Neutral Citation Number: **[2026] EWHC 1648 (Comm)**

Case No: CL-2026-000239

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
KING'S BENCH DIVISION
COMMERCIAL COURT

Royal Courts of Justice
Rolls Building, Fetter Lane,
London, EC4A 1NL

Date: 01/07/2026

Before :

THE HONOURABLE MR JUSTICE HENSHAW

- -

Between:

MAIRE S.p.A.	**Claimant**
- and -	
LLC EUROCHEM NORTH-WEST-2	**Defendant**

- -
- -

Alan Maclean KC and Tom Leary (instructed by **McDermott Will & Schulte UK LLP**) for the **Claimant**
The Defendant did not appear and was not represented at trial (which took place on notice)

Hearing date: 19 June 2026
Draft judgment circulated to parties: 24 June 2026

Approved Judgment

....

Mr Justice Henshaw:

(A) INTRODUCTION

1. This judgment follows the trial on 19 June 2026 of the Claimant's claim for a final order restraining the Defendant from continuing proceedings in Russia alleged to be vexatious and oppressive.

2. As set out in section (C) below, the Defendant did not appear, and was not represented, at the trial, which followed the making of an interim anti-suit order on 23 April 2026 with which the Defendant failed to comply and to which it made no response.

3. Having heard and read the evidence submitted at trial, and having heard oral submissions from counsel for the Claimant, I concluded that the Claimant was entitled to the final order sought, as well as certain ancillary orders. I therefore made those orders, with reasons to follow. This judgment, which it has been necessary to produce in very short order in the light of proceedings elsewhere, sets out my reasons.

(B) FACTS

4. I set out below the main facts. These are based on the documentary record and the evidence of fact which the Claimant adduced at trial, where they called as a witness Mr Milo Molfa, an English solicitor and partner in the London office of the Claimant's solicitors, who has the conduct of these proceedings on the Claimant's behalf.

(1) Parties

5. The Claimant is an Italian company. It guaranteed performance of three contracts by which its wholly-owned Italian subsidiary, Tecnimont S.p.A. ("***Tecnimont***"), and Tecnimont's 99% owned Russian subsidiary, MT Russia LLC ("***MTR***"), agreed to

construct the Kingisepp-2 ammonia production facility (the "***K2 Project***") for the Defendant in Russia.

6. The Defendant is a Russian fertiliser production company. It was recently held by Bright J, following a trial, to be controlled by Mr Andrey Melnichenko, a Russian oligarch who was designated for sanctions purposes by both the UK and the EU in 2022 (*LLC EuroChem North-West-2 & Anor v Société Générale S.A. & Ors* [2025] EWHC 1938 (Comm)).

(2) K2 Project and the Guarantees

7. In June 2020, prior to the war in Ukraine and the designation of Mr Melnichenko, the Defendant engaged Tecnimont and MTR as engineering, procurement, construction and commissioning (EPCC) contractors for the K2 Project (the "***Contractors***"). The contracts included:

   i) an Offshore Engineering and Procurement Contract dated 1 June 2020 between Tecnimont and the Defendant (the "***Offshore EP Contract***");

   ii) an Onshore Engineering, Local Procurement and Construction Contract dated 1 June 2020 between MTR and the Defendant (the "***Onshore EPC Contract***"); and

   iii) a Coordination and Interface Agreement dated 1 June 2020 between Tecnimont, MTR and the Defendant (the "***CIA***"),

   together, the "***K2 Contracts***".

8. The K2 Contracts contain materially the same dispute resolution clauses, providing for any disputes between the parties to be referred to London arbitration under the ICC Rules (the "***Arbitration Agreements***"). For example, clauses 21.3.1 and 21.3.2 of the Onshore EP Contract provides:-

> "21.3.1 Any Dispute arising between Owner and Contractor in relation to this Contract or in any way connected therewith, which is not settled amicably in accordance with clause 21.1 within forty five (45) Days from the date written notice of such Dispute is issued by one Party to the other Party may be submitted by either Party for binding resolution by arbitration under the Rules of Arbitration of the International Chamber of Commerce such as are then in force (the "Rules") by three (3) arbitrators. The submission of a Dispute to arbitration pursuant to this clause 21.3 will render any Expert determination process pursuant to clause 21.2 terminated. Each arbitrator shall have sufficient command of the English language to undertake the role of arbitrator in relation to a question, dispute or difference arising in relation to this Contract. Each Party shall be entitled to nominate one (1) arbitrator and the appointing institution for all three appointments shall be the International Chamber of Commerce. If the first Party has nominated its arbitrator and has notified the other Party thereof, the other Party shall nominate its

