

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. BARRY R. OSTRAGER PART IAS MOTION 61EFM

Justice

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In the Matter of the Application of,

GENERAL ELECTRIC INTERNATIONAL INC.,

Petitioner,

For an Order, Pursuant to CPLR Article 75,

- against-

INDEX NO.	651706/2022
MOTION DATE	
MOTION SEQ. NO.	001

DECISION + ORDER ON MOTION

CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK NEW YORK BRANCH, SOCIÉTÉ ALGÉRIENNE DE PRODUCTION DE L'ÉLECTRICITÉ,

Respondents.

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HON. BARRY R. OSTRAGER

The Court heard oral argument via Microsoft Teams on April 19, 2022 on the motion by petitioner General Electric International Inc. (“GE”) to confirm two Interim Arbitration Awards issued by the ICC International Court of Arbitration (“the ICC Awards”, NYSCEF Doc. Nos. 6 and 26) and for a preliminary injunction (a) enjoining and restraining respondent SOCIÉTÉ ALGÉRIENNE DE PRODUCTION DE L'ÉLECTRICITÉ (“SAPE”) from taking or continuing to take any action in contravention of the ICC Awards; (b) enjoining and restraining respondent SAPE from taking or continuing to take, or causing any third party to take or continue to take, any action to draw or collect upon the bank guarantees and/or counter-guarantees that are the subject of the ICC Awards; and (c) enjoining and restraining respondent CACIB from taking or continuing to take any action to effectuate or fund any draw or collection on the CACIB Guarantees, pending the Arbitral Tribunal's final resolution of the Request for Provisional

Measures referenced in the April 5, 2022 ICC Award. The ICC Arbitration is presently scheduled for Sept 19-27, 2022. The only respondent who appeared and participated in the argument on this motion was respondent CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK NEW YORK BRANCH (“CACIB NY”).

The underlying arbitration before the Tribunal arises from respondent SAPE’s alleged failure to comply with and timely execute its obligations arising under a contract entered into on or about April 9, 2013 with a consortium comprised of GE and non-party Mytilineos S.A. for the design, construction, installation, commissioning and start-up of a dual (gas and fuel) powerplant located in Algeria (the “Project”). Under the parties’ contractual arrangements in relation to the Project, respondent was responsible for performing substantial civil works as a prerequisite for the installation and testing of electromechanical works by GE. According to CACIB NY (NYSCEF Doc. Nos. 27 and 28), GE was to cause bank guarantees to be issued by Banque National d’Algerie (“BNA”) with SAPE as beneficiary, and GE was then required to provide counter-guarantees for the benefit of BNA. GE accomplished that work in two steps, involving two separate instruments, the first in English from CACIB NY to CACIB in France in the form of a risk commitment, and the second being a counter-guarantee in French from a European bank as required by BNA from CACIB headquarters in France to BNA. CACIB NY has submitted papers asserting that it is a completely separate entity from CACIB in France, which is not named in this suit.

GE alleges that SAPE breached its contractual duties, causing delays on the project and substantial monetary damages to GE, which GE seeks to recover in the arbitration. Rather than proceed with the Arbitration, SAPE allegedly threatened to, and perhaps has, sought to draw down on the performance guarantees that total about \$17M. GE has obtained two Interim ICC

Awards with provisional remedies that GE asks this Court to confirm. GE also asks this Court to issue an order granting a preliminary injunction consistent with the terms of the ICC Awards. As indicated earlier, SAPE has not appeared and CACIB NY has not taken any position on the application.

As petitioner has established its right to the requested relief, the motion is granted. Petitioner is directed to efile a Proposed Order no later than April 20, 2022 in proper form to effectuate the terms of this Decision confirming the two Interim Awards and maintaining a preliminary injunction pending the resolution of the Arbitration, which will be held until April 21 for any comments by respondents. The Court will schedule a conference for November 15, 2022 at 2:00 p.m. via Microsoft Teams, by which time a decision on the merits from ICC will hopefully have been rendered. Petitioner shall efile a status report in letter form, along with an updated Appearance Sheet, no later than November 1, 2022.

Dated: April 18, 2022



BARRY R. OSTRAGER, J.S.C.

CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input type="checkbox"/> DENIED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION	<input type="checkbox"/> OTHER
APPLICATION:	<input checked="" type="checkbox"/> GRANTED		<input type="checkbox"/> GRANTED IN PART	
CHECK IF APPROPRIATE:	<input type="checkbox"/> SETTLE ORDER		<input checked="" type="checkbox"/> SUBMIT ORDER	
	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/> FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE