



Claim No. CL-2018-000566

CL-2018-000566

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
COMMERCIAL COURT (QBD)

Before The Honourable Mr Justice Teare

IN AN ARBITRATION CLAIM

B E T W E E N :

DP WORLD DJIBOUTI FZCO

Claimant

-and-

PORT DE DJIBOUTI SA

Defendant

ORDER

PENAL NOTICE

IF YOU, PORT DE DJIBOUTI S.A, DISOBEY THIS ORDER, YOU MAY BE HELD TO BE IN CONTEMPT OF COURT AND YOU OR YOUR DIRECTORS MAY BE IMPRISONED OR FINED, OR YOUR ASSETS MAY BE SEIZED.

ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING WHICH HELPS OR PERMITS THE DEFENDANT, PORT DE DJIBOUTI S.A., TO BREACH THE TERMS OF THIS ORDER, MAY ALSO BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED OR FINED, OR YOUR ASSETS MAY BE SEIZED.

UPON the Claimant's Application made by Notice dated 28 August 2018.

AND UPON READING the first, second and third witness statements of Dr Anthony Charles Sinclair dated 28, 29 August and 13 September 2018 respectively and the documents exhibited thereto.

AND UPON HEARING Counsel for the Claimant at a hearing on notice to the Defendant on the Return Date referred in paragraph 1 of the Order made by the Honourable Mr Justice Bryan on 31 August 2018 (“**the Original Order**”).

IT IS ORDERED THAT

The Injunction

1. The injunction contained in paragraph 2 of the Original Order shall continue in force until further order of this court or further order or award of the arbitration tribunal to whom the disputes between the parties have been referred pursuant to paragraph 5 of the Original Order (“**the Tribunal**”).
2. With effect from the date of this Order, the Injunction contained in the Original Order will be varied so that it contains an additional sub-paragraph (5), as follows (“**the Injunction**”):
 - “2. Until further order of the court, or further order or award by the Tribunal, the Defendant must not
 - (1) treat the Joint Venture Agreement between the Claimant and the Defendant dated 22 May 2007 (the “JVA”) as terminated on any of the grounds stated in the Defendant’s letter to the Claimant of 28 July 2018;
 - (2) vote in favour of any resolution proposed at a Shareholders’ Meeting of Doraleh Container Terminal S.A (“DCT”) to remove either Mr Suhail Al Banna or Mr Raj Jit Singh Wallia or both of them from his office as director of DCT unless the Claimant votes affirmatively in favour of such a resolution;
 - (3) cause DCT to act on any of the matters referred to in the JVA as “Reserved Matters” otherwise than after a resolution authorising such action has been passed either

- (a) at a board meeting at which a director appointed by the Claimant has voted in favour of that resolution; or
 - (b) at a shareholders' meeting at which the Claimant has voted in favour of that resolution.
- (4) give instructions or cause DCT to give instructions in relation to any bank account(s) held by DCT with Standard Chartered Bank otherwise than through the instructions of the presently authorised signatories.
- (5) take any steps to effect a transfer of its shares in DCT to any transferee who is not already a party to the agreement contained in the Articles of Association of DCT (the "Articles") unless the transferee has entered into an undertaking to observe and perform the provisions of that agreement by way of Deed of Adherence as required by Article 11.7 of the Articles."
- 3. The Defendant, not being an individual, and having been ordered not to do something, must not do it itself or by its directors, officers, partners, employees or agents or in any other way including by its Affiliates as that term is defined in the JVA and the Articles.
- 4. So far as persons outside the jurisdiction are concerned:
 - (1) Except as provided in paragraph (2) below, the terms of this order do not affect or concern anyone outside the jurisdiction of this Court.
 - (2) The terms of this order will affect the following persons in a country or state outside the jurisdiction of this Court—
 - (a) the Defendant or its officer or its, her or his agent appointed by power of attorney;
 - (b) any person who—
 - (i) is subject to the jurisdiction of this Court;

- (ii) has been given written notice of this order at its, her or his residence or place of business within the jurisdiction of this Court; and
 - (iii) is able to prevent acts or omissions outside the jurisdiction of this Court which constitute or assist in a breach of the terms of this order; and
- (c) any other person, only to the extent that this order is declared enforceable by or is enforced by a Court in that country or state.
5. The Defendant may apply at any time to vary or discharge the Injunction, but must do so on at least 72 hours' written notice to the Claimant's solicitors.

Directions

6. Steps already taken by the Claimant pursuant to paragraphs 7 and 8 of the Original Order to bring the documents referred to in paragraph 8 to the attention of the Defendant by email shall constitute good service of the same by the alternative means identified in paragraph 7(a) of the Original Order pursuant to CPR 6.15 and the date on which the Claim Form is deemed served shall be 14 September 2018.
7. No further directions are given in relation to the trial of the Arbitration Claim and the proceedings shall be stayed with. Permission to apply.

Costs

8. Costs reserved.

Dated: 14 September 2018