> arbitrator within sixty (60) Days from the first arbitrator being appointed. Should either Party fail to nominate its arbitrator, then the other Party may apply to the International Chamber of Commerce who shall appoint an arbitrator on behalf of the Party who has failed to nominate an arbitrator. The two arbitrators nominated by the Parties and appointed by the International Chamber of Commerce shall then appoint the third arbitrator within thirty (30) Days of appointment, failing which the third arbitrator shall be appointed by the International Chamber of Commerce on the application of either Party.
>
> 21.3.2 The place of the arbitration shall be London, England and the language of the arbitration shall be the English language. The seat of the arbitration shall be London, England. The arbitration award shall be final and binding on the Parties hereto and the Parties shall not have the right to appeal any such award. Each Party hereby excludes and waives irrevocably any rights or application or appeal to the courts of any country otherwise having jurisdiction to the fullest extent permitted by law in connection with any questions of law arising in the course of arbitration or arising out of any award made, except for actions to obtain a judgment recognizing or enforcing an arbitral award or actions to take (or request any judicial or other authority to order) any provisional or conservatory measure prior to the commencement of or during the arbitration proceedings for the preservation of its rights and interests."

9. The Offshore EP Contract and the CIA are expressed to be governed by English law. The Onshore EP Contract contains a Russian choice of law clause.

10. The Contractors' obligations under the K2 Contracts were secured by various means, including performance bonds (the "***Bonds***") issued by, amongst other financial institutions, Société Générale and ING (the "***Banks***") and three parent company guarantees dated 10 June 2020 put in place by the Claimant (the "***Guarantees***").

11. The Guarantees provide for the Claimant to "*absolutely, irrevocably and unconditionally* [guarantee] *to* [ECNW2] *the full and prompt payment, when due, of all payment obligations of* [MTR/Tecnimont] *under and in accordance with the* [K2 Contracts] *and the complete performance by* [MTR/Tecnimont] *of all obligations to be performed under and in accordance with the* [K2 Contracts]*".*

12. Clause 18.1 of each of the Guarantees provides that it "*shall be governed by and construed in accordance with the laws of England and Wales".* Clause 18.2 provides that:

> "Guarantor hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the courts of England in any action or proceeding arising out of or relating to this Guarantee, or for recognition or enforcement of any judgment, and Guarantor hereby irrevocably and unconditionally agrees that all claims in respect of any such

> action or proceeding may be heard and determined in the English courts. Guarantor agrees that a final non-appealable judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law."

13. Clause 18.3 provides:

> "The English courts are the most appropriate and convenient courts to settle any dispute in connection with this Guarantee. Guarantor irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Guarantee in the English courts. Guarantor hereby irrevocably waives, to the fullest extent permitted by law, objection to the English courts on the grounds of an inconvenient forum to the maintenance of such action or proceeding in any such court."

(3) ICC Arbitration

14. Following Russia's invasion of Ukraine, EU trade sanctions were imposed in relation to Russia and economic sanctions were imposed in relation to Mr Melnichenko.

15. As a result of the sanctions, performance of the K2 Contracts was suspended by the Contractors in May 2022. This led to a London-seated ICC arbitration between the Defendant and the Contractors, which is still in progress (the "***Arbitration***").

16. The Contractors contend in the Arbitration that export controls on dual-use and other restricted goods and technologies provided for by EU Council Regulation 833/2014 (as amended) precluded them from obtaining numerous items that were necessary to perform the services required by the K2 Contracts, despite making many applications for export authorisation under EU Council Regulation 833/2014. Further, it is said that several of the Contractors' vendors and service providers refused to supply items for use in Russia. The Contractors rely, *inter alia*, on a right to suspend performance under clause 17.3.1(d) of the Offshore Contract, clause 17.3.1(d) of the Onshore EPC Contract, and clause 2.1.2 of the CIA. For example, clause 17.3.1(d) of the Offshore and Onshore EP Contracts provided a right to suspend performance in circumstances where performance would cause Tecnimont or MTR to be in breach of "*sanctions laws or regulations issues by the Republic of Italy, European Union, United States of America or United Nations*".

17. The Contractors also contend, in any event, that the Defendant is owned and/or controlled by Mr Melnichenko for the purposes of EU Council Regulation 269/2014, with the result that the Contractors could not perform the K2 Contracts in any manner that would involve providing economic resources to the Defendant, since to do so would breach the EU sanctions regime that applies to Tecnimont as an Italian company.

18. The Defendant disputed the validity of the Contractors' suspension of performance and, on 4 August 2022, purported to terminate the K2 Contracts for alleged breach of contract by the Contractors.

19. The Contractors commenced the Arbitration against the Defendant on 15 August 2022, and the Defendant has participated in the Arbitration for almost four years, including, most recently, attending the final hearing of the Arbitration which concluded on 23 January 2026. The Defendant submitted to the jurisdiction of the tribunal ("***Tribunal***"), and filed a counterclaim for damages in excess of €1 billion. On 25 November 2025, the Defendant appears later to have attempted to change tack, submitting an application in the Arbitration purporting to contest the Tribunal's jurisdiction (albeit expressly without prejudice to its counterclaims in the Arbitration), to which the Contractors responded on 8 December 2025. The application will be determined by the Tribunal as part of its final award, in accordance with section 31(4) of the Arbitration Act 1996. Given the Defendant's clear submission to the Tribunal's jurisdiction, it is hard to envisage the November 2025 application having any realistic prospect of success.

