Independence of the Judiciary in Russia. Therein it is asserted:

> "There can be little doubt that in cases where major economic or political interests are at stake the courts of all levels tend to be politically subservient. If anything this trend has grown in recent years. The most pronounced and extreme example is the internationally renowned cases involving Yukos and Khodorkovsky where 'total State influence' over the judicial process is widely perceived to have occurred."

3.8.6 Freedom House, an American non-governmental organisation with the remit of investigating and promoting democracy, political freedoms and human rights, asserts in its report on Russia published in 2007:

> "Russia scores very poorly on ratings of judicial independence. The state uses the courts to protect its strategic interests and political goals.
> (...) while processes for resolving commercial disputes have become more reliable, the state still intervenes where it has a strategic interest."

3.8.7 Numerous articles have been published in the national and international press in which attention is paid to the lack of independence of the Russian judiciary.

3.8.8 Courts in various European countries have ruled that it is plausible that the criminal prosecution of executives of Yukos Oil Company in Russia is politically inspired.
a. By a judgment of 18 March 2005 an English judge at The Bow Street Magistrates Court refused the extradition to Russia of two Yukos Oil Company officials and based this inter alia on the reasoning that it must be assumed that the prosecution of these officials is politically motivated and that they would not be given a fair trial in Russia.

b. On comparable grounds, the highest administrative court in Lithuania ruled by decision of 16 October 2006 that another Yukos official had rightly been awarded refugee status.
c. The highest Swiss court refused by decision of 13 August 2007 a request for mutual assistance by the Russian Federation related to the prosecution of Khodorkovsky (the former CEO of Yukos Oil Company) because there exist sufficient grounds for the suspicion that said criminal prosecution is being manipulated by the Russian executive.
d. By a decision of 19 December 2007 an English judge in the City of Westminster Magistrates' Court refused a request for extradition by the Russian Federation with the reasoning:

> "I conclude that this request is linked to the events surrounding the notorious cases involving NK Yukos and Mikhail Khodorkovsky. (...) There is, in my mind, a strong suspicion that the prosecution is being brought for political and economic reasons. For those reasons I find the defendant would be prejudiced at any trial in the RF. Given the high profile of this case, and on the basis of the defence evidence, I am not confident that a fair trial will be possible, The uncontested expert evidence suggests the judiciary in a case such as this will be pressured to support the prosecution. (...)"

3.8.9 In a judgment of the High Court of Justice Queen's Bench Division Commercial Court of 3 July 2008 in a case on the question whether a dispute between the parties Cherney and Deripaska can be brought before the English courts despite its substantive interwovenness with the Russian legal system, the following was reasoned in response to the testimony of two expert witnesses:

> "... that it appears to be common ground between the experts that in certain cases, the arbitrazh courts cannot necessarily be expected to perform their task fairly and impartially. Professor Stephan [the

> party expert who reported more positively on the independence and impartiality of the arbitrazh courts than the party expert of the counterparty, Professor Bowring, insertion by the court of appeal] characterizes that as only applicable in a case whose outcome will affect the direct and material strategic interest of the Russian state."

In the same judgment part of the report of Professor Stephan is presented as follows:

> "Professor Stephan does not dispute that in the Yukos case serious irregularities occurred. The principal criticism concerns the criminal proceedings brought in the courts of general jurisdiction against the leading figures. But the arbitrazh courts also failed to exercise a sufficient stringent review of the tax assessments. There are also grounds for concern as to whether the arbitrazh court overseeing the Yukos bankruptcy was sufficiently proactive in limiting the discretion of the receiver. But the Yukos case, in which the principal target, Mr Khodorkovsky, was a prominent oligarch, involved the renationalisation of critical energy resources carried out by administrative agencies acting on behalf of the Russian State, that renationalisation being a central policy of the Putin administration."

3.8.10 In a judgment of 31 October 2007 the District Court of Amsterdam ruled the following on a Russian judgment of 1 August 2006 in which insolvency proceedings comparable to a [Dutch] bankruptcy were declared applicable to Yukos Oil Company:

> "The above leads to the conclusion that the Russian bankruptcy order in which Rebgun was appointed receiver in the bankruptcy of Yukos Oil was effected in a manner not in accordance with the Dutch principles of due order of process and is thus in violation of the Dutch public order. For that reason, the bankruptcy order cannot be recognised and the receiver's powers that ensue from it under Russian law cannot be exercised by Rebgun in the Netherlands."

