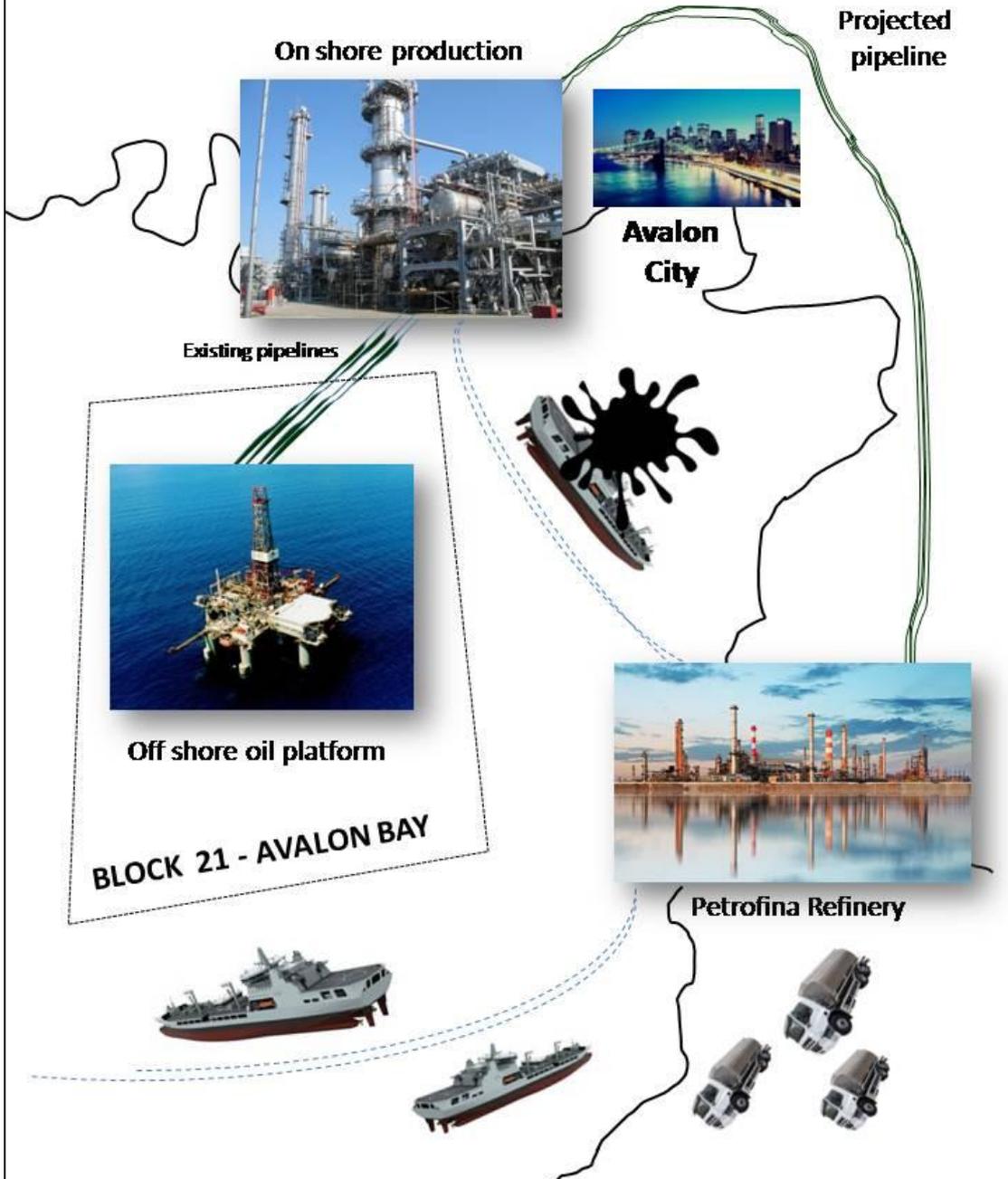


THE CASE



THE AVALON BAY DISPUTE

Illyria is an Eastern European country, which became independent in 1995 and a full member of the European Union on January 1st 2015.

Petrofina Group is based in Montreal, Canada. It is a multinational company operating in the global oil and gas market. On October 23rd 2016 and through its 100% Cypriot subsidiary Petrofina Ltd, it purchased 100% of the share capital of the national refining company of Illyria, the NRCI. The sole asset of NRCI was a refinery in Illyria, 80 km south of Avalon City.