20. The parties to the Arbitration are now awaiting a final Award that will finally determine, *inter alia*, whether the Contractors lawfully suspended the K2 Contracts. It is expected that the main award in the Arbitration will go to the ICC Court for scrutiny in July 2026.

(4) Decision of Bright J and its aftermath

21. In parallel to the Arbitration, the Defendant sued the Banks in this court for payment under the Bonds. Tecnimont was added as a Third Party to those proceedings in October 2022. Bright J in a judgment dated 31 July 2025 (the "***Bright J Judgment***") dismissed the Defendant's claim, and the related claim of its then ultimate parent company, EuroChem Group AG ("***EAG***").

22. On 12 December 2025, the Defendant was purportedly sold to a company called Mineral Fertilizer Production Eurochem LLC, which the Contractors say is ultimately owned and controlled by Mr Melnichenko.

23. There is a pending appeal against Bright J's order as to costs, but the Defendant and EAG have abandoned all the substantive grounds of appeal from his decision that they originally put forward.

24. Following the Bright J Judgment, the Defendant, having previously participated fully in the arbitration, then on 1 September 2025 filed proceedings in the Moscow Arbitrazh Court against the Contractors (the "***September Russian Action***"). The September Russian Action in substance seeks to pursue the same claims as the Defendant advances by way of counterclaim in the Arbitration (damages for breach of contract and repayment of advance payments made in relation to the K2 Project), in addition to continuing to pursue those counterclaims in the Arbitration.

25. Then, on 2 October 2025, the Defendant then filed two Anti-Arbitration Applications before the St Petersburg Arbitrazh Court (the "***Russian Anti-Arbitration Applications***"), seeking to injunct Tecnimont and MTR from continuing the Arbitration and associated English court proceedings, with the threat of statutory penalties if they failed to do so. The Defendant relied in the Russian Anti-Arbitration Applications on the fact that EU sanctions law "*contradicts the public order of the Russian Federation*" and contended that because the Arbitration is seated in London it was in "*an unfriendly state*" and should, in effect, be disregarded.

26. The Defendant has explained its motivations for this change of approach in evidence filed in an arbitration claim brought by the Contractors to restrain the Defendant from pursuing its Russian proceedings, as follows:-

    i) Mr Egorov of the Defendant said in his first witness statement at § 11 that "*for more than two years up until around the end of August 2025, EuroChem's management has regarded the main battleground for disputes with the Contractors as being the ICC Arbitration . . . That was on the basis of their understanding that none of the companies within the EuroChem group was subject to EU sanctions. However, events in 2025 have led to serious concerns among the management of Russian group companies about the prospects and feasibility of continuing the disputes in the EU and/or the UK"*; and

    ii) Mr Vanyushin of the Defendant said, in his first witness statement, that the Russian actions were a response to the Bright J Judgment (§ 35) and sought to justify breach of the Arbitration Agreements by reference to fiduciary duties that the directors of MCC (the Defendant's then immediate parent company) and the Defendant were said to owe under Russian law to protect the Defendant from the adverse impact of EU sanctions (§ 38).

27. In response, the Contractors applied to the Tribunal in the Arbitration to restrain the Defendant's breaches of the Arbitration Agreements and its pursuit of judgment in Russia. On 2 September 2025, the Tribunal directed the Defendant to apply to stay the September Russian Action by 3 September 2025 and not to take any further action against Tecnimont and MTR in relation to the K2 Project or the Arbitration in any Russian proceedings (the "***2 September Directions***"). The Defendant did apply to stay the September Russian Action, but the Moscow Arbitrazh Court listed a preliminary hearing for 27 October 2025 and the proceedings were never stayed.

28. On 13 October 2025, by Procedural Order 18 ("***PO18***") (as subsequently corrected), the Tribunal concluded, amongst other things, that the September Russian Action was in breach of the Arbitration Agreements that formed part of the K2 Contracts, and made interim peremptory orders that the Defendant should withdraw the September Russian Action immediately. The Tribunal also gave the Contractors permission to apply under section 42 of the Arbitration Act 1996 to the English court to secure the Defendant's compliance with PO18.

29. The Defendant did not comply with PO18, and on 17 October 2025 the Contractors made applied under section 42 to enforce the Tribunal's interim peremptory orders (the "***Contractors' Section 42 Application***").

30. On 30 October 2025, the Contractors discovered that the Defendant had sought *ex parte* interim relief against the Defendants in the September Russian Action (the "***Interim Measures Application***"), which was ultimately granted (the "***Russian Interim Measures Order***"). The Contractors immediately sought an order from the Tribunal to restrain the Interim Measures Application, and on 31 October 2025 the Tribunal ordered the Defendant to withdraw the Interim Measures Application and have any related order discharged (the "***31 October Interim Directions***"). The Defendant again failed to comply.