3.9 In the light of the facts and circumstances outlined above the court of appeal must assess whether the decision of the Russian civil court to set aside the arbitral awards can be recognised in the Netherlands, more in particular whether said judgments were rendered by a judicial instance that is impartial and independent. In this respect the court of appeal reasons as follows.

3.9.1 There is a close interwovenness of Rosneft and the Russian state. It is undisputedly established that the Russian state possesses the overwhelming majority of the shares in Rosneft and that the majority of the directors of Rosneft are politically appointed persons, who combine their position at Rosneft with Russian government positions. Igor Sechin, chairman of the board of Rosneft, at the time was also deputy head of the presidential administration and advisor to president Putin and is currently also vice-premier of the Russian Federation. The court of appeal further considers it illustrative of the close ties between Rosneft and the Russian state that on 23 December 2004, the day that Rosneft acquired the shares in the Baikal Financial Group (see hereinabove at 2.1.3), then Russian president Putin declared at a press conference;

> "In essence, Rosneft - a 100% State company - acquired the well known asset Yuganskneftegaz. (...) Today the State, using absolutely legal market mechanisms, is taking care of its own interests"

3.9.2 The established facts further show that there is an undeniable connection between the dispute at hand between Yukos Capital and Rosneft and the altercations in Russia that lead to the dismantlement and bankruptcy of Yukos Oil Company and the detention of Khodorovski and Aleksanyan. The case at hand, in view of said connectedness, the ties between the Russian state and Rosneft and the substantial

interest of the claim at hand, also pertains to considerable interests that the Russian state considers to be its own.

3.9.3 Rosneft has insufficiently rebutted that the Russian judiciary in cases that pertain to the (former) Yukos group (or parts thereof) or the (former) directors thereof and which concern interests that the Russian state considers to be its own, is not impartial and independent, but allows itself to be led by the interests of the Russian state and is instructed by the executive. Contrary to Rosneft's assertions, Yukos Capital has not just substantiated its assertions with references to newspaper stories, but has properly demonstrated it with the aid of the reports and court decisions mentioned hereinabove. Rosneft has not asserted any concrete facts or submitted documents and nor have circumstances otherwise been shown that cast a different light on the influence of the Russian state on the Russian judiciary in the matter at hand.

3.9.4 In this context, Rosneft's argument that Yukos Capital has not furnished direct evidence of the partiality and dependence of the individual judges that ruled on Rosneft's claim to set aside the arbitral awards, does not carry sufficient significance, in part because partiality and dependence by their very nature take place behind the scenes.

3.10 On grounds of the preceding the court of appeal concludes that it is in this way plausible that the judgments of the Russian civil court in which the arbitral awards were set aside were the result of a judicial process that must be qualified as partial and dependent, and that these judgments cannot be recognised in the Netherlands. This means that in the assessment of the request by Yukos Capital to enforce the

arbitral awards, the setting aside of these decisions by the Russian court must be ignored.

3.11 The above entails that Yukos Capital's grounds for appeal succeed to this extent and that the court of appeal, under observance of the other defences presented by Rosneft, must again assess whether an exequatur can be granted.

3.12.1 Rosneft has advanced that granting leave for enforcement would be in conflict with Article V(2)(b)of the New York Convention 1958. This provision entails:

> "2. Recognition and enforcement of the award may also be refused if the competent authority in the country where recognition and enforcement is sought finds that: (...) (b) The recognition or enforcement of the award would be contrary to the public policy of that country"

3.12.2 Rosneft asserts that the loan agreements are part of an unallowable tax construction within the Yukos group, which - briefly put - boiled down to Yuganskneftegaz selling the oil it had extracted at low prices to companies belonging to the Yukos group established in regions with low tax rates, in order to evade taxation by the Russian state on the profits achieved when selling said oil against high market prices. Via group company Yukos Capital, the profits realised in this manner were lent to Yuganskneftegaz, under the agreements at hand, to finance its business operations.

