



Mercuria Energy Trading SA v Onex DMCC [2026] EWHC 130 (Comm) – “Typicals” are not guarantees

Simon Rainey KC, Henry Ellis and Zhi Yu foo

04 March 2026

Introduction

In **Mercuria Energy Trading SA v Onex DMCC** [2026] EWHC 130 (Comm), the Commercial Court has provided important guidance on the contractual effect of “typicals” in a commodities sale contract. Typical set out the characteristics of the product being sold under the contract and are a key feature of the widely-used BP General Terms and Conditions for Sales and Purchases of Crude Oil and Petroleum Products 2015 (the “BP GTCs”).

Lionel Persey KC (the “Judge”) held that typical (as defined by the BP GTCs) do not constitute a contractual warranty or guarantee that the product sold would in fact exhibit those “typical” characteristics, and this position was no different where the contract provided that the product would be “in line with the following typical”.

Facts

The dispute concerned the sale of a cargo of Iraqi SRFO (the “Cargo”) by Onex to Mercuria. The contract provided that the “product” was “*somo basrah pipeline high-sulphur straight-run fuel oil in line with the following typical*”, with a table of test results stating that the organic chloride (“OC”) content was a “Min-Max” of “5 [ppm] Max”. The contract further provided that the product would meet “the following guarantees”, after which followed a table of specifications which omitted OCs.

The contract also incorporated the BP GTCs “[e]xcept as specifically detailed above”. The BP GTCs defined “typical” at section 57.1.61 as “*a quality or characteristic often attributable to ... Product from a particular source, given without guarantee and not amounting to a representation or warranty that such typical quality or attribute will be present in the ... Product supplied ...*”. It further stated in section 59.1.1 that “*neither typical nor any stipulation as to time of delivery shall form part of the ... Product’s description, quality or fitness for purpose*”.

It was common ground between the parties that the OC content of the Cargo was around 16 ppm, and Mercuria’s buyer rejected the Cargo. After several months unsuccessfully attempting to lower the OC content of the Cargo, Mercuria resold the Cargo at a lower price.

Mercuria sued Onex for damages, arguing that the elevated OC content of the Cargo amounted to a breach of Onex’s obligations under the contract, either because the Cargo was not “*in line with the following typical*” or because the Cargo was not “100% SOMO Iraqi HSSR” and/or “SOMO Basrah pipeline high-sulphur straight-run fuel oil”.

The Meaning Of “Typicals”

The Judge held that Onex had not undertaken any contractual obligation to Mercuria regarding the OC content of the Cargo. He noted that there was a table of typical and a separate table of guaranteed specifications with some overlapping characteristics, but the OC content was only referred to in the former and not the latter. This strongly suggested that the characteristics in the typical table were distinct from the guaranteed specifications.

The Judge then referred to the BP GTCs to ascertain the meaning of “typical”. Mercuria argued that the words “*in line with the following typical*”, construed separately without reference to the BP GTCs, amounted to a warranty that the Cargo will meet the identified typical. It was said that the specially agreed terms were thereby inconsistent with and took precedence over the printed terms of the BP GTCs. The Judge held that this approach was incorrect as the authorities on contractual interpretation and inconsistency between contractual terms, in particular **Pagnan SpA v Tradax Ocean Transportation** [1987] 2 All ER 565 and **Septo Trading Inc v Tintrade Ltd (“The Nounou”)** [2021] EWCA Civ 718, required the contract to be construed as a whole. Applying the guidance set out in the authorities, the specially agreed terms could not be construed without reference to the printed terms, and it was therefore clear that the parties did not intend to elevate typical into warranties.

The Judge found that a reasonable person in the position of the parties would have understood the contractual distinction between typical and guaranteed specifications. The BP GTCs are commonly incorporated into contracts for the sale of petroleum products and both parties would or should have been aware of their terms. There was no inconsistency between the agreed terms and BP GTCs.