31. On 11 November 2025, the Tribunal issued Procedural Order 22 ("**PO22**") **{TB/10/352}** finding the Defendant to be in breach of the 31 October Interim Directions and making a peremptory order that the Defendant comply with the 31 October Interim Directions by 4pm on 13 November 2025. The Defendant, yet again, failed to comply.

32. On 14 November 2025, the Tribunal issued Procedural Order 23 ("***PO23***"), in which it found the Defendant to be in breach of PO18 by having failed to withdraw the September Russian Action, and made a further peremptory order that the Defendant withdraw the September Russian Action by 4pm on 14 November 2025. The Defendant once again failed to comply.

(5) The Butcher J Order and the Defendant's breaches of it

33. On the Contractors' Section 42 Application, Butcher J made an Order on 21 November 2025 (including a Penal Notice) (*the **"Butcher J Order")*** requiring the Defendant to:-

    i) withdraw the September Russia Court Action immediately;

    ii) withdraw the Russian Anti-Arbitration Applications immediately and provide written evidence of the same to the Tribunal; and

    iii) have the Russian Interim Measures Order extinguished and discharged immediately, and provide written evidence of the same to the Tribunal.

34. Butcher J gave the Defendant permission to appeal pursuant to section 42(5) of the Arbitration Act 1996 on the question as to whether section 42 permits the Court, as a matter of law, to enforce interim anti-suit orders of an arbitral tribunal and whether compliance with such tribunal orders can be considered "*necessary for the proper and expeditious conduct*" of the arbitration as a matter of law (having regard to the definition of that phrase in section 40(2)(a) of the Arbitration Act and the words "*any order or direction of the tribunal*"). The Court of Appeal expedited and then dismissed that appeal (*LLC Eurochem North-West-2 v Tecnimont S.p.A* [2026] EWCA Civ 5; [2026] 1 WLR 1777).

35. In breach of the Butcher J Order, the Defendant failed to withdraw, or even attempt to withdraw, the September Russian Action or the Russian Interim Measures Order. The Defendant applied to Butcher J for a stay of the Butcher J Order on 24 November 2025, which the judge dismissed by a ruling dated 25 November 2025. The Defendant's further application to the Court of Appeal for a stay was refused by Males LJ.

36. The Defendant made no attempt to withdraw the September Russian Action or the Russian Anti-Arbitration Applications. The Defendant obtained a judgment from the Russian court against the Contractors in the September Russian Action on 27 November 2025 (published in full on 5 December 2025) in an amount equivalent to approximately US$2.19bn (the "***December Russian Judgment***"). Then, on 10 December 2025 (with judgment in full being published on 19 December 2025), the St Petersburg Arbitrazh Court granted the Russian Anti-Arbitration Applications, purportedly restraining the Claimants from continuing the Arbitration or any English court proceedings (the "***Russian Anti-Arbitration Injunctions***").

37. On 27 November 2025, the Contractors applied to the Tribunal to restrain the Defendant from seeking to enforce the December Russian Judgment and any other judgments or orders that it might obtain in breach of the parties' Arbitration Agreements (the "***First Anti-Enforcement Application***"). On 9 December 2025, the Tribunal granted the First Anti-Enforcement Application in its Procedural Order 25 ("***PO25***").

38. On 22 December 2025, the Defendant issued proceedings in India to enforce the December Russian Judgment, and sought to freeze the Contractors' assets in India pending enforcement of that judgment. Those Indian proceedings were purportedly served on the Contractors on 23 December 2025. The Defendant's interim application to freeze assets in India has recently been rejected by the Indian court, which found, amongst other things, that the competence of the Russian court to determine the September Russian Action was doubtful in view of the Arbitration Agreements (§19 of the Indian court judgment), but the main enforcement proceedings remain on foot.

39. On 8 January 2026, the Contractors were purportedly served with proceedings in Malaysia seeking interim Mareva relief against assets there pending enforcement of the December Russian Judgment.

40. On 28 December 2025, the Contractors applied to the English court for anti-enforcement relief pursuant to section 37 of the Senior Courts Act 1981.

41. On 8 January 2026, the Tribunal issued Procedural Order 28 ("***PO28***") finding the Defendant to be in breach of PO25 by having taken steps to enforce the December Russian Judgment and Russian Anti-Arbitration Orders; and requiring, by way of a peremptory order, the Defendant to withdraw any enforcement proceedings including those in Russia and India. The Defendant failed to comply with PO28.

42. On 14 January 2026, the Contractors filed an amended claim form adding an application for anti-enforcement relief under section 42 of the Arbitration Act 1996 (in order to give effect to the peremptory order made by the Tribunal in PO28), as well as pursuant to section 37 of the Senior Courts Act 1981.

43. On or around 19 January 2026, Mr Evreinov (the then General Director of MTR in Russia) was arrested by the Russian authorities following criminal complaints made by the Defendant. The criminal complaints made allegations of embezzlement that relate squarely to matters in dispute between the parties in the Arbitration concerning advance payments made under the K2 Contracts.