In order for Petrofina to acquire NRCI, it offered to pay to the State Privatization Agency the amount of 150 million Euro, payable in three equal installments every two years, the first installment being due the date of the signature of the share purchase agreement, and to make additional investments in the refinery of 100 million Euros within a decade in order to modernize it and to make it operational according to the European environmental standards, because its current situation was not compliant with such standards and the refinery risked to shut down. Most of the pollution of the Avalon Bay, which had resulted in the extinction of any tourist activity in a region that once used to be a prime tourist destination, was due to the operation of this refinery. This is at least what the public opinion in the country was left to believe for years.

However, the NRCI managers, Mr. Josip Jovanovic and Ms Iva Ivanovic, with whom Petrofina's executives, Mr. Ioannis Ioannou and Mrs. Laurence Wilkinson, engaged into negotiations, were claiming that the pollution was caused by the outdated oil production platform of block 21 in the middle of Avalon Bay, as well as by the old tankers of a local ship owner, the legendary Predrag Illarion, a hero in the war of independence of Illyria, who after the independence of Illyria had secured the monopoly of the transport of oil from the land production facilities, 40 km west of Avalon City, to the refinery of NRCI, 80 km south of Avalon City.

The NRCI managers revealed to Petrofina that, now that Illyria was a full member of the EU, the Government had requested from the other national company of Illyria, which was operating in the upstream oil and gas sector, the Illyria Oil Company (IOC), to make new investments, in order to replace the old platform it had erected in the middle of Avalon Bay, where it was exploiting block 21. In addition, IOC should allow more recently built tankers owned by companies other than Illarion's to transport crude oil from its land production facilities to the NRCI refinery.

Bearing the aforementioned in mind, the executives of Petrofina Ltd (Cyprus), following a technical due diligence they conducted on the refinery, advised wholeheartedly their headquarters in Montreal to proceed with the acquisition of the specific refinery, mainly because they wouldn't have to invest all that money in the modernization of the refinery, provided however that, first, they would be awarded by IOC the contract for the replacement of the old platform and the construction and erection of a new platform, and, second, that they would be allowed to transport crude oil from the land facilities of IOC to their refinery using their own tankers, since the transportation fees imposed by Illarion were predatory.

In order to secure this prospect, the CEO of Petrofina Group (Montreal), Mr. Philippe Bouchard, traveled to Illyria in March 2016, in view of the submission of his best and final offer for the acquisition of NRCI. In Illyria, he met with the Minister of Energy and Environment, Mr. Marko Borovic, from whom he secured the promise in a private discussion that his requests would be satisfied, in case he would improve his final offer to acquire NRCI. The CEO of Petrofina was, indeed, very satisfied, with the outcome of his visit. During his unofficial discussions, it was mentioned that the son of the Minister was searching for an LLM on Energy law abroad. A few months later, his son won a scholarship to study Energy Law at the Faculty of Law of the University of Montreal.

Indeed, on 20 June 2016, Petrofina Ltd (Cyprus) improved its final binding proposal to the Illyrian Privatization Agency and agreed to pay 180 million in three equal installments. Petrofina being the highest bidder, it acquired NRCI. As soon as the share purchase agreement was executed between the Illyrian Privatization Agency and Petrofina Ltd, the latter paid the first installment of 60 million Euros to the Illyrian Privatization Agency.

On 1 November 2016, thanks to the intervention of Minister Borovic, the Board of Directors of IOC signed with Petrofina Ltd (Cyprus) a decommissioning contract for the decommissioning, removal and replacement of the old platform and for the construction and erection of the new one (the decommissioning contract). In exchange, IOC assigned to Petrofina 49% of its contractual rights and obligations under its 50-year Production Sharing Agreement for the exploration and the exploitation of hydrocarbons in Block 21 - Avalon Bay. The remaining exploitation period was of 20 years.

The assignment and transfer of contractual rights were duly approved by the State, despite the strong reaction of the opposition and the national media, who were accusing the Government and the Government-controlled IOC of violating EU Law on public procurement by awarding such an important contract without competition. In reply, Minister Borovic and the CEO of IOC, Mr. Stjepan Stefanovic, stated that IOC had the right to assign part of its PSA to a creditworthy foreign investor, such as Petrofina, in order to ensure the required investment for the replacement of the old platform. This would secure a more environmentally friendly operation of IOC's extraction facilities in the Avalon Bay and would increase their productivity in the long run, since the last several years the operation of the extraction facilities was running at important losses. The opposition rebutted that this complex transaction amounted to IOC's privatization, since the PSA in the Avalon Bay was by far IOC's most precious asset. Therefore, under Illyrian law, this transaction should have been executed by the Illyrian Privatization Agency (IPA), which was holding the shares of IOC, the latter being a public entity under privatization. The Government and IOC counter-replied that nothing in the Illyrian law or in the PSA prevented IOC from assigning part of the said agreement to a third party in exchange of a substantial investment to be made by the said party within the framework of the implementation of the said agreement. However, the opposition maintained that the combined deal made by two State companies under the blessing of the Government with some unidentified foreign investor was outrageously scandalous in addition because now the said investor would acquire a dominant position in the oil market in Illyria.

