Neutral Citation Number: [2022] EWHC 687 (Ch)

Claim No. CR-2022-000492

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
INSOLVENCY AND COMPANIES LIST (ChD)

The Rolls Building
7 Rolls Buildings
Fetter Lane
London EC4A 1NL

Date: Wednesday, 23rd March 2022

Before:

MR. JUSTICE TROWER

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Between:

IN THE MATTER OF E D & F MAN HOLDINGS LIMITED	**Applicant**
- and -	
IN THE MATTER OF THE COMPANIES ACT 2006	**Respondent**

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MR. DAVID ALLISON QC and **MR. RYAN PERKINS** (instructed by **Freshfields Bruckhaus Deringer LLP**) appeared for the **Claimant.**

MR. ADAM AL-ATTAR (instructed by **Allen & Overy LLP**) appeared for the **Co-ordinating Committee.**

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Approved Judgment

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MR. JUSTICE TROWER :

1. This is an application by a company incorporated in England and Wales, E D & F Man Holdings Limited, (the "company") for an order sanctioning a restructuring plan (the "plan") under Part 26A of the Companies Act 2006.

2. The company is the ultimate holding company of the E D & F Man group, a global trader in agricultural products such as sugar, coffee, molasses, animal feed and fish oil. It also has a brokerage business which offers its customers direct access to global commodities markets.

3. At the convening hearing before Michael Green J, on 24th February 2022, he ordered that the company should have permission to convene five meetings of plan creditors and two meetings of plan members to be held on 16th March 2022 for the purpose of considering and if thought fit approving the plan. Michael Green J's judgment on making the convening order is reported at [2022] EWHC 433 (Ch).

4. At the meetings held on 16th March, the plan was approved unanimously by four of the five creditor classes and one of the member classes with very high turn outs. It was also approved by the other member class with an overwhelming majority of those present and voting.

5. All of these class meetings agreed the plan by the 75% majority in value required by section 901F(1) of the Act.

6. So far as the fifth creditor class is concerned, the majority by value voted in favour of the plan but the majority fell short of the statutory requirement of 75% and did not amount to an agreement to the plan by the members of the fifth creditor class sufficient to satisfy the requirements of section 901F. This class therefore represented a dissenting class for the purposes of the statute and it follows that the plan can only be sanctioned by the court if the requirements of section 901G are satisfied.

7. Michael Green J explained in his convening judgment the financial pressures to which the group as a whole is subject. For present purposes it suffices to say that the group's financial performance in recent years has been affected by the losses associated with underperformance of its agricultural and industrial assets leading to significant liquidity issues. There is a detailed description in the evidence of the steps the group has taken in recent years to address those issues, which included the approval, sanctioning and implementation of a Part 26 scheme of arrangement proposed by E D & F Man Treasury Management Plc ("MTM"), in 2020.

8. The evidence also explains that historically high commodity prices, price volatility and the Covid-19 pandemic has had an inverse impact on the extent to which the 2020 refinancing was able to put the group's business on a sustainable footing.

9. The group therefore commenced discussions with its stakeholders on the need for a new financing in mid-June 2021 with the intention of reaching a conclusion by the end of 2021. This included the formation of a Co-Com in October 2021 with whom the group has been negotiating since then and which appears at this hearing by Mr. Al-Attar. Its members support the application to sanction the plan.

10. The original timetable has slipped and it is now clear that there is what the group finance director has called in his evidence an urgent need to restore stability to the group's capital structure and operations through the implementation of the transaction, a core part of which is the sanctioning of the plan.

11. The finance debt sought to be rearranged pursuant to the terms of the plan is all governed by English law and subject to the jurisdiction of the English court. It is convenient to describe it by reference to four categories:

12. First, there is a US$200 million borrowing base facility which is fully drawn and matures on 15th September 2022. The principal borrowers are MTM and another group company called Volcafe Vietnam. The company is one of a number of group guarantors.

13. Secondly, there is a US$129 million revolving credit facility which is fully drawn and matures on 15th September 2023. The borrower is MTM and the company is also one of a number of group guarantors.

14. Thirdly, there is a secured term loan facility divided into two tranches: term loan A of some US$340 million and term loan B of some US$787 million which is fully drawn and matures on 15th September 2023. The borrower is MTM and the company is one of a number of guarantors.