44. On 28 January 2026, the Contractors issued a contempt of court application (*the "**Contempt Application**"*) in respect of the Defendants' breaches of the Butcher Order.

45. On 9 February 2026, Dame Clare Moulder DBE granted the anti-enforcement relief sought by the Contractors under section 42 of the Arbitration Act 1996 and made an order enforcing PO25 by ordering the Defendant to withdraw the actions it had taken up to that point to enforce the December Russian Judgment and/or the Russian Anti-Arbitration Injunctions, including the proceedings in India and Malaysia (the "**Moulder Order**"). The Defendant failed to comply with the Moulder Order.

46. On 4 March 2026, the 9th Arbitrazh Court of Appeal dismissed an appeal by the Contractors against the December Russian Judgment, such that it is now, as a matter of Russian law, enforceable (the "**Russian Appeal Judgment**").

47. Once the December Russian Judgment became enforceable as a matter of Russian law, the Defendant, on 16 March 2026, issued proceedings in Russia against the Claimant under the Guarantees (the "***Russian Guarantee Proceedings***"). By those proceedings, the Defendant seeks to recover from the Claimant under the Guarantees the amounts awarded in the December Russian Judgment against the Contractors, and an additional amount of RUB 8,767,812,704.71 (approximately EUR 90,000,000) in relation to certain "*substitute contracts*" allegedly executed in connection with the K2 Project.

(C) RECENT PROCEDURAL BACKGROUND

48. In the light of the above developments, the Claimant sought anti-suit relief by a Claim Form issued on 20 April 2026, to restrain the Russian Guarantee Proceedings on the basis that they are vexatious and oppressive.

49. On 23 April 2026, Mr Justice Robin Knowles CBE granted an interim order (*the "**Interim Order***") restraining the Russian Guarantee Proceedings until further order, and set a return date of 8 May 2026. The Defendant was directed to provide any responsive evidence by 5 May 2026 and to acknowledge service by 7 May 2026. The Interim Order was expressed to take effect "*until further order*" (paragraph 1) and the return date on 8 May 2026 was intended to be an opportunity for the Defendant to seek to vary or discharge the Interim Order.

50. The Defendant was duly served on 23 April 2026 in accordance with the Interim Order.

51. The Defendant did not acknowledge service, and it did not file evidence on 5 May 2026 as provided for in the Interim Order, or at all.

52. On 6 May 2026 Collins Botiuk, the law firm instructed by the Defendant in separate proceedings (including the Contractors' Section 42 Application before Butcher J and the anti-enforcement proceedings before Dame Clare Moulder DBE), wrote to the Court stating that it had made the Defendant aware of the Interim Order but was not instructed to act for the Defendant and would not be attending this hearing. The Defendant has not participated in these proceedings at all.

53. In breach of the Interim Order, the Defendant has not withdrawn the Russian Guarantee Proceedings.

54. At the return date hearing on 8 May 2026, Dias J gave the Claimant permission to seek summary judgment on its claim for a final injunction, or to seek directions for an expedited trial.

55. The Claimant chose the latter course, and (as Judge in Charge of the Commercial Court) on 8 June 2026 I granted expedition and gave directions for the present trial to take place on 19 June 2026. Those directions were copied to, among others, Mr Egorov of the Defendant and Collins Botiuk.

56. I am satisfied from the evidence that the Defendant was aware of the proceedings, and of the date listed for trial; that the Defendant has had a full opportunity to participate in the proceedings (or to seek any appropriate adjournment, should there have been grounds to do so); and that the Defendant has chosen not to do so. I was, and am, satisfied that it was appropriate to proceed with the trial in the Defendant's absence. I am also satisfied that the Claimant's solicitors and counsel have fairly put before the court the substance of such arguments as the Defendant might reasonably have been expected to make had it been present or represented.

(D) EVIDENCE GIVEN AT TRIAL

57. At the trial on 19 June 2026, the Claimant called oral evidence, given under oath, from Mr Molfa as a witness of fact. Mr Molfa attested to the truth of his first witness statement dated 20 April 2026 and his third witness statement dated 12 June 2026. Those are the witness statements relevant to the issues at trial, and I have relied on them, along with the documentary record, in reaching the factual conclusions I have set out above.

