

PCA CASE NO. 2026-30

**IN THE MATTER OF AN ARBITRATION UNDER THE AGREEMENT ON
ENCOURAGEMENT AND RECIPROCAL PROTECTION OF INVESTMENTS BETWEEN
THE KINGDOM OF THE NETHERLANDS AND THE UNION OF SOVIET SOCIALIST
REPUBLICS DATED 5 OCTOBER 1989**

- and -

**THE 1976 ARBITRATION RULES OF THE UNITED NATIONS COMMISSION ON
INTERNATIONAL TRADE LAW (the “UNCITRAL Rules”)**

- between -

MR. MIKHAIL MARATOVICH FRIDMAN (RUSSIAN FEDERATION, ISRAEL)

(the “Claimant”)

- and -

THE KINGDOM OF THE NETHERLANDS

(the “Respondent”, and together with the Claimant, the “Parties”)

PROCEDURAL ORDER NO. 2

SEAT OF THE ARBITRATION

Arbitral Tribunal

Dyalá Jiménez (Presiding Arbitrator)
Professor Vladimir Pavić (Arbitrator)
J. Christopher Thomas, KC (Arbitrator)

Tribunal Secretary

Nathan Gervais

Registry

Permanent Court of Arbitration

25 May 2026

I. BACKGROUND

1. On 22 January 2026, the Tribunal informed the Parties that, prior to moving forward with the arbitration, several procedural items required determination, including the seat of arbitration. The Tribunal invited the Parties to confer with a view to reaching agreement on those items and to report any agreement in a joint submission, noting that any agreement would in principle be adopted by the Tribunal absent specific concerns. The Tribunal further instructed the Parties that, where no agreement was reached, each Party should submit a separate document setting out its position with brief supporting arguments.
2. On 10 February 2026, the Tribunal invited the Parties to submit comments on potential arbitral seats, including Panama, DIFC, and Singapore, in addition to those previously discussed, and extended the deadline for the Parties' submissions on this issue.
3. On 25 February 2026, the Parties submitted to the Arbitral Tribunal their respective written positions on the seat of arbitration, having regard to the Tribunal's invitation to consider arbitral seats in addition to those previously discussed.
4. On 27 February 2026, following the Parties' request to be given the opportunity to present their positions on the seat of arbitration orally, the Tribunal decided to allow such oral submissions and to include this item on the agenda of the forthcoming Case Management Conference ("CMC").
5. The CMC was held by videoconference on 23 April 2026, following the schedule issued by the Tribunal in the weeks prior to the CMC. Regarding the seat of the arbitration, the Parties presented their respective positions over two rounds of oral submissions, followed by a session of questions from the Tribunal. Before finalising, the Tribunal informed the Parties that its decision on the seat of the arbitration would be issued in a reasoned procedural order, to which they made no objection.¹
6. On 7 May 2026, the Claimant addressed various procedural matters in a letter to the Tribunal, requesting, among other things, that the Tribunal defer its decision on the seat of arbitration. On 13 May 2026, the Respondent replied, opposing that request and urging the Tribunal to proceed to a determination without further delay. By the present procedural order, the Tribunal has decided to rule on the seat of arbitration at this stage. It considers that resolving this question now serves the procedural interests of the case and ensures the stability of the proceedings going forward, and that no sufficient grounds have been advanced to justify a further deferral.

II. THE SEAT OF THE ARBITRATION

7. In this section, the Tribunal first sets out Claimant's position on the seat of the arbitration (A), then it summarizes the Respondent's arguments (B) and lastly it provides its own analysis (C). Although it has considered all of the Parties' opinions and positions laid out in their respective written and oral submissions, the Tribunal refers only to the main arguments presented by the Parties for the sake of efficiency.
- A. The Claimant's main arguments
8. The Claimant submits that the Tribunal's determination of the seat must be guided by Article 16(1) of the 1976 UNCITRAL Arbitration Rules, requiring regard to the circumstances of the arbitration. It contends that this calls for a functional assessment of whether the seat enables the fair and

¹ CMC, 02:31:51-02:37:07.

effective resolution of the dispute, rather than a focus on logistics or convenience. In this case, it identifies the existence and legality of unilateral economic sanctions as the central circumstance, and submits that the seat should not be in a jurisdiction that has adopted or aligned itself with such regimes, as this may affect the resolution of the dispute and introduce political considerations.²

