

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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	)	
PAO Tatneft	)	<b>Case No. 1:17-cv-00582-CKK</b>
	)	
Petitioner,	)	
	)	
-against-	)	
	)	
UKRAINE	)	
	)	
Respondent.	)	
	)	

**JOINT STATUS REPORT**

Pursuant to the Court’s January 30, 2020 Minute Order, the parties submit the following Joint Status Report.

As the Minute Order notes, “This case has been stayed pending the mandate from the Court of Appeals for the D.C. Circuit, which has recently been issued.” *See* ECF Nos. 40, 42. “Accordingly, by February 14, 2020, the parties shall provide this Court with a Joint Status Report indicating if there are any reasons that the stay in this case should not be lifted so that the Court may consider the Petition.”

The parties note that the stay previously entered by the Court is, therefore, no longer in effect. Ukraine filed a motion for reinstatement of the French cassation proceeding, which had previously been “radiated,” at the seat of arbitration in France. *See* ECF Nos. 31-32. Ukraine does not seek a further stay of this proceeding by reason of such motion for reinstatement.

Ukraine, however, reserves the right to renew its motion for stay if and when the French cassation proceeding resumes. Tatneft would oppose any such motion, if it is made.

As also noted in the Minute Order, “the parties previously fully briefed a Petition to Confirm the Arbitration Award (Petition), an Opposition thereto, and a Reply in support thereof.” *See* ECF Nos. 1, 22, 35. “The parties shall indicate further whether there are any new cases or law affecting the pending briefing, or if there have been any new developments in the underlying arbitration proceedings.”

The parties are unaware of any new cases or law affecting the pending briefing. The parties, however, report two developments in parallel enforcement proceedings in the United Kingdom.

First, the High Court recently issued a decision denying one of Ukraine’s challenges to enforcement of the Final Award, which was brought under section 103(2)(e) of the UK Arbitration Act 1996. *See* PAO Tatneft v. Ukraine, [2019] EWHC 3740 (Ch) (attached as Exhibit A). Section 103(2)(e) of the Arbitration Act 1996 implements Article V(1)(d) of the New York Convention.<sup>1</sup> Ukraine’s Opposition in this case also argues that the Court should refuse to recognize and enforce the Final Award, *inter alia*, pursuant to Article V(1)(d) of the New York Convention.

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<sup>1</sup> *Compare* Arbitration Act 1996 § 103(2)(e) (“Recognition or enforcement of [a New York Convention] award may be refused if the person against whom it is invoked proves . . . that the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties or, failing such agreement, with the law of the country in which the arbitration took place[.]”) *with* New York Convention art. V(1)(d) (“Recognition and enforcement of the award may be refused, at the request of the party against whom it is invoked, only if that party furnishes to the competent authority where the recognition and enforcement is sought, proof that . . . [t]he composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the parties, or, failing such agreement, was not in accordance with the law of the country where the arbitration took place[.]”).

Second, currently pending before the High Court is another one of Ukraine's challenges to enforcement of the Final Award under section 103(2)(d) of the UK Arbitration Act 1996. *PAO Tatneft v. Ukraine*, EWHC Claim No. CL-2017-252 (docket report attached as Exhibit B). Section 103(2)(d) of the Arbitration Act 1996 implements Article V(1)(c) of the New York Convention.<sup>2</sup> Before this Court, Ukraine intends to move for leave to file a supplemental brief regarding this ground for non-enforcement of the Final Award. Tatneft intends to oppose the filing of any such supplemental brief.

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<sup>2</sup> Compare Arbitration Act 1996 § 103(2)(d) ("Recognition or enforcement of [a New York Convention] award may be refused if the person against whom it is invoked proves . . . that the award deals with a difference not contemplated by or not falling within the terms of the submission to arbitration or contains decisions on matters beyond the scope of the submission to arbitration[.]" with New York Convention art. V(1)(c) ("Recognition and enforcement of the award may be refused, at the request of the party against whom it is invoked, only if that party furnishes to the competent authority where the recognition and enforcement is sought, proof that . . . [t]he award deals with a difference not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration[.]").

Dated: February 13, 2020

Respectfully submitted,

/s/ Jonathan I. Blackman

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