15. Fourthly, there are five series of secured term loan notes issued by MTM and guaranteed by a number of members of the group including the company. They also mature on 15th September 2023. They take the form of a simple debt obligation owed by the obligors to the noteholder documented by a note purchase agreement.

16. Members of the Co-Com hold debt arising under each of these instruments.

17. The only other indebtedness of the company sought to be rearranged by the terms of the plan is the liability it has to Australia and New Zealand Banking Group Limited and ANZ Commodity Trading Pty Ltd, pursuant to the terms of an English law settlement agreement executed in February 2017. It compromised claims that the ANZ parties had against E D & F Man Capital Markets Limited for losses sustained as a result of fraud in relation to warehouse receipts. There is a longstop payment deadline in respect of that liability of 15th September 2023. The maximum amount of the claim is, as I understand it, some US$200 million.

18. There are intercreditor arrangements governed by the terms of an intercreditor agreement which deals with the ranking and security of each of these categories of debt. The borrowing base facility and the ANZ settlement amount both have their own security packages. The RCF, the secured term loan facility and the secured term notes all have a common security package. The proceeds of that security is applied first in discharge of the RCF, second in discharge of the secured term loan A tranche, and third in discharge pari passu of both the secured term loan B tranche and the secured term notes.

19. The creditor class meetings directed by Michael Green J were, first, a meeting of the borrowing base facility lenders; second, a meeting of the RCF lenders; third, a meeting of the secured term A lenders; fourth, a meeting of both the term loan B

lenders and the holders of the secured term notes, which has been called the "B debt meeting" in a number of the papers; and, fifth, a meeting of the ANZ parties.

20. The company also has a number of other finance creditors whose claims are unaffected by the terms of the plan. There is an explanation in the explanatory statement of the reasons for their exclusion which I considered together with Mr. Allison QC who appears for the company. I am satisfied that they are excluded for good commercial reasons sufficient to make it commercially impracticable or undesirable to require them to accept a compromise of their claims, an approach which was explained by Snowden J in his *Virgin Active* sanction judgment [2021] EWHC 1246 (Ch) at paragraphs 261 and 262. It is generally for a plan company to decide with whom it wishes to propose an arrangement. Where no objections have been taken to that aspect of the plan and some commercial justification is advanced, the exclusion of other creditors will not normally be an impediment to its sanctioning.

21. As I already mentioned, there are also two member plan meetings. The first class of member was the company's 600 ordinary shareholders whose rights are contained in the company's articles of association. The second class comprised a single member, a preference shareholder ("the Investor") who has additional rights set out in an English law shareholder agreement.

22. In directing those creditor and member class meetings, Michael Green J considered the question of whether members of each class were able to consult together with a view to their common interest and concluded for the reasons that he gave in the convening judgment that they were. I agree that in the absence of any challenge to the issues of class composition, it would be inappropriate for me to take a different view on the question of whether or not the classes were correctly constituted. In any event, there is nothing I have seen in the evidence which causes me concern that the conclusion reached by Michael Green J might be open to challenge.

23. In reaching the conclusion that he did, Michael Green J carried out the conventional exercise of comparing the rights to be released or varied under the scheme and the new rights which the scheme gives by way of compromise or arrangement. So far as those new rights are concerned, the terms of the plan under which those new rights are to be acquired have six central objectives.

24. The first is to raise a US$300 million new trade finance facility to be borrowed by a newly incorporated entity within the group's commodity trading division. The secured term loan lenders and the secured term noteholders are entitled to subscribe to lending commitments under the new trade finance facility. In the event they do so, they are entitled to elevate the ranking of their existing claims, a feature to which I will revert.

25. The second objective is to amend and restate the secured term loan facility and the secured term notes. The plan provides for the conversion of the loan facility into a Senior FinCo Term Loan, itself divided into three tranches, and a Junior FinCo Term Loan, and the conversion of the term notes into two series of new notes. There are differences in ranking as between the tranche A and B of the new debt instruments and creditors' entitlement to elevate into the higher ranking tranche will depend on whether or not they agree to lend under the new trade finance facility. There is an appendix to the explanatory statement which contains a worked example of the

elevation mechanism. The maturity dates of the new debt instruments are longer and the interest rates are lower than those under the secured term loan facility and the secured notes. The obligors will be two new indirect subsidiaries of the company.

26. The third objective is to amend and restate the borrowing base facility and the RCF by extending the maturity dates and replacing MTM as borrower by a new entity. There are also a number of other less central amendments which will be included.