9. The Claimant submits that Sweden³, Switzerland, Singapore, Panama⁴, and Barbados are not appropriate seats.
10. As regards Switzerland, the Claimant's counsel argues that it has adopted and still applies unilateral coercive measures against their client by incorporating, largely without independent assessment, the EU sanctions regime into its domestic law, notably through the Embargo Act and related Ordinance. These norms are regularly updated to reflect successive EU sanctions packages in a policy of express alignment with the EU. It contends that this alignment entails that Swiss courts would presume the lawfulness of measures whose legality is directly contested in this arbitration, including measures targeting sanctions-related investment arbitration and that Swiss courts have characterised such types of claims as "abusive". It further submits that, by aligning itself with the sanctions architecture at issue, the legality of Switzerland's own measures would be implicated, which could be problematic for the Swiss courts. In addition, given that Mr. Fridman is a designated person, he is subject to asset freezes and travel restrictions affecting any potential participation in a hearing.⁵
11. As to Singapore, the Claimant submits that it has imposed unilateral measures against Russian entities, acting "in concert" with other States, and has thereby also aligned itself with the sanctions framework at issue, raising concerns as to neutrality. He further contends that Singaporean courts have specifically interpreted arbitration clauses in 1989–1990 USSR BITs, in particular in the *Sanum* case⁶, thereby giving rise to a risk of prejudgment of key jurisdictional issues that will very likely be decided in the present case, as announced by the Respondent. In addition, the Claimant argues that Singaporean case law shows that sanctions may impair access to arbitration and that there is a risk that sanctions may be treated as part of Singaporean public policy, which is an issue that is very much alive, with potential consequences for the validity or enforcement of an ensuing award in the present case.⁷
12. The Claimant submits that Barbados is not an appropriate seat, arguing that it remains an experimental and largely untested forum for investment arbitration, with limited experience, concerns regarding judicial delay, and a lack of predictability, and that its close political and economic ties with the Netherlands further raise doubts as to its neutrality in the present case.⁸
13. By contrast, the Claimant proposes Hong Kong as the seat of arbitration, submitting that it is a leading and well-established arbitral venue with a strong arbitration culture, experienced courts,

² CMC, 01:23:16-01:28:23, 02:01:01-02:09:05.

³ The Claimant initially opposed Sweden as the seat of arbitration, as proposed by the Respondent. However, in its letter of 2 July 2025, the Respondent agreed to relocate the seat of arbitration outside the European Union. Accordingly, the arguments relating to Sweden are not addressed here.

⁴ Both Parties agreed that Panama would not be an appropriate seat for the arbitration; accordingly, their respective positions are not set out here.

⁵ Claimant's letter, 14 July 2025, paras. 3-14; Claimant's letter, 25 February 2026, paras. 47-54; CMC, 01:28:24-01:34:53, 02:01:01-02:09:05.

⁶ *Sanum Investments Ltd v. Laos* [2016] SGCA 57.

⁷ Claimant's letter, 25 February 2026, paras. 24-42; CMC, 01:28:24-01:34:53, 02:01:01-02:09:05, 02:45:21-02:46:06, 02:49:59-02:50:43.

⁸ Claimant's letter, 25 February 2026, paras. 55-56; CMC, 01:34:59-01:40:13.

and a consistently arbitration-friendly legal framework. It further contends that Hong Kong constitutes a neutral seat in the present circumstances, as it has not adopted unilateral sanctions against Russia and applies only United Nations-mandated measures, such that its courts would approach the dispute as a matter of law rather than public policy. The Claimant relies on Hong Kong jurisprudence confirming that foreign sanctions, including those of the European Union, have no effect in Hong Kong and do not form part of its public policy and notes that Hong Kong has been selected as the seat in parallel proceedings involving similar issues. It also submits that concerns regarding political developments, including the National Security Law and the resignation of certain foreign judges, are immaterial, as they do not affect arbitration or judicial independence, which has been publicly reaffirmed.⁹

14. In the alternative, the Claimant supports the DIFC as the seat of arbitration, relying on its arbitration-friendly legal framework, independent and experienced judiciary, and demonstrated judicial support for arbitration, including in proceedings involving sovereign States. The Claimant further submits that the DIFC constitutes a neutral and reliable forum, emphasising recent decisions in the *Wintershall v. The Russian Federation (I)* in which its courts upheld arbitral proceedings and enforced the arbitration agreement without deference to State interests, as well as instances to safeguard impartiality. [REDACTED]

[REDACTED] The Claimant further submits that any current limitations on travel to the UAE are immaterial to the determination of the seat, as the legal seat is distinct from the place of hearings, which may be held elsewhere or remotely.¹⁰