58. The Claimant also filed the expert report of Dr Maria Erokhova dated 19 April 2026, which I read and considered. In the absence of any objection or contrary evidence from the Defendant, I indicated that I did not require Ms Erokhova to attend court for questioning. Having considered her report, I accept its contents. So far as relevant, Ms Erokhova explained (adopting for this purpose her summary conclusions as set out in her report) that:-

> "(a) Russian courts do not recognise and/or apply EU sanctions. Russian case law deems the application of EU sanctions to violate Russian public policy.
>
> (b) According to Russian case law, Russian courts assert exclusive jurisdiction to adjudicate commercial disputes arising out of the application of foreign sanctions or otherwise involving sanctioned entities whose access to justice may be hindered by virtue of sanctions.
>
> (c) Russian courts consider non-performance of obligation due to EU sanctions as being an actionable tort and apply Russian law, despite the fact that the parties to the contract may have chosen a foreign law to govern their agreement. After 2022, following the tightening of EU sanctions, the Russian courts do not allow a foreign party in a dispute related to sanctions to defend itself by relying on foreign law. They believe that the application of foreign law in terms of sanctions is contrary to the public policy of the Russian Federation.
>
> (d) Russian courts, having assumed jurisdiction under Article 248.1 of the Arbitrazh Code of Procedure of the Russian Federation …, will not recognize the jurisdiction of an arbitral tribunal, seated in London, that has already been constituted in accordance with an arbitration agreement. Similarly, Russian courts would not enforce an arbitral award giving effect to

> sanctions of "unfriendly" jurisdictions, as this is contrary to the Russian public policy."

I accept that evidence.

(E) THE COURT'S JURISDICTION

59. I am satisfied that this court has jurisdiction to hear this claim, on either or both of two bases.

60. First, this is a claim for which "*a contract contains a term to the effect that the court shall have jurisdiction to determine that claim*" within CPR 6.33(2B)(b) and/or *"the claim is in respect of a contract falling within sub-paragraph (b)"* within CPR 6.33(2B)(c). Although clause 18 of the Guarantees does not oblige the Defendant to sue in England, it does include agreements by the Guarantor – i.e. agreements made by the Guarantor with the Defendant – that all claims in respect of any action or proceeding arising out of or in connection with the Guarantee "*may be heard and determined in the English courts*" and that the English courts *"are the most appropriate and convenient courts to settle any dispute in connection with this Guarantee"*. In my view those provisions include an express or implied agreement by the Defendant that the English court has jurisdiction to hear any such dispute, albeit that such jurisdiction is non-exclusive so far as the Defendant is concerned.

61. Secondly, the claim is "*made in respect of a contract where the contract . . . is governed by the law of England and Wales*" for the purposes of the gateway under paragraph 3.1(6)(c) of Practice Direction 6B, the relevant contracts being the Guarantees.

62. As the Claimant fairly pointed out, the Court of Appeal in *Alliance Bank JSC v Aquanta Corp* [2012] EWCA Civ 1588 § 71 said it was "*attracted to*" the view that unless the claimant is suing in order to assert a contractual right or a right which has arisen as a result of non-performance of a contract, his claim is not in this context properly to be regarded as one made in respect of a contract; and that statement was followed by Andrew Smith J in *Navig8 Pte Ltd v Al-Riyadh Co for Vegetable Oil Industry (The Lucky Lady)* [2013] EWHC 328, finding that a claim for an anti-suit injunction on the vexatious/oppression ground was not a claim "*in respect of*" certain bills of lading contracts (to which the claimant time charterer asserted it was not a party) within the meaning of PD6 paragraph 3.1(6), as no contractual right was asserted and no right resulting from any (actual or threatened) non-performance of a contract was asserted.

63. However, the statement in *Alliance Bank* was not expressed in definitive terms and, in the same passage, the court went on to make the more qualified statement that *"[i]t is sufficient to dispose of the point in this case to indicate that the required connection between claim and contract must inevitably be the more difficult to establish in a case where the intended defendant is not party to the contract upon which reliance is placed than in a case where he is party to it"* and to enquire whether the claim had any *"clear connection, or [a] connection with any real content"* with the contract (§ 71). It was held in *Albon (t/a NA Carriage Co) v Naza Motors Trading Sdn Bhd* [2007] EWHC 9 (Ch); [2007] 1 WLR 2489 that a claim "*in respect of a contract*" is not confined to claims for breach of that contract. In the present case, the Defendant has commenced proceedings in Moscow against the Claimant seeking payments said to be due under the Guarantees, and the Claimant seeks in the present action to restrain those

proceedings. In those circumstances, it seems to me that, as a matter of ordinary language, the present claim is made 'in respect of' the Guarantees.

64. In addition (as I noted during the trial in the present case), in *FH Holding (Moscow) v AO Unicredit* Bank [2025] EWHC 3111 (Comm) I concluded that an anti-suit injunction claim under the 'contractual' route for breach of an arbitration agreement was not a claim 'in respect of' the matrix contract (governed by English law) when in substance it sought to enforce the (separable) contract – governed by Austrian law in that case – constituted by the arbitration agreement itself (§§ 80-81). However, that case is distinguishable. The present claim is not to brought under the 'contractual' route to retrain breach of the jurisdiction clause in the Guarantees, but is 'in respect of' the Guarantees in a broader sense as indicated above.

