

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

Claim No: CL-2019-000127 and CL-2019-000482



CL-2019-000127

BEFORE: THE HONOURABLE MR JUSTICE WAKSMAN  
DATE: 30<sup>th</sup> July 2020  
B E T W E E N:-

THE REPUBLIC OF MOZAMBIQUE  
(acting through its Attorney General)

Claimant /Respondent

-and-

- (1) CREDIT SUISSE INTERNATIONAL
- (2) CREDIT SUISSE AG
- (3) MR SURJAN SINGH
- (4) MR ANDREW JAMES PEARSE
- (5) MS DETELINA SUBEVA
- (11) CREDIT SUISSE SECURITIES (EUROPE) LIMITED

Defendants in CL-2019-000127

- (6) PRIVINVEST SHIPBUILDING SAL (HOLDING)
- (7) ABU DHABI MAR INVESTMENTS LLC
- (8) PRIVINVEST SHIPBUILDING INVESTMENTS LLC
- (9) LOGISTICS INTERNATIONAL SAL (OFFSHORE)
- (10) LOGISTICS INTERNATIONAL INVESTMENTS LLC

Defendants in CL-2019-000127 /Applicants

- (1) MR ISKANDAR SAFA
- (2) MR MANUEL CHANG
- (3) MR ANTONIO DO ROSÁRIO
- (4) MR ARMANDO EMILIO GUEBUZA
- (5) MR ARMANDO NDAMBI GUEBUZA
- (6) MR TEÓFILO NHAMGUMELE
- (7) MR BRUNO LANGA
- (8) MR GREGÓRIO LEÃO JOSÉ
- (9) MS ISALTINA LUCAS
- (10) PROINDICUS SA

Third Parties in CL-2019-000127

-and-

MR ISKANDAR SAFA

Defendant in CL-2019-000482/Applicant

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**ORDER**

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**UPON** (i) the application by notice dated 11 September 2019 of the Defendant to claim no. CL-2019-000482 (“**Mr Safa**”) (ii) the application by notice dated 11 November 2019 of the Seventh to Tenth Defendants to claim no. CL-2019-000127; and (iii) the application by notice dated 17 July 2020 of the Sixth Defendant to claim no. CL-2019-000127 (the three applications together, the “**Applications**”)

**AND UPON** the application by letter dated 6 May 2020 of the Claimant in respect of (*inter alia*) the name of the Sixth Defendant (the “**D6/D8 Application**”)

**AND UPON** the orders of 10 September 2019 (Knowles J), 24 September 2019 (Cockerill J), 24 September 2019 (Jacobs J), 1 November 2019 (Picken J), 11 March 2020 (Teare J), 8 April 2020 (Waksman J) and 28 May 2020 (Waksman J)

**AND UPON** the order of Waksman J dated 1 July 2020 in the D6/D8 Application

**AND UPON** reading: (i) the second and fourth witness statements of Mr Robert Hickmott respectively dated 11 November 2019 and 10 March 2020; (ii) the eighth and eleventh witness statements of Mr Keith Oliver respectively dated 20 January 2020 and 17 February 2020; (iii) the Swiss Law Document; (iv) the Statement of the Privinvest Defendants’ Position on the Scope Issue dated 22 April 2020; (v) the Claimant’s Statement of Case on the Scope Issue dated 6 May 2020; (vi) the first witness statement of Mr Johannes Valentijn dated 7 May 2020; (vii) the first witness statement of Mr Peter Kuhn dated 7 May 2020; (viii) the Statement of the Privinvest Defendants’ Case on the s.9 Trial Issues dated 11 May 2020; (ix) the Claimant’s Statement of Agreement and Disagreement in response to the Privinvest Defendants’ Statement of Case dated 18 May 2020; (x) the first witness statement of Mr Richard Andrew Swallow dated 15 May 2020; (xi) the first expert report of Dr Sébastien Besson dated 1 May 2020; (xii) the first expert report of Professor Widmer Lüchinger dated 1 May 2020; and (xiii) the Joint Expert Memorandum dated 16 May 2020; (xiv) the third and fourth witness statements of Ms Sarah Gabriel dated 28 and 30 July 2020; and (xv) the first and second witness statements of Mr Thomas Snelling dated 29 and 30 July 2020