B. The Respondent's main arguments

15. The Respondent submits that the selection of the seat of arbitration should be guided by established criteria reflected in arbitral practice, namely (i) the independence of the judiciary, (ii) the experience of the jurisdiction with investment treaty arbitration and its general arbitration-friendly framework, and (iii) considerations of capability and convenience for the parties and the Tribunal, including geographic proximity to all participants.¹¹
16. Applying these criteria, the Respondent submits that Hong Kong, the DIFC and Panama are not appropriate seats, and instead proposes Geneva, with Singapore and Barbados as alternatives.
17. As regards Hong Kong, the Respondent strongly opposes this option, submitting that it does not satisfy the requirements of neutrality and judicial independence. It relies on statements by senior officials opposing international sanctions, which it considers indicative of a position that may give rise to a risk of interference with the arbitral process. It further refers to concerns expressed by the European Union and the Netherlands regarding the erosion of rights and freedoms following the adoption of the National Security Law, the resignation of foreign judges, and related public statements questioning the rule of law. These concerns are, in its view, compounded by the possibility that court decisions may be subject to interpretation by the National People's Congress, as well as by the suspension of judicial cooperation arrangements. The Respondent also points to links between the Hong Kong International Arbitration Centre and Russian institutions and

⁹ Claimant's letter, 25 February 2026, paras. 4-19; CMC, 01:34:59-01:40:13, 02:01:01-02:09:05.

¹⁰ Claimant's letter, 25 February 2026, paras. 20-23; CMC, 01:34:59-01:40:13.

¹¹ CMC, 01:40:31-01:59:40; Respondent's Presentation during the CMC, p. 2.

submits that the parallel arbitration initiated by the Claimant against another State and seated in Hong Kong gives rise to a risk of overlapping judicial involvement.¹²

18. The Respondent also rejects the DIFC as a neutral or suitable seat. It points to connections between senior DIFC judicial figures and Russian arbitration institutions, including instances of recusal, as well as broader institutional links. It further relies on the UAE's foreign policy alignment with the Russian Federation, including its membership in BRICS and its characterisation of the relationship as a strategic partnership. In addition, the Respondent raises concerns regarding the limited experience of the DIFC courts with treaty-based investment arbitration and the predictability of its legal framework, alluding to an amendment to the Criminal Code that criminalized certain conduct by arbitrators and expert witnesses. [REDACTED]

[REDACTED] Finally, it argues that current regional conditions may affect accessibility and safety, and that potential court proceedings at the seat may not be attendable by the Parties, giving rise to access to justice concerns.¹³

19. By contrast, having agreed to consider a seat outside the European Union, the Respondent submits that Switzerland, Singapore and Barbados satisfy the relevant criteria.
20. As to Switzerland, the Respondent submits that it offers a highly reliable and arbitration-friendly legal framework and extensive judicial experience in treaty-based investment arbitration. It argues that the existence of sanctions affecting the Claimant does not call into question the independence or impartiality of Swiss courts, which must be distinguished from the political decision to adopt such measures, as the tribunal in *OJSC Belaruskali v. the Republic of Lithuania* did in 2024, when it fixed Geneva as the seat of the arbitration. It further submits that sanctions do not prevent the Claimant from making payments or attending hearings, and that any issues relating to enforcement are distinct from the choice of seat given that enforcement is sought in different jurisdictions. The Respondent also relies on arbitral practice confirming that sanctions affecting a party do not undermine the neutrality or independence of the courts of the seat.¹⁴
21. In the alternative, the Respondent accepts Singapore as a suitable seat, emphasising its status as an established arbitration hub with independent courts and experience in treaty-based disputes. It submits that Singapore has imposed no sanctions on the Claimant, and that the absence of relevant sanctions reinforces its neutrality; it underscores that the limited measures imposed against the Russian Federation do not affect judicial independence. The Respondent further argues that public policy under Singapore law is confined to the national public policy of Singapore, such that there is no basis to incorporate foreign sanctions, and that any suggestion to the contrary is remote. It also rejects reliance on the *Sanum* decision, submitting that it concerned a different treaty and did not involve the Netherlands–Russia BIT. Finally, it contends that there is no risk of prejudgment in Singapore, and that any such risk arises instead in jurisdictions where parallel proceedings involving similar issues are already pending. As a further safeguard, the Respondent undertakes

¹² Respondent's letter, 2 July 2025; Respondent's letter, 25 February 2026, paras. 28-34; CMC, 01:40:31-01:59:40; Respondent's Presentation during the CMC, pp. 5-8, 10, 19.

¹³ Respondent's letter, 25 February 2026, paras. 35-40; CMC, 01:40:31-01:59:40, 02:09:55-02:14:12; Respondent's Presentation during the CMC, pp. 10, 12, 13, 17, 19.