On 15 November 2016, following the signature of the decommissioning contract between Petrofina Ltd (Cyprus) and IOC, the former entered into an EPC contract with Marine Constructions (UK) for the entire works of the decommissioning, removal and replacement of the old platform and for the construction and erection on site of the new platform. Petrofina Ltd (Cyprus) funded the entire cost of the EPC contract by means of a Funding Agreement it entered into with its parent company Petrofina Group (Montreal).

The EPC Contractor manufactured the new platform in its factory in Scotland, whereas in parallel it started decommissioning the old platform on December 1st 2016. When the extraction of oil was interrupted due to the decommissioning works, the on-shore production facilities of IOC had to shut-down on the same date.

Despite the interruption of the extraction activities in the off shore installations of IOC, the on-shore production facilities were still operating for a couple of weeks thanks to the crude oil supplies they had stored in their tanks before the supply of crude oil from the platform was cut off. On 15 December 2016, an important leak of a large quantity of crude oil occurred from an old tanker of Illarion a few miles away from the platform in the Avalon Bay, when the ship was en route to the refinery in order to deliver a quantity of crude oil shipped from the land installations of IOC. The leakage resulted in a serious pollution of the gulf of Avalon.

Unfortunately, the routing of the Petrofina ships had not yet been possible, because Illarion was very influential in the area and prevented the local port authorities from issuing a license to the Petrofina tankers, despite the fact that in the amended crude oil supply contract concluded between the new administration of the NRCI refinery and the IOC, it was expressly provided that crude oil would be shipped to the NRCI refinery on a FOB basis at the land installations of IOC and not on a CIF basis at the refinery installations of NRCI, as was the case before.

Under the pressure of the public opinion, the Parliament of Illyria immediately passed a new law on February 1st 2017, forbidding the loading and unloading of crude oil or oil products from and to any port coasting the Avalon Bay. Crude oil and oil products had from now on to be transported in the area either by land pipelines or by truck. No transportation by the sea inside the Avalon Bay was allowed with immediate effect from the publication of the new law in the Official Gazette of the Illyrian Government. The movement of any tanker, other ship or even boats transporting oil and oil products in the Avalon Bay was immediately banned.

As a consequence, not only did the NRCI refinery stop being supplied by IOC with crude oil, except for a small quantity that was being transported by trucks, but in addition NRCI could not ship its oil products from its own port installations to international markets. NRCI used to export all of its production to third countries, transporting it with tankers. IOC and NRCI were now under the obligation to construct a land pipeline in order to transport crude oil from the land installations of IOC to the refinery of NRCI. Moreover, from now on, NRCI had to use trucks in order to transport its products (gasoline) to the nearest exporting port, situated 40 km away.

However, with the intervention of Illarion, who was very efficient in handling the local media that manipulated the public opinion in the country on this issue, the pollution was attributed to the works for the decommissioning of the old platform and not to the deficiencies of his

outdated tanker, as it truly happened. On March 7 2017, the local public prosecutor pressed charges against the CEO and the site manager of Marine Constructions, Mr. John Wall and Mr. George Downing respectively, as well as against Mr. Philippe Bouchard, CEO of Petrofina Ltd (Cyprus). The local police authorities could not find the two CEOs, because one of them was in London and the other in Montreal. However, they did find Mr. George Downing, whom they arrested and held in custody, charging him with gross negligence during the decommissioning works, which had allegedly caused the oil leak. The site manager complained to his headquarters that he had been arrested without being shown a valid arrest warrant even though he had requested for it, whereas the warrant was only presented to his lawyer 12 hours later upon his persistent demands. The Illyrian officials later attributed the aforementioned incident to the arresting police officer, who was suspended for 6 months without pay. However, they reiterated that the arrest warrant had been properly issued as it was evidenced by the protocol number of the warrant. Five days later he was released and a date for trial was set.

