

**IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE**

[2022] SGHC 220

Originating Application No 246 of 2022

In the matter of Section 252 of the
Insolvency, Restructuring and
Dissolution Act 2018

And

In the matter of the Third Schedule
of the Insolvency, Restructuring and
Dissolution Act 2018

And

In the matter of Rams Challenge
Shipping Pte Ltd

Hajime Shinji

... Claimant

Originating Application No 251 of 2022

In the matter of Ocean (Semi-Open)
Pte Ltd

Hajime Shinji

... Claimant

Originating Application No 252 of 2022

In the matter of United Woodchip
Carrier Pte Ltd

Hajime Shinji

... Claimant

Originating Application No 253 of 2022

In the matter of United Fortune
Carrier Pte Ltd

Hajime Shinji

... Claimant

Originating Application No 254 of 2022

In the matter of HK Challenger Pte
Ltd

Hajime Shinji

... Claimant

Originating Application No 255 of 2022

In the matter of Oshima Island (Hull
No. S-10687) Pte Ltd

Hajime Shinji

... Claimant

Originating Application No 256 of 2022

In the matter of Ocean Sentosa
(PCTC) Pte Ltd

Hajime Shinji

... Claimant

Originating Application No 257 of 2022

In the matter of Ocean Eternity Pte
Ltd

Hajime Shinji

... Claimant

Originating Application No 258 of 2022

In the matter of Sagittarius (PCTC)
Pte Ltd

Hajime Shinji

... Claimant

Originating Application No 259 of 2022

In the matter of United Ocean (Hull
No. SC-195) Pte Ltd

Hajime Shinji

... Claimant

Originating Application No 260 of 2022

In the matter of Globalbulk Partner
Pte Ltd

Hajime Shinji

... Claimant

Originating Application No 261 of 2022

In the matter of Santosh Woodchip
Carrier Pte Ltd

Hajime Shinji

... Claimant

Originating Application No 262 of 2022

In the matter of Ocean Woodchip
Carrier Pte Ltd

Hajime Shinji

... Claimant

Originating Application No 263 of 2022

In the matter of United (Semi-Open)
Pte Ltd

Hajime Shinji

... Claimant

Originating Application No 264 of 2022

In the matter of Ocean Promise Pte
Ltd

Hajime Shinji

... Claimant

Originating Application No 265 of 2022

In the matter of Rams Shipholding
Pte Ltd

Hajime Shinji

... Claimant

Originating Application No 266 of 2022

In the matter of United Ocean (Hull
No. S-1527) Pte Ltd

Hajime Shinji

... Claimant

Originating Application No 267 of 2022

In the matter of Ocean Harmony Pte
Ltd

Hajime Shinji

... Claimant

Originating Application No 268 of 2022

In the matter of Global Peace
Shipping Pte Ltd

Hajime Shinji

... Claimant

BRIEF GROUNDS

[Insolvency Law — Cross-border insolvency — Recognition of foreign
insolvency proceedings]

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***Re Rams Challenge Shipping Pte Ltd
and other matters***

[2022] SGHC 220

General Division of the High Court — Originating Application Nos 246, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267 and 268 of 2022

Aedit Abdullah J
30 August 2022

15 September 2022

Aedit Abdullah J:

1 These brief remarks are issued to assist lawyers and insolvency practitioners with respect to the determination of an entity's centre of main interests ("COMI"), and the scope of the recognition of foreign proceedings and court orders.

2 The claimant, Hajime Shinji, is the trustee of the 19 companies in the present applications: Rams Challenge Shipping Pte Ltd; Rams Shipholding Pte Ltd; United Woodchip Carrier Pte Ltd; Ocean Woodchip Carrier Pte Ltd; Sagittarius (PCTC) Pte Ltd; Ocean Promise Pte Ltd; Ocean Sentosa (PCTC) Pte Ltd; United (Semi-Open) Pte Ltd; Ocean (Semi-Open) Pte Ltd; HK Challenger Pte Ltd; United Ocean (Hull No. S-1527) Pte Ltd; Globalbulk Partner Pte Ltd; Ocean Eternity Pte Ltd; Global Peace Shipping Pte Ltd; United Fortune Carrier Pte Ltd; United Ocean (Hull No. SC-195) Pte Ltd; Oshima Island (Hull No. S-

10687) Pte Ltd; Santosh Woodchip Carrier Pte Ltd; and Ocean Harmony Pte Ltd.¹ Collectively, they are referred to as the “Companies”.