**AND UPON** hearing on 26-28 May 2020 Mr Neil Calver QC for the Applicants, Mr Nathan Pillow QC for the Claimant/Respondent and Mr Andrew Hunter QC for the First, Second and Eleventh Defendants (“**Credit Suisse**”)

**AND UPON** the Sixth Defendant agreeing to be bound by the Court’s determination of the Scope Issue



**AND UPON** judgment handed down on 30 July 2020 on Mr Safa's Applications (the "**Safa Judgment**") and judgment handed down on 31 July 2020 on the s.9 Applications (the "**Scope Judgment**", together with the Safa Judgment, the "**Judgments**") and upon hearing Mr Ben Woolgar for the Applicants, Mr Joe Smouha QC for the Claimant/Respondent and Mr Andrew Hunter QC for Credit Suisse in relation to all consequential matters arising from the Judgments

**AND UPON** the parties in Claim Nos CL-2019-000127 and CL-2019-000482 having consented to the consolidation of Claim No CL-2019-000482 into Claim No CL-2019-000127 as prescribed herein

**AND UPON** the Claimant acknowledging and the Claimant and Mr Safa agreeing that the claim against Mr Safa brought by the Claimant in Claim No CL-2019-000482 shall be deemed for all purposes to have commenced on the date of issuance of the Claim Form in Claim No CL-2019-000482, namely, 31 July 2019, and that claim will not relate back to the date of issuance of the Claim Form in Claim No CL-2019-000127

**AND UPON** the Claimant acknowledging that the steps taken by Mr Safa pursuant to paragraph 14 below are not to be taken as a submission to the jurisdiction, and the Claimant agreeing that it will not take any point to the contrary

**AND UPON** the following definitions applying for the purposes of this Order:

- 1) The "**Corporate Applicants**" shall mean the Sixth to Tenth Defendants.
- 2) The "**s.9 Applications**" shall mean the Corporate Applicants' application for a stay of the proceedings against them under s.9 of the Arbitration Act 1996.
- 3) The "**s.1140 Application**" shall mean Mr Safa's application for a declaration that he has not been validly served with the Claim Form in CL-2019-000482.
- 4) The "**Logistics' entities Case Management Stay Application**" shall mean the application for a stay of the proceedings by the Ninth and Tenth Defendants to CL-2019-000127 (the "**Logistics entities**") under the Court's inherent jurisdiction on case management grounds.
- 5) "**Mr Safa's Case Management Stay Application**" shall mean the application for a stay of the proceedings by Mr Safa under the Court's inherent jurisdiction on case management grounds.
- 6) "**Mr Safa's Applications**" shall mean the s.1140 Application and Mr Safa's Case Management Stay Application, together.



- 7) The “**Prinvest Applications**” shall mean the s.9 Applications, the Logistics’ entities Case Management Stay Application, and the D6/D8 Application, together.
- 8) The “**Swiss Law Document**” shall mean the Claimant’s Statement of Areas of Agreement and Disagreement on Swiss Law filed and served on 5 April 2020.
- 9) The “**April Hearing**” shall mean the hearing on 6-8 April 2020.
- 10) The “**Part 20 Claims**” shall mean the additional claims brought by Credit Suisse against the Corporate Applicants, Mr Safa and the Second to Tenth Third Parties.

**IT IS DECLARED THAT:**

1. The Claimant's service on Mr Safa of the Claim Form in claim no. CL-2019-000482 on 31 July 2019 pursuant to s.1140 of the Companies Act 2006 was valid service.

**IT IS ORDERED THAT:**

**The Applications**

2. The s.9 Applications are dismissed.
3. The Logistics’ entities Case Management Stay Application is dismissed.
4. The s.1140 Application is dismissed.
5. Mr Safa’s Case Management Stay Application is dismissed.