(F) PRINCIPLES

65. The principles for the granting of anti-suit relief on the vexation and oppression basis were set out by Males LJ in *SAS Institute Inc v World Programming Ltd* [2020] EWCA Civ 599, and can be summarised as follows.

i) The basic principle is that the jurisdiction is to be exercised "*when the ends of justice require it*".

ii) Established categories of case where an injunction may be appropriate (which may overlap) include cases where an injunction is necessary to protect the jurisdiction of the English court and cases where the pursuit of foreign proceedings is regarded as vexatious or oppressive, but the jurisdiction is not confined to these categories and must be applied flexibly.

iii) Great caution must be exercised before such an injunction is granted, at any rate in cases where the injunction is not sought in order to enforce an arbitration or exclusive jurisdiction clause, because of the requirements of comity.

iv) When an anti-suit injunction is sought on grounds which do not involve a breach of contract, comity, telling against interference with the process of a foreign court, will always require careful consideration.

v) Comity requires that in order for an anti-suit injunction to be granted, the English court must have "*a sufficient interest*" in the matter in question. Often that sufficient interest will exist by reason of the fact that the English court is the natural forum for the determination of the parties' dispute. In a case where the injunction is sought in order to protect the jurisdiction or process of the English courts, the existence of a sufficient interest will generally be self-evident.

66. In *Deutsche Bank AG v Highland Crusader Offshore Partners LP* [2009] EWCA Civ 725; [2010] 1 WLR 1023 at §50, the Court of Appeal stated that *"in order to establish that proceeding in a foreign court is or would be vexatious or oppressive on grounds of forum non conveniens, it is generally necessary to show that (a) England is clearly the more appropriate forum ('the natural forum'), and (b) justice requires that the claimant in the foreign court should be restrained from proceeding there"*.

67. In *Barclays Bank plc v PJSC Sovcombank* [2024] EWHC 834 (Comm), HHJ Pelling KC stated at §25 that "*to attempt to litigate in a foreign jurisdiction [i.e. Russia] where full effect is not given to English law including therefore sanctions law is not to seek to obtain a legitimate juridical advantage but, on the contrary, is to seek to obtain an illegitimate juridical advantage, a point which has been recognised in the case law as a reason for treating a claim brought in such a jurisdiction as vexatious and oppressive*".

68. In *Renaissance Securities (Cyprus) Ltd v ILLC Chlodwig Enterprises* [2025] 1 Lloyd's Rep 518, Singh LJ (with whom the other members of the Court of Appeal agreed) acknowledged, at §56, that anti-suit relief is appropriate in principle to "*protect the integrity of orders made by courts of this jurisdiction*" and "*to protect the public policy of the United Kingdon in having the sanctions regime which it does*". Singh LJ also agreed (at §60) with the approach taken in *Sovcombank* i.e. that "*for a party to seek to circumvent the sanctions regime of this country is to seek an 'illegitimate juridical advantage'*".

69. It has been noted that the categories of factors which may amount to vexation and oppression are not closed: see e.g. *Elektrim SA v Vivendi Holdings 1 Corporation* [2008] EWCA Civ 1178; [2009] 1 Lloyd's Rep 59 at §83.

(G) APPLICATION

70. I am satisfied that the pursuit of the Russian Guarantee Proceedings was and is vexatious and oppressive. I am also satisfied that the English court has *"a sufficient interest*" in the matter in question, and is clearly the most appropriate forum, in the light of the provisions of clause 18.1, 18.2 and 18.3 of the Guarantees quoted earlier.

71. <u>First</u> and foremost (in my view), the Russian Guarantee Proceedings are brought on the basis of the December Russian Judgment. That judgment was obtained in clear breach of the Arbitration Agreements. The Arbitration Agreements were an essential term of the contracts to which the Contractors signed up, and which the Claimant agreed to guarantee. The Defendant in substance seeks to obtain judgment in Russia pre-empting the conclusion to be reached by the Tribunal – the forum chosen by the Defendant and the Contractors – on the underlying issue as to whether the Contractors have breached the K2 Contracts.

72. Following on from that point, the December Russian Judgment was also obtained in breach of the Tribunal's 2 September Directions, in breach of PO18 and of PO23, and in breach of the Butcher J Order. Further, the Russian Guarantee Proceedings are an attempt to enforce the December Russian Judgment in breach of PO25 and the Moulder Order.

73. <u>Secondly</u>, because the December Russian Judgment was obtained in clear breach of the Butcher J Order, anti-suit relief is appropriate in order to "*protect the integrity of orders made by courts of this jurisdiction*" (*Renaissance Securities (Cyprus) Ltd v ILLC Chlodwig Enterprises* (above) at §56).

74. <u>Thirdly</u>, the Defendant seeks by the Russian Guarantee Proceedings to obtain an illegitimate juridical advantage in Russia, because the evidence indicates that the Russian courts will determine the underlying liability of Tecnimont and MTR (said to

trigger the Claimant's liability under the Guarantees) without giving any or any proper effect to English law or to UK and EU sanctions, disregarding the defences that the Contractors have put forward in the Arbitration to date. The English courts have in recent years consistently held that Russian courts will not give full effect to English law as it relates to sanctions against Russia: see e.g. *Barclays Bank plc v PJSC Sovcombank* [2024] EWHC 834 (Comm) at §25; *Renaissance Securities (Cyprus) Ltd v ILLC Chlodwig Enterprises* [2025] EWCA Civ 369; [2025] 1 Lloyd's Rep 518 at §60; *Tecnimont v LLC Eurochem North-West-2* [2025] EWHC 3151 (Comm) at §69.