3 The Companies are part of a ship-owning and management group known as the United Ocean Group (“Group”). Each of the 19 companies was incorporated in Singapore as a single purpose vehicle to own a vessel as part of the Group’s business.² The Group is, in turn, managed by, among other entities, the Rams Corporation Kabushikai Kaisha (“Rams Corporation”), a company incorporated in Japan.³ The Rams Corporation was in charge of all negotiations with Nippon Yusen Kabushiki Kaisha and its affiliates (“NYK Group”) for the chartering of the Group’s vessels.⁴ The Companies were then used to charter their vessels to the NYK Group. Because of the function of the Companies, they did not have any employees.⁵ All negotiations and operations of the vessels were dealt with by other entities.⁶

4 Due to a failure of the Group to repay sums demanded by creditors sometime in October 2015, an application was made by the creditors to the Japanese Courts to place the Group, including the Companies, into corporate reorganisation (“Japanese Proceedings”).⁷ This was done to facilitate an orderly administration and discontinuance of the business, and a sale of assets for

¹ Affidavit of Hajime Shinji dated 21 June 2022 (“HJ”) at para 1.

² HJ at para 4.

³ HJ at para 5.

⁴ HJ at para 6(a).

⁵ HJ at para 7.

⁶ HJ at para 8.

⁷ HJ at paras 12 and 14.

redistribution. Pursuant to the reorganisation plans, the vessels owned by the Companies have been sold to satisfy claims against them.⁸

5 In connection to the reorganisation of the Group, various orders were made by the Japanese Courts (“the Orders”). The Orders may be broadly organized into six categories: (a) orders placing the Companies into reorganisation proceedings and appointing the applicant as the trustee for the Companies (“Commencement Orders”); (b) orders extending the deadline for the applicant, the Companies and their creditor to submit reorganisation plans (“Reorganisation Orders”); (c) orders confirming the reorganisation plans proposed by the applicant for the Companies; (d) orders amending the Commencement Orders; (e) orders amending the Reorganisation Orders; and (f) orders pertaining to the assessment of the claims raised by two creditors, Mr Chia Hong Kwa and Mr Ajit Sahoo (“Two Creditors”), against the Companies.⁹

6 In the present application, the applicant sought recognition, not just of the Japanese Proceedings as foreign main proceedings pursuant to Art 2(f) read with Art 17(2)(a) of the Third Schedule of the Insolvency Restructuring and Dissolution Act 2018 (the “Model Law”), but also of the Orders under Art 21(1)(g) of the Model Law.

7 The Japanese Proceedings were determined to be the foreign main proceedings under Art 17 of the Model Law. The requirements for recognition of the Japanese Proceedings under Art 17(1) of the Model Law were met. The COMI of the Companies was found to be in Japan, despite the Companies having been incorporated in Singapore. These Companies were all one-ship

⁸ HJ at para 26.

⁹ HJ at paras 20 to 32. See also HJ, Tab 4.

companies, with no employees, which were essentially run from Japan. The only commercial activity of the Companies consisted of charterparties negotiated and concluded on their behalf by the Rams Corporation with the same counterparty, namely the NYK Group, a major Japanese shipping company. Given the absence of links to Singapore, and the commercial activity of the Companies all occurring in Japan, the presumption in favour of Singapore as the Companies' COMI under Art 16(3) of the Model Law was readily displaced.

8 The other primary question was the scope of the recognition to be granted. As was outlined in *Re Tantleff, Alan* [2022] SGHC 147, recognition under the Model Law goes beyond recognition of the Japanese Proceedings and may extend to the recognition of the Japanese Orders.

9 The Japanese Proceedings would appear to be similar to judicial management under s 91 of the Insolvency Restructuring and Dissolution Act 2018 ("IRDA"), with a court appointed officer taking charge of the companies, acting under a broad mandate given by the court. It differs from the debtor-in-possession regime in the form of Chapter 11, and our moratoria regime under s 64 of the IRDA. There was no reason to differentiate recognition of the Japanese Orders simply because it was of a different nature than that in *Re Tantleff* (which concerned recognition of a Chapter 11 plan of liquidation in the United States).

10 As was outlined in *Re Tantleff* at [81], there may be some outer boundaries, beyond which recognition may not be accorded. The precise limits would remain to be examined in subsequent cases. What is important to my mind is that a foreign order does not operate substantially outside what might properly be regarded as the proper purview of an insolvency or restructuring effort, though the modalities and detailed scope may differ from jurisdiction to

jurisdiction. A strict analogy or parallel with Singapore insolvency or restructuring regimes is not necessary. I suspect most insolvency or restructuring orders the world over will be readily accommodated, though there may be outliers. Public policy considerations also may come into play. Otherwise, in most instances, the main consideration is the opportunity for local creditors to participate or be heard in the process: *Re Tantleff* at [78]; *In re CGG SA 579 BR 716* (Bankr SDNY, 2017) at 720. Here, sufficient assurance was given of that: the claims of the Two Creditors were represented by counsel and participated fully in the Japanese Proceedings.

11 In addition, I specified as usual that any expatriation of funds would require leave of court, though if there is no objection or complication, it may be that this request can be dealt with asynchronously.

Aedit Abdullah
Judge of the High Court

Sim Kwan Kiat and Soh Yu Xian, Priscilla (Rajah & Tann Singapore
LLP) for the claimant.
