

Commercial Court of Moscow confirms possibility of granting anti anti-suit injunction

by *Practical Law Arbitration*, with *Kulkov, Kolotilov & Partners*

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In *Case No A40-197598/2023*, the Commercial Court of Moscow granted an injunction prohibiting the continuation of a SIAC arbitration, in which, in turn, the opponent party sought to prohibit proceedings in a Russian court in breach of an arbitration agreement.

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The Commercial Court of Moscow (Court) has granted an injunction prohibiting the continuation of a SIAC arbitration, in which, in turn, the other party sought an order to prohibit proceedings in a Russian court in breach of an arbitration agreement.

On 8 February 2023, Russian PJSC Rosneft Oil Company (Rosneft) filed a claim against BP Oil International Limited (BP) in a Russian court for recovery of a penalty arising under a petroleum products supply contract, despite that contract containing an arbitration clause providing for disputes to be determined under the SIAC arbitration rules.

BP argued that Rosneft was in breach of the arbitration agreement and therefore commenced the SIAC arbitration, seeking:

- An order that Rosneft comply with the arbitration agreement.
- An order obliging Rosneft to terminate the Russian proceedings.
- Damages of £218,964 for costs incurred in the Russian proceedings.

In response, on 1 September 2023, Rosneft filed an application with the Court for an injunction against the continuation of the SIAC arbitration. The grounds relied on were that Rosneft is a sanctioned entity that cannot obtain justice abroad and it is therefore entitled to an anti-suit injunction against any foreign litigation or arbitration under article 248.1 of the Russian Commercial Procedural Code.

The Russian court granted an injunction against the SIAC arbitration, which effectively constitutes both a classic anti-suit injunction and an anti-anti-suit injunction preventing action on a tribunal order restraining the Russian proceedings. Moreover, the court proactively (without an appropriate application by Rosneft) stated that BP would be subject to a penalty of £218,964 should it breach the injunction.

BP has until 15 January 2024 to appeal this decision.

Case: [Case No A40-197598/2023 \(13 December 2023\)](#).

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