On March 13 2017, the Canadian and the British ambassadors paid a joint visit to the Minister of Foreign Affairs of Illyria and formally requested that Illarion be held accountable for the pollution in the gulf, instead of the arrested George Downing, let alone the two CEOs, who were wrongfully indicted. The two ambassadors told Mr. Borovic that their governments were sitting at the G7 and they were capable of postponing the disbursement of the next tranche due by the IMF within the framework of the country's bail-out programme, unless Illyria complied with their request. The Minister of Foreign Affairs then promised to the Ambassadors that he would do everything in his power to restore the truth; however, two days later, he was forced to resign from his office. Canada and the UK then exercised their right to diplomatic protection and requested that the site manager be set free without delay and all charges against him as well as against the two CEOs be dropped. Canada requested compensation amounting to 1.000.000 Canadians Dollars for the wrongful indictment of Mr. Philippe Bouchard, whereas the UK requested 5.000.000 pounds for the illegal detention of Mr. George Downing and 2.000.000 pounds for the wrongful indictment of Mr. John Wall, who were both British nationals. However, after an exchange of letters with the new Minister of Foreign Affairs, all charges were dropped on April 1st 2017 and the site manager was set free without trial, whereas both governments announced to the two companies that they would also drop their espousal of claims.

On April 2nd 2017, a monstrous fine was imposed on Petrofina Ltd (Cyprus) and on Marine Constructions (UK) by the Ministry of Energy and Environment of Illyria, amounting to one (1) billion Euros, for the pollution they had allegedly caused. Illarion was accused by some media in the country that he had exercised his power and influence inside the Government in order to get rid of a foreign investor who was threatening his business. Illarion denied that he had been involved in the imposition of such a big fine to Petrofina Ltd (Cyprus) and to Marine Constructions (UK), and claimed that Mr. Borovic wanted to distance himself from Petrofina in order to avoid being accused of being bribed by the CEO of Petrofina for the scholarship that his son had received by Petrofina to study at the University of Montreal. Mr. Borovic was then obliged to resign and the Public Prosecutor indicted the CEO of Petrofina for corruption of a foreign official.

Petrofina Group (Montreal) then decided to take drastic measures in response. It caused Petrofina Ltd (Cyprus) and Marine Constructions (UK) to appeal before the local courts, requesting the annulment of the fine as totally arbitrary, thieving and exhausting. At the same time, it compensated Marine Constructions for the decommissioning of the old platform and for the design and manufacturing of the new platform, which, however, was not transported on site at the Avalon Bay, but was sent to another extraction area in Brazil, where it was ultimately sold at the same price it was ordered to Marine Constructions in the first place. The specifications of the two areas matched to a great extent and only minor changes were made to the equipment before it was transported to the new site and erected there instead of being transferred to Avalon Bay as it was initially scheduled.

The performance of this transaction was a crucial event, which largely determined the adoption of such an aggressive stance by Petrofina against IOC and the Illyrian government. This stance was also supported by Mr. George Downing, who, apart from receiving the entire amount owed to him under the EPC Contract, had a grudge against the Illyrians, who had issued an arrest warrant against him and illegally jailed his site manager.

When was advised by his legal counsels that his reaction might not be proportional to the damage Petrofina Group had suffered in Illyria, Mr. Bouchard –outraged– shouted at them that the Illyrian authorities had tried to put them out of business for the sake of a local oligarch. He was certain that they would never again be able to do business in Illyria under any circumstances anymore, so they'd rather disinvest immediately and sue the Government for damages in order to recover their considerable losses.

As a matter of fact, the Government's reaction to Petrofina's decision not to comply with its obligations under the decommissioning contract was bold and immediate:

- Since IOC was not in a position to exploit the block it had been assigned, the Government terminated the PSA and launched a new round for the selection of a new contractor to exploit the same block.
- At the same time, the Ministry of Energy and Environment ordered the shutting-down of the NRCI refinery, because NRCI had failed to make the necessary investments in order to modernize its equipment and stop polluting the Avalon Bay. Soon after the order was enforced, NRCI went bankrupt.

The time was passing but the counsels at Petrofina were reluctant to take any legal action against Illyria, apart from the challenge of the fine they had pursued along with Marine Constructions (UK) before the local administrative courts, where the case was still pending.

One day, a young lawyer visited Mr. Bouchard in Montreal, who accepted to see him, despite the fact that he was busy, because the name of the young man sounded familiar to him.

YOUNG MAN: Sir, I was wondering whether your company has taken any action against Illyria for the way you have been treated there.

Mr. Bouchard: This is none of your business, young man.

YOUNG MAN: Yes it is. I am a lawyer and I could assist you in raising a claim against Illyria under CETA.