¹⁴ Respondent's letter, 2 July 2025; Respondent's letter, 25 February 2026, paras. 5-16; CMC, 01:40:31-01:59:40; Respondent's Presentation during the CMC, pp. 4, 12, 16, 19.

that, should sanctions-related case law emerge during the arbitration and give rise to material concerns for the present proceedings, it would consent to relocating the seat at that stage.¹⁵

22. As a second alternative, the Respondent proposes Barbados, relying on its arbitration framework based on the UNCITRAL Model Law, it being a party to the New York Convention, and the competence of its courts, including the Caribbean Court of Justice. It submits that Barbados offers a neutral forum without sanctions or travel restrictions affecting the Claimant, and that criticisms regarding delay are based on isolated and outdated examples.¹⁶

C. The Tribunal's analysis and decision

23. The Tribunal agrees with the Claimant that the starting point of the analysis must be Article 16(1) of the UNCITRAL Rules, according to which the tribunal shall determine the place of the arbitration "having regard to the circumstances of the arbitration".
24. As mentioned, the Claimant proposed what it qualified as a "functional" analysis, extending beyond considerations of mere logistics or convenience and focusing instead on whether the seat enables a fair resolution of the case, without giving rise to risks, or even perceptions, of complicating the fair and effective resolution of the dispute. On its part, the Respondent proposed applying an assessment similar to the one used by the tribunal in *Gallo v. Canada*, consisting of whether the seat has an independent judiciary and experience with investment treaty arbitration, and, more generally, is an arbitration-friendly jurisdiction and has the capability and convenience to accommodate the needs of both the Parties and the Tribunal.
25. The Tribunal agrees with both Parties' proposals but distinguishes between the factors that need to be considered generally to select a seat of the arbitration from the elements, or "circumstances", that need to be assessed for this specific arbitration.
26. The former include whether the seat in question has an independent judiciary, is a party to the New York Convention, and has a modern arbitration law backed by arbitration-friendly court decisions. The latter refer to experience with treaty-based arbitrations as well as the perception by the Parties that the seat is a neutral seat with regard to the issues involved in the case, in particular economic sanctions against Mr. Fridman and whether courts are perceived to be disengaged from the pertinent State's stance on the geopolitical questions surrounding the sanctions. The Tribunal deems that it would be inappropriate to ignore these sensitivities and would prefer to eliminate a seat that has been adamantly rejected by either party.
27. On the other hand, with respect to the capability of holding a hearing and convenience, tribunals usually take this matter into account, and this Tribunal will also give it some weight. This is especially relevant considering the circumstances surrounding the case, including the relevant travel restrictions, the geographic locations of the parties, counsel and arbitrators involved, and the difficulty the Parties have to reach agreements on the seat given the sensitivities alluded to. Indeed, the Tribunal should make every attempt to select a seat where both Parties are, at the very least, not ill at ease. This is especially relevant where one of the litigants is an individual.

¹⁵ Respondent's letter, 25 February 2026, paras. 17-22; CMC, 01:40:31-01:59:40, 02:09:55-02:14:12, 02:35:10-02:36:48, 02:43:06-02:44:24, 02:46:07-02:46:29; Respondent's Presentation during the CMC, pp. 4, 9, 12, 16, 19.

¹⁶ Respondent's letter, 25 February 2026, paras. 23-27; CMC, 01:40:31-01:59:40; Respondent's Presentation during the CMC, pp. 4, 12, 16, 19.