3.12.3 The court of appeal rejects this argument. Also if this tax construction is unlawful under Russian tax law, the enforcement in the Netherlands of the arbitral awards compelling Rosneft to repay the moneys borrowed from Yukos Capital in connection with said tax construction, is not in conflict with Dutch public order.

3.12.4 Rosneft has further advanced that granting leave for enforcement would be in conflict with Article V(1)(b)of the New York Convention 1958, which provision entails:

> 1. Recognition and enforcement of the award may be refused, at the request of the party against whom it is envoked, only if that party furnishes to the competent authority where the recognition and enforcement is sought, proof that: (…)
> (b) The party against whom the award is invoked was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present his case;

3.12.5 In this connection Rosneft has advanced that Yuganskneftegaz was wrongly not given the opportunity in the arbitration proceedings to further substantiate its defence that the loan agreements were fraudulent and hence void and to furnish evidence thereof.

3.12.6 The court of appeal rejects this defence because it has neither been asserted nor demonstrated that Yuganskneftegaz was restricted in any aspect in presenting the defence concerned, either in its statement of defence of 5 May 2006, or in its supplementary statement of defence van 20 June 2006. It must here be noted that, without further commentary, which is lacking, it must be assumed that said defence of Yuganskneftegaz also pertains to the overdue interest claimed by Yukos Capital by introductory application of 27 December 2005 and that there therefore is no good reason why Yuganskneftegaz presented said defence for the first time in the supplementary statement of defence of 20 June 2006, in response to the increase of claim by Yukos Capital in the supplementary application of 9 May 2006. Against this background the court of appeal finds that the fact that the arbitrators did not grant Yuganskneftegaz a further stay after 20 June 2006 to substantiate said defence, does not mean that it was

impossible for Yuganskneftegaz to defend its case in the meaning of Article V(1)(b).

3.12.7 In first instance Rosneft also asserted that the requested leave should be refused on the basis of Article V(1)(a) of the New York Convention 1958 because the arbitration clause is not valid under Russian law. The court of appeal understands from Rosneft's assertion in the statement of defence on appeal that the agreements contain a valid arbitration clause, that Rosneft is no longer maintaining this defence.

4. Conclusion

4.1 The conclusion is that the contested decision will be set aside and that the court of appeal, rendering judgement again, will award Yukos Capital's request for leave to enforce the arbitral awards in the Netherlands after all.

4.2 Yukos Capital has further requested that on the basis of Section 706 DCCP Rosneft be ordered to pay the costs of the attachment it levied (see: 2.1.6), estimated so far at € 857.52. As this request is based on the law and Rosneft has not asserted any further defence against this, this request will also be awarded.

4.3 As the party ruled against, Rosneft will be ordered to pay the costs of the proceedings.

5. Decision

The court of appeal:

sets aside the decision of the Preliminary Relief Subdivision of the District Court of 28 February 2008 with case number/application number 365094 / KG RK 07-

750, passed between Yukos Capital as applicant and Rosneft as defendant;

rendering judgment again:

grants leave to enforce in the Netherlands the arbitral awards of The International Court of Commercial Arbitration at the Chamber of Commerce and Industry of the Russian Federation, dated 19 September 2006 and rendered under case numbers: 143/2005, 144/2005, 145/2005 and 146/2005 between Yukos Capital as applicant and Yuganskneftegaz as defendant;

orders Rosneft to pay the costs of the attachment mentioned hereinabove under 2.1.6, which costs are estimated so-far at € 857.52;

orders Rosneft to pay the costs of the proceedings in both instances, estimated so-far on the side of Yukos Capital at € 2,692 in salary;

declares this decision to be provisionally enforceable.

This decision is rendered by G.C. Makkink, A.M.L. Broekhuijsen-Molenaar and A. Rutten-Roos and was read out in open court by the cause-list judge on 28 April 2009.

[signatures]
[stamp: Mr. W.J.J. Los]
[stamp: issued for bailiff's copy to B.F.H. Rumora-Scheltema]