**The January 2021 trial**

6. The further hearing of the s.9 Applications listed pursuant to paragraph 13 of the Order of Waksman J dated 8 April 2020 for January 2021 shall be vacated.

**Consolidation**

7. Pursuant to CPR r 3.1(2)(g), Claim No CL-2019-000482 shall be consolidated into Claim No CL-2019-000127 such that Mr Safa will be the Twelfth Defendant.

**Consequential directions**



8. The Applicants' application to stay the proceedings against them pending the determination of any appeal against the Judgments is dismissed.
9. The time for the Corporate Applicants to file and serve a further acknowledgment of service shall be extended to 7 days following the final determination of any appeal by the Corporate Applicants against the Scope Judgment.
10. The time for Mr Safa to file and serve a further acknowledgment of service in CL-2019-000127 pursuant to CPR r 11(7)(b) shall be extended to 7 days following the final determination of any appeal by Mr Safa against the Court's judgment on the s.1140 Application.
11. The Claimant shall serve a draft Re-Amended Consolidated Particulars of Claim by 4pm on 21 September 2020.
12. There shall be a CMC fixed at the earliest available date after 19 October 2020 to determine any objections to the Claimant's Re-Amended Consolidated Particulars of Claim.
13. The Third, Fourth and Fifth Defendants shall file and serve their respective amended defences by 4pm on 23 November 2020.
14. The Corporate Applicants and Mr Safa shall file and serve any Consolidated Defence by 4pm on 23 November 2020.
15. The Corporate Applicants and Mr Safa shall file and serve any defence(s) to the Part 20 Claims by 4pm on 23 November 2020.
16. Credit Suisse shall file and serve an Amended Consolidated Defence and Counterclaim by 4pm on 23 November 2020.
17. Credit Suisse's and the Third, Fourth and Fifth Defendants' respective costs of and occasioned by the amendments are reserved.
18. The Republic shall file and serve any Replies or Reply and Defence to Counterclaim by 4pm on 22 December 2020.
19. Credit Suisse shall file and serve any Reply to Defence to Counterclaim by 4pm on 5 February 2021.

### **Costs of the Applications**



20. The Corporate Applicants jointly and severally shall pay the Claimant's costs of the s.9 Applications and the Logistics' entities Case Management Stay Application on the standard basis, to be the subject of detailed assessment if not agreed.
21. Mr Safa shall pay the Claimant's costs of the Safa Applications on the standard basis, to be the subject of detailed assessment if not agreed.

### **Payment on account of costs**

22. The Corporate Applicants jointly and severally shall pay to the Claimant the sum of £630,000 on account of the Claimant's costs of the Privinvest Applications by 4pm on 28 August 2020.
23. Mr Safa shall pay to the Claimant the sum of £70,000 on account of the Claimant's costs of the Safa Applications by 4pm on 28 August 2020.

### **Permission to Appeal**

24. Permission for the Corporate Applicants to appeal the Scope Judgment is refused.

### **Appeals**

25. The time for the Corporate Applicants to file a Notice of Appeal with the Court of Appeal in respect of the Scope Judgment is extended to 4pm on 28 August 2020.
26. The time for Mr Safa to file a Notice of Appeal with the Court of Appeal in respect of the Court's judgment on the s.1140 Issue is extended until 14 days after (i) the Court of Appeal's judgment is handed down in A/2019/1449 and A/2019/1457 *Idemia France S.A.S. v Decatur Europe Limited & Ors* or (ii) the date on which the appeal to the Court of Appeal in those proceedings is disposed of through any other mechanism including discontinuance, settlement or otherwise, whichever is the earlier.

### **Confidentiality of the Scope Judgment**

27. The Corporate Applicants' application for redactions to the Scope Judgment is dismissed.

### **Service**

28. This Order shall be served by the Claimant on the parties.