75. Similarly, in *Zephyrus Capital Aviation Partners 1D Limited v Fidelis Underwriting Limited* [2024] EWHC 734 (Comm), I referred at §361 to expert evidence showing "*several cases in which Russian courts refused to recognise the validity of foreign sanctions*" and that "*since February 2022 the Russian courts had invariably refused to recognise the validity and legal effects of foreign sanctions*". At §§368-369, I concluded: "*Based on the experts' evidence as a whole, I consider it likely that a Russian court would not recognise a termination ground that was based on Western sanctions either explicitly, or implicitly in the sense that the relevant Event of Default was a direct product of the sanctions . . . On that basis, it is likely that a Russian court would not treat as valid a termination based on failure to maintain insurance, where the failure to maintain insurance resulted from cancellation of the insurance pursuant to Western sanctions*".

76. In the present case, as noted earlier, the expert report of Ms Erokhova indicates that the Russian courts do not recognise the legal effect of foreign sanctions; that in Russia, EU sanctions are contrary to Russian public policy; and that the Russian courts will not allow a foreign party to advance a defence under English law that relies on the application of EU sanctions. English law, including as to the impact of EU sanctions, was in fact disregarded by the Russian courts in the December Russian Judgment, which not only disregarded the Arbitration but also the substantive defences of Tecnimont and MTR under English law that were raised in the Arbitration. The Defendant has itself acknowledged that it is seeking in Russia to by-pass the contractual impact of Western sanctions as a matter of English law, in the evidence I quoted earlier.

77. I have carefully considered whether considerations of comity indicate that the court should refrain from granting anti-suit relief, but consider that they do not. The Russian Guarantee Proceedings are not significantly advanced. The Guarantees permitted the Defendant to sue in Russia, but did not warrant the pursuit of proceedings based on a judgment – the December Russian Judgment – obtained in clear violation of Arbitration Agreement that formed an essential part of the K2 Contracts, as well as in breach of multiple orders made by the Tribunal as set out earlier. The Russian Guarantee Proceedings themselves have been pursued in breach of the Butcher J Order. They seek an improper juridical advantage that is at odds with English conceptions of public policy. This is in my view a clear case for intervention notwithstanding considerations of comity.

78. I have also considered whether the Defendant might have argued that it is unable to withdraw the Russian Guarantee Proceedings at all (or without it or its directors incurring a risk of criminal liability in Russia). However, similar arguments were run by the Defendant in seeking to resist the application by Tecnimont and MTR for an injunction restraining pursuit of the September Russian Action, but were dismissed by Butcher J (*Tecnimont v LLC Eurochem North-West-2* [2025] EWHC 3151 (Comm) at

§§61-70). I see no reason to expect any such arguments would have any more cogency in the present context. Similarly, I see no cogent objection on the basis that the Defendant should not be required to do something unlawful by the courts of its domicile (cf *Mamidoil-Jetoil v Okta* [2002] EWHC 2210 (Comm); [2003] 1 Lloyd's Reports 1 at §207). Butcher J stated at §64 that "*I am very sceptical that any director would be found, or indeed alleged, to have been acting against the legitimate interests of the company in ensuring that the company complies with its contractual obligations"*. I agree with the Claimant that the same reasoning must apply to a director acting to ensure that claims arising under the Guarantees are determined properly and in accordance with their terms.

79. Finally, the Claimant also fairly pointed out that the Defendant might have argued that if it withdraws its claims in Russia, it will be unable to recommence similar proceedings against the Claimant in Russia under the Guarantees. However, in *Renaissance Securities (Cyprus) Ltd v ILLC Chlodwig Enterprises* [2024] EWHC 1827 (Comm) at §46, the court acknowledged at §48 that "*if the Russian proceedings are withdrawn, the evidence indicates that the Defendants will no longer be able to pursue their claims against Renaissance in Russia".* Nonetheless, it concluded at §48 that that made no difference to the court's exercise of discretion, there being:-

> "no legitimate basis on which to sue in Russia and no unfair prejudice arises from their being prevented from doing so. The case is in this respect similar to *UniCredit Bank v RusChemAlliance* [2024] EWCA Civ 64 where at paragraph 87 Males LJ found it "*hard to believe*" that a defendant who successfully appealed a mandatory injunction would be shut out from reissuing proceedings in Russia; but held that, even if that were so, the balance of prejudice favoured granting the mandatory injunction."

Similar considerations apply in the present case.

(H) CONCLUSION

80. For the reasons set out above, it is appropriate to grant the relief sought, and there must be judgment for the Claimant.