28. *Pro memoria*, the seats under consideration are Barbados, the DIFC, Geneva, Hong Kong, Panama, Singapore, and Stockholm, all located in States that are signatories to the New York Convention.
29. The Tribunal first excludes Panama, as both Parties rejected it, and Stockholm, in light of the Parties' "agreement" to select a seat outside the European Union. It further discards Barbados, whose judiciary has not demonstrated any track record in handling treaty-based arbitration cases.
30. The Tribunal also excludes Geneva. In doing so, the Tribunal considers that, in light of the particular circumstances of this arbitration, it would not be appropriate to select a seat in a State that has adopted sanctions similar to those at issue in the present dispute, specifically against Mr. Fridman.
31. Finally, the Tribunal does not retain Hong Kong given the stern rejection by the Respondent, which relates to aspects of the broader legal and institutional framework, including recent legislative developments and their potential implications. Taking these concerns into account, and especially the fact that Respondent's objections have been voiced publicly prior to (and independently of) this case, and mindful of the need to preserve the Parties' confidence in the arbitral process, the Tribunal considers that Hong Kong is not a suitable seat in the present circumstances.
32. The remaining options are Singapore and the DIFC, both jurisdictions with sophisticated judiciaries and modern arbitration laws. The Tribunal notes that both seats, with Panama, were put forward for the Parties' consideration by the Tribunal. The Tribunal opts for the DIFC for the following reasons.
33. First, the Tribunal turns to the Parties' respective oppositions and notes that the Claimant's position is rooted mainly on a perceived risk of lack of neutrality by the Singaporean courts, while the Respondent's opposition to the DIFC is rooted principally on a lack of stability and certainty.
34. The Claimant's arguments opposing Singapore revolve around a) the stance taken by the government on economic sanctions, b) certain decisions by local courts that could allegedly prejudge the present case, and c) a risk regarding the determination by Singaporean courts as to whether the economic sanctions are a matter of public policy impacting the enforcement of international awards. This last issue is a live one and should be determined in the short term.
35. On the other hand, the Respondent's rejection to the DIFC is based on a) the instability of the legal regime, b) the lack of significant experience with investor-State arbitration, c) UAE's alignment with Russia's foreign policy and the ties between the two countries stemming from their membership of "BRICS", and d) the current situation in the Gulf, which is a risk for travel not only to the hearing but also to attend any court proceedings that may ensue surrounding this case. Regarding the last point, the Respondent notes that travel to Dubai is currently subject to cautionary advisories by a number of governments, which it considers relevant to the practical accessibility of the seat. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
36. The Tribunal cannot dismiss the concerns expressed over the Singaporean courts' stance regarding relevant legal issues because they have the potential of impacting this specific case. On the one hand, while the portions of the *Sanum* decision that are referred to are *obiter*, it is not unfathomable that a competent court in Singapore follow the views expressed by the Court of

Appeal regarding the treaty on which this case is founded, namely, the USSR - Kingdom of the Netherlands BIT. [REDACTED]

[REDACTED] That situation, however, is still hypothetical. On the other hand, the question regarding the qualification as public policy of economic sanctions, which is also a relevant issue in the present case, is a live issue.

37. In contrast, the concerns raised by the Respondent regarding the DIFC refer to more general aspects of that jurisdiction. While the Tribunal does not seek to diminish these concerns, and agrees that a more mature jurisdiction would be preferable, the DIFC has demonstrated that it is able to handle complex international arbitration matters. On the overnight amendment to the criminal code, the Tribunal understands that this is something of past relevance and should not be of a concern any longer.
38. The Netherlands highlights that Singapore, unlike the DIFC, has a host country agreement with the PCA that would grant both the Tribunal and the Parties immunity. The Tribunal acknowledges that such extra layer of protection would be desirable; however, in the present circumstances, this consideration does not outweigh the other factors bearing on the determination of the most appropriate seat of arbitration. In addition, the Tribunal notes that Article 22 of the DIFC Law No. 1 of 2008 on Arbitration provides some protection and that the Terms of Appointment includes immunity as well.
39. Turning to the location and accessibility considerations, the Tribunal notes that the DIFC is more accessible from a geographical standpoint than Singapore for the vast majority of participants in the arbitration, offers the required infrastructure and has an open business travel policy. In addition, the Tribunal underscores that the UNCITRAL Rules distinguish the seat of the arbitration from the place of the hearing under Article 16(2). This means that the decision as to the locale of the hearing may be taken as the hearing date approaches, after hearing the Parties and giving due consideration to all the relevant circumstances at that time, including the situation in the Gulf.
40. During the CMC, the Respondent raised the possibility of relocating the seat of arbitration should exceptional circumstances arise in the course of the proceedings. The Claimant opposed this, cautioning that such a mechanism is not well-established in international arbitration practice. The Tribunal acknowledges the force of that concern and, as a general matter, considers procedural stability to be paramount. Nevertheless, having regard to the particular features of this arbitration and the broader geopolitical context in which it unfolds, it is prudent for the Tribunal to expressly reserve to exercise its authority to modify the seat as a measure of last resort in the event of exceptional circumstances that could not otherwise be adequately addressed.
41. For the foregoing reasons, having regard to two internationally respected seats which essentially stand in equipoise, and bearing in mind the requirements of Article 16(1) of the 1976 UNCITRAL Arbitration Rules, the circumstances of the present case, specifically the UAE's neutral position on sanctions, have led the Tribunal to conclude that the DIFC is, for this specific dispute, the appropriate seat.

III. DECISION AND ORDERS BY THE TRIBUNAL

For the foregoing reasons, the Tribunal FIXES the DIFC as the seat of the arbitration.

Signature page follows.



Presiding Arbitrator