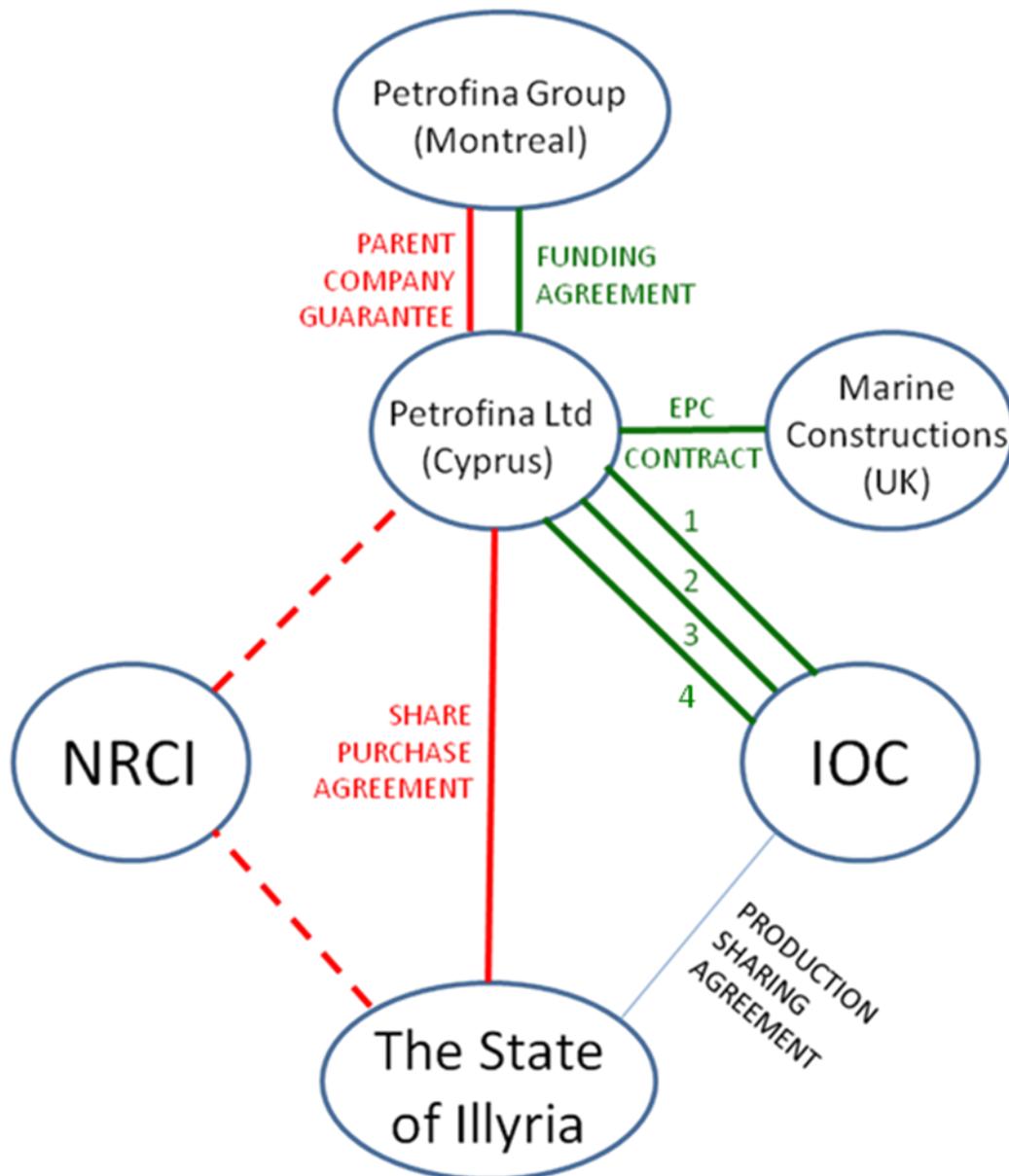
Mr. Bouchard: What is CETA? Another way to make money, you lawyers?

YOUNG MAN: It's the only way for you to recover your losses and for me to restore the reputation of my father.

Mr. Bouchard: Your father? Who's your father!

YOUNG MAN: The late Marko Borovic, former Minister of Energy of Illyria.

Mr. Bouchard was so moved by this unexpected visit that he immediately instructed his counsels to call his friend George Downing in Aberdeen and inform him that Petrofina decided to raise a claim against Illyria.



1: Transfer of Licence 2: Joint Operating Agreement 3: Decommissioning Contract
4. Platform Beta Contract