27. The fourth objective is to introduce a new guarantee and security package to enable the group's commodity trading division to trade more sustainably. The effect will be to ring fence the entities within the commodity trading division so that they are immune from parts of the group's finance obligations.

28. The fifth objective is to amend the ANZ settlement agreement, by an extension to the ANZ maturity date of just over two years, changes to the events of default and changes to a number of its other provisions.

29. The sixth objective is to amend Holdings' Articles and the shareholders' agreement. These amendments are to alter certain governance and appointment rights, amend the priority of payments to the investor, clarify the dividend regime, introduce a simplified share transfer and buyback regime and remove certain other redundant provisions from the Articles.

30. The court's jurisdiction to sanction a restructuring plan under section 901F is engaged where a number representing 75% in value of the creditors or class of creditors or members or class of members as the case may be, present and voting either in person or by proxy at the meeting summoned under section 901C, agrees a compromise or arrangement. Unlike a Part 26 scheme there is no requirement for a majority by number.

31. I have considered the evidence as to the summoning of the plan meetings and I am satisfied that the requirements of the convening order and the statute as they relate to that issue have been complied with. I am also satisfied that the explanatory statement which was made available to plan creditors and members via an information agent and the plan website gave a sufficient explanation of the effect of the plan to comply with section 901D of the Act.

32. The meetings were held on 16th March 2022, under the chairmanship of the company's chief restructuring officer and were held in accordance with the directions given by Michael Green J. At all of the creditor meetings, apart from the B debt meeting, the plan was approved unanimously with either a full turnout or a turnout exceeding 90%. At the Investor member meeting the plan was also approved by the sole member of the class, while at the meeting of ordinary shareholders the statutory majority was achieved with a majority of 99.66% of those present and voting and a turnout of 77.8%.

33. The position was different at the B debt meeting. The plan was approved by 69.66% of the members of the class present and voting. The way that the figures broke down was that 28 creditors voted with claims totalling US$971 million odd, of which 15 creditors with claims totalling some US$676.9 million voted in favour and 13 creditors with claims totally some US$294.8 million voted against. I understand that

the creditors who voted against the plan included Banco do Brasil with a debt of just in excess of US$100 million under the secured term loan B and all of the series B noteholders with a combined debt of US$184 million. I enquired as to the identity of the noteholders and was told that there are some four fund managers with a number of separate funds which voted against the plan in their capacity as holders of the series B note debt.

34. The statutory majority was not therefore achieved at the B debt meeting because only 69.66% of those present and voting agreed the plan. It is therefore necessary for me to be satisfied that the requirements of section 901G applies. This requires the satisfaction of two conditions. Condition A under section 901G(3) is that the court must be satisfied that, if the compromise or arrangement were to be sanctioned under section 901F, none of the members of the dissenting class would be any worse off than they would be in the event of the relevant alternative. Condition B, provided for by section 901G(5), is that the compromise or arrangement must have been agreed by at least one class meeting, the members of which would receive a payment, or have a genuine economic interest in the company, in the event of the relevant alternative.

35. Satisfaction of both of these conditions therefore requires the court to identify the relevant alternative, a concept which is defined in section 901G(4) to mean "whatever the court considers would be most likely to occur in relation to the company if the compromise or arrangement were not sanctioned under section 901F."

36. Once the court has identified what would be most likely to occur in the relevant alternative, it is then required to carry out the comparative exercise stipulated by section 901G(3) and also to satisfy itself that at least one class meeting comprised of members who would receive a payment or have a genuine economic interest in the company in the relevant alternative has agreed the compromise or arrangement.

37. Condition A is often described as the "no worse off" test. As Snowden J explained in *Virgin Active* at paragraph 106:

> "The 'no worse off' test can be approached, first, by identifying what would be most likely to occur in relation to the Plan Companies if the Plans were not sanctioned; second, determining what would be the outcome or consequences of that for the members of the dissenting classes (primarily, but not exclusively in terms of their anticipated returns on their claims); and third, comparing that outcome and those consequences with the outcome and consequences for the members of the dissenting classes if the Plans are sanctioned."
>
> It is important to appreciate that under the first stage of this approach the Court is not required to satisfy itself that a particular alternative would definitely occur. Nor is the Court required to conclude that it is more likely than not that a particular alternative outcome would occur. The critical words in the section are what is "most likely" to occur. Thus, if there were three possible alternatives the Court is required only to select the one that is more likely to occur than the other two.

