

1 discussion on this very simple issue, and it was bundled
2 with the issue of approval, which we believe is
3 a separate and distinct and analytically different
4 matter.

5 THE ARBITRATOR: Were you going to say something more about
6 the definition of investment, Mr Eren? I will tell you
7 what I would like you to respond to, and if you cannot
8 do it now maybe you can do it after lunch. The
9 respondents have not pressed this point in their oral
10 submissions, but there is a case called Joy Mining, and
11 in Joy Mining the tribunal laid down some typical
12 characteristics of an investment. I am just reading the
13 relevant extract here:

14 "The project in question must have a certain
15 duration, a regularity of profit and return, an element
16 of risk, substantial commitment, and it should
17 contribute a significant contribution to the whole
18 state's development."

19 So there are about four or five elements there which
20 have been picked up in a subsequent leading textbook on
21 the subject and analysed as being the typical
22 characteristics of an investment for purposes of
23 an ICSID arbitration. You might want to address whether
24 or not this project fits those characteristics.

25 MR EREN: Sure. First and foremost, with respect to the