> Having identified the relevant alternative scenario, the Court is also required to identify its consequences for the members of the dissenting class. This exercise is inherently uncertain because it involves the Court in considering a hypothetical counterfactual which may be subject to contingencies and which will, inevitably, be based upon assumptions which are themselves uncertain. It is, however, a familiar exercise."

38. In the present case, the evidence as to the relevant alternative produced by the company is that if the plan were not to become effective the group would be likely to place the entities within the commodity trading division into liquidation whilst pursuing the sale of remaining legacy assets in the brokerage division, the North American MLP business, on an accelerated basis. This course of action is described in the evidence adduced from the group finance director as the relevant alternative scenario. In reaching the conclusion that the relevant alternative scenario is the relevant alternative, the board of the company concluded that the prospects of agreeing an alternative transaction that would leave the group with a viable capital structure were remote.

39. In my view, the court should recognise that the directors are normally in the best position to identify what will happen if a scheme or restructuring plan fails. Where the evidence appears on its face to reflect a rational and considered view of the company's board, the court will require sufficient reason for doubting that evidence. As no creditor or member appears today to challenge the director's conclusion on this aspect of the test and as the evidence appears to reflect a rational and considered view by the board, there is no basis on which I can or should doubt it.

40. The company has commissioned a report from FTI Consulting which takes the form of an entity priority model and works through the financial consequences of the relevant alternative scenario to each of the classes of creditor. It concentrates on the return to the members of the dissenting class so as to evidence the satisfaction of condition A but it also demonstrates that condition B is satisfied because it confirms that in the relevant alternative the members of the other creditor classes would receive a payment or have a genuine economic interest in the company.

41. In my view, the FTI entity priority model is a well structured and informative report which provides clear evidence as to the financial consequences for the dissenting class in the event of the relevant alternative scenario. Having given detailed consideration to the position and prospects of the group's constituent businesses, the model gives a range between a low case and a high case return in the relevant alternative scenario. In summary, it demonstrates that in the relevant alternative scenario the dissenting class would receive no return on a low case return and a total recovery of 5.5% in a high case return. Value therefore breaks in the term loan A in the low case return and in the dissenting class in a high case return.

42. The model also cross-checks its analysis of the financial consequences in the event of the relevant alternative scenario by modelling two other potential alternatives: a group wide liquidation without any separate sale of the North America MLP business and a

series of accelerated divestments. It suffices to say that these alternatives produced a lower return so far as the class B noteholders are concerned.

43. It is then necessary to compare the returns to creditors in the relevant alternative with the returns to creditors under the plan. This exercise needs to be carried out to enable an assessment to be made as to whether any members of the dissenting class would be any worse off under the plan, than they would be in the event of the relevant alternative. If that is the case the power to sanction by using section 901G is not engaged.

44. In support of its submission that this part of the test is also satisfied in the present case, the company commissioned a second report from FTI Consulting which is described in the evidence as "The Plan Outcome Report". This anticipated the return to members of the dissenting class if the restructuring plan comes into effect, both on the assumption that members of that dissenting class do agree to participate in the new trade finance facility and thereby obtain the benefit of elevation that I have already mentioned, and on the assumption that they do not.

45. It also proceeds on certain assumptions as to the strategy which will be employed by the company going forward if the plan is sanctioned and comes into effect. This strategy assumes that non-core assets will be sold between 2022 and 2024 and that an M&A process for the sale of the commodities group will complete in September 2026. It reflects the board's present intentions as to what is likely to occur in the future and for similar reasons to those which apply in relation to the relevant alternative, I am satisfied that it is appropriate for me the accept those assumptions.

46. The essential conclusion of the plan outcome report, reached having assessed the values of the essential divisions of the group's business one by one, is that the commodities group would be valued at approximately US$1.345 billion, which would enable those members of the dissenting class who elect to participate in the new trade finance facility to have their restated debt paid in full. It would enable those members of the dissenting class who do not elect to participate in the new trade finance facility to achieve a realisation of approximately 40% of their restated debt.

47. The company submitted that this evidence demonstrates a stark comparison between the return that the members of the dissenting class would receive in the relevant alternative and their anticipated recovery under the plan. Mr. Allison and Mr. Perkins in their skeleton argument described this as dramatically better than the outcome in the relevant alternative. It is not necessary for me to go that far, but I am satisfied that the evidence clearly demonstrates that none of the members of the dissenting class would be any worse off if the plan were to be sanctioned than they would be in the event of the relevant alternative. The court therefore has jurisdiction to sanction the plan, but the next question I have to consider is whether I should exercise my discretion to do so.

48. I agree that there is no kind of presumption that the court should exercise its discretion to sanction a restructuring plan merely because the conditions A and B have been satisfied. But satisfaction of the jurisdictional requirements that every member of the dissenting class will be in no worse position than they would be in the relevant alternative and that the plan has been approved by the statutory majority in at

least one class of those with an economic interest is a sound starting point for exercising the discretion.

49. In this case there are a number of other factors which have to be taken into account. First, I am satisfied that having regard to the plan meetings, which agreed the plan by the statutory majorities, the conventional approach to sanction a Part 26 scheme would be satisfied in the present case. That this is a relevant factor is now established by the *DeepOcean* and *Virgin Active* decisions.

50. I say that for the following reasons. First of all each meeting of assenting creditors approved the plan by an overwhelming majority. I have already recited what they were. Furthermore, and perhaps more significantly, the total number of creditors who voted to approve the plan amounted to some 84% of plan creditors across all classes. That is a very significant majority.

51. Secondly, the provisions of the statute were otherwise complied with.

52. Thirdly, there is no evidence to indicate that the assenting classes were not fairly represented by those who attended the meeting. This is reflected by the very high turnouts at all of the class meetings. It is also reflected by the fact that there are a material number of creditors and members who had not been involved in the formulation of the plan, whether as members of the Co-Com or otherwise, who have voted in favour of the plan.

53. Fourthly, there is no indication that any member of the assenting classes acted other than bona fide, and there is no evidence that any of them were coercing those who did not vote in favour in order to promote interests adverse to those of the class whom they represented.

54. Fifthly, the plan is such as an honest intelligent person might reasonably approve. This is established by the large number of creditors who voted in favour of the plan. It is also reflected by the considered views of the directors of the company who resolved that it was in the best interests of the company, the group as a whole and each of the plan creditors and plan members for the plan to be approved and sanctioned.

55. So far as numbers alone are concerned, the position is obviously rather different for the dissenting class because the statutory majority was not achieved. Nonetheless, it seems to me that it remains relevant that a significant majority by value, some 69%, voted in favour of the plan, even though the number fell short of the value required by the statute. Taken together with the members of the assenting classes, there is considerable and indeed overwhelming support for the plan.

56. The second broad factor is that none of the opposing creditors appears to oppose the sanction of the plan at the hearing today, and none of them have explained in evidence why it is that the terms of the plan might be thought to be unfair to them. In particular there has been no evidence adduced on this application for sanction which questions the contents or conclusions of the two FTI reports.

57. That is not to say, however, that there has been no asserted opposition. Not only was there a significant vote against the plan at the B debt plan meeting, there has also been

detailed correspondence with Akin Gump, solicitors instructed on behalf of the term note holders. In the course of that correspondence there was some concern expressed about the elevation mechanism, to which I will revert shortly, but it is of note that the correspondence does not challenge the underlying evidence that the requirements of the statute and in particular conditions A and B are satisfied.

58. Thirdly, there is no reason to consider that the benefits of the restructuring plan, what is sometimes called the restructuring surplus, is being shared in an inequitable manner which does not reflect plan creditors existing rights. The plan itself respects the current ranking of creditor claims. In my view it is also relevant that the members of the dissenting class are very nearly out of the money even on a high case return. It follows that to the extent they have an interest in the restructuring surplus, it can fairly be described as one that is minimal. The closer the members of the dissenting class are to being out of the money, the less clearly it can be seen that they might have an entitlement to an enhanced share.

59. While it seems to me that in the present case the dissenting class are entitled to the opportunity to share in the benefits of the plan, the nature of the their present interest means that the extent to which they are entitled to do so is relatively limited. In my judgment, having regard to the anticipated return that is described in the model that was produced by FTI, the rights which the dissenting class have under the plan, insofar as they flow from the achievement of a restructuring surplus, fall within a range which can properly be regarded as reasonable.

60. Fourthly, I have given some consideration to the elevation structure, which enables those members of the dissenting class who lend new money to obtain a higher ranking return in exchange for their existing debt than those who do not. Might it be said that this puts creditors who do not wish to participate in a disadvantageous position? On this issue the facts that all of the series B noteholders voted against the plan and that the elevation mechanism was an issue that was raised in the correspondence by Akin Gump initially caused me some concern. While there is no challenge to Michael Green J's decision that the noteholders could consult together with the secured term loan B lenders and should form part of the same class, does the way in which the series B note holders voted indicate that the court should be concerned that there was something about the proposals which adversely affected them more than the other members of the class? Might there be a concern about the level at which the benefit of the elevation was set? As I say, this was certainly a factor which arose during the course of the earlier objections to the plan advanced by Akin Gump, although I understand that it was never fully articulated as a principled objection to the approval of the plan by their clients.

61. I do not think though on further reflection that it is possible for me to conclude that this is or even might be the case. From a legal perspective, all members of the dissenting class are permitted to obtain an elevation of their existing ranking through the advance of new money. Even if they do not do so, the undisputed evidence is that they will be in a much better position than they would be in the relevant alternative, i.e. if the plan were not to be approved.

62. Furthermore, there is a helpful analysis of the reason why a structure of this sort is not intrinsically unfair in Meade J's judgment sanctioning the 2020 scheme, reported at [2020] EWHC 2505 (Comm), at paragraph 27, which is worth reciting in full:

> "I asked Mr Allison forensically what disadvantage could be suffered by any of the creditors in either class, and his answer, which I accept, was that the only conceivable disadvantage would be to creditors in the consolidated creditors' class who did not want to participate in the provision of new money and therefore who could not achieve elevation of any of their existing debt. Clearly this is a theoretical possibility and may turn out in due course to be a real possibility, but to my mind the key answer is that all creditors in that class are able to subscribe for the new money instruments pro rata the debt which they hold, so there is no unfairness in that respect, and it is no doubt for this reason again that the scheme achieved the level of support that it did."

63. Michael Green J also addressed this point in his convening judgment at paragraph 75:

> "Even though it is more relevant to the sanction stage, I can see that there are very good commercial reasons why such an elevation structure is used in this plan, providing certainty that the new money will be raised and potentially reducing the pricing of the new facility. It also avoids a backstop or underwriting fee."

64. At the end of day, and having regard to the approach that was taken by both Michael Green J and Meade J, I think there is nothing unfair in a structure which enables the B noteholders, who are either out of the money or very nearly so, to lend new money and obtain the prospect of a 100% return but have only the prospect of a reduced 40% return if they do not. It seems to me that there are, as Michael Green J anticipated in his convening judgment, very good commercial reasons for introducing a structure of this sort and the precise nature of the terms which are included within the structure seem to me to be entirely reasonable.

65. Finally, there are two further matters which require consideration. The first is whether there is any difficulty arising out of the fact that the company is only a guarantor of the finance debt; a fact which caused those responsible for designing the plan to execute a deed of contribution to provide for a ricochet claim thereby rendering the company a co-obligor with MTM, as principal debtor under the existing finance agreements.

66. In my judgment, there is no objection to the use of such a structural device so long as it is done with a view to achieving the best possible outcome for creditors as a whole. In *Re Swissport Fuelling Limited* [2020] EWHC 3413 (Ch), paragraph 62-73, I explained why I consider that this is the correct approach.

67. The second is a particular aspect of ensuring that the plan has substantive effect. The issue is whether the plan is likely to be given effect in every relevant jurisdiction. The recognised test is whether there is a reasonable prospect that the restructuring plan will be recognised in the jurisdictions in which it is necessary for it to be effective; that primarily means those in which any material member of the group has material assets or carries on a material business.

68. In the present case the two jurisdictions outside England and Wales which are significant in this context are the United States and Brazil. The company has commissioned reports on US law and Brazilian law, the first of which has been prepared by Mr. Benjamin Mintz from Arnold & Porter and the second of which has been prepared by Machado Meyer. The US report confirmed that it is very likely that a US bankruptcy court would recognise and enforce an order rendered by this court sanctioning the plan. The Brazilian law report explained the recognition process that is required to be gone through and opined that based on the information available to the preparers of the report the plan satisfied all the necessary requirements for recognition.

69. I have read those reports. They are well-expressed and carefully reasoned. I see no reason not to accept the views of their authors.

70. In all these circumstances, it is my view that this restructuring plan is one which the court has jurisdiction to sanction and is one which in the exercise of my discretion I should sanction. I will therefore make an order in the form which has been put before me by Mr. Allison.

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