Contamination and Commercial Identity

As to Mercuria’s further arguments that the elevated OC content of the Cargo was so high that it was neither “100% SOMO Iraqi HSSR” nor “SOMO Basrah pipeline high-sulphur straight-run fuel oil”, the Judge held, in summary, that (i) the “100%” requirement

was concerned with the origin of the Cargo and (ii) the Cargo had not lost its commercial identity as Iraqi SRFO. A key piece of evidence in favour of the Judge's second conclusion was that Mercuria had in fact on-sold the Cargo as Iraqi SRFO, and the fact that the elevated OC content had diminished its value was insufficient to change its commercial identity.

Assessment Of Damages

Since Onex succeeded on liability, the assessment of damages was not required, but the Judge's *obiter* decision on the proper measure of damages is of wider interest. The prima facie measure of damages for breach of warranty under s.53 of the Sale of Goods Act 1979 is the difference between the value of the goods to the buyer at the time of delivery and the value of the goods if they had complied with the warranty. In **The Mercini Lady** [2013] 1 Lloyd's Rep 360, another case concerning defective petroleum products which had been resold at a later date, Hamblen J held that, in principle, the same date should be taken for assessing the value of sound and unsound cargo, otherwise "*one would not be comparing like with like and market distortions would be introduced*".

However, Mercuria argued that it should be allowed to recover the difference between the value of the Cargo on the resale date and the value of a cargo of Iraqi SRFO without elevated OC content on the date of delivery, which would include a significant fall in the value of SRFO over a period of several months. The Judge agreed, distinguishing **The Mercini Lady** on the basis that each case is highly fact-sensitive. He held that in this instance, it was reasonable for Mercuria to sell the Cargo when it did at the price that it did, so it was appropriate to award damages in the amount claimed by Mercuria.

Conclusion

This judgment is a useful confirmation of what would (or should) have been obvious to experienced oil traders contracting on the basis of the BP GTCs: typicals are not contractual warranties. The words "*in line with the following typicals*" were not sufficient to detract from that common understanding and did not create additional guarantees. If any particular characteristic of a product is important to a buyer, it would be well-advised to seek specific guarantees instead of relying on typicals.

Simon Rainey KC and Henry Ellis, acting on behalf of Onex, were instructed by Mark Aspinall, Dimitra Damaskopoulou and Katia Tsidemidi of Hill Dickinson LLP. Zhi Yu Foo assisted with the trial during pupillage.



Simon Rainey KC

"He is devastating at cross-examination of technical experts, and very smooth and good with clients and solicitors." (Chambers UK, 2026)

Simon Rainey KC is one of the best known and most highly regarded practitioners at the Commercial Bar. He has a reputation which is second to none for his intellect and legal analysis ("*fantastically intelligent and tactically astute*"). He is acclaimed for his advocacy skills ("*a stunning advocate*") and his cross-examination ("*excruciatingly superb*"). But he is equally well known to his clients as a cheerful team player, who rolls up his sleeves in long and complex trials and arbitrations and who prides himself on high standards of client care.

[>See Simon's full profile here](#)

simon.rainey@quadrantchambers.com



Henry Ellis

“Henry is unquestionably a lead counsel of his age and experience. He an excellent advocate and extremely clever at analysis of the adversarial position before trial.” (Legal 500, 2026)

Henry has a broad commercial practice spanning shipping, commodities, international trade, energy/offshore and construction (shipbuilding) litigation. He appears in the Commercial Court and the Court of Appeal and regularly acts in confidential arbitration (LMAA, LCIA, SIAC, SCMA, HKIAC, ICC and ad hoc). Henry is consistently recommended in all the major legal directories (Chambers UK, Legal 500 and Legal 500 Asia Pacific) as a leading junior barrister for shipping and commodities, where he is described as *“the best shipping junior of his level of call”*, *“wise beyond his years”* and *“clearly destined for silk”*.

[>See Henry’s full profile here](#)

henry.ellis@quadrantchambers.com



Zhi Yu Foo

Zhi joined Quadrant in October 2025, following the successful completion of pupillage and is developing his practice across Chambers’ core areas. He graduated from the University of Oxford with a First in law, obtaining the highest mark in his year for International Trade as well as various college prizes. He then completed the Bachelor of Civil Law degree at Oxford, followed by the BPTC at City, University of London. He was also a Non-Stipendiary Lecturer in Trusts at the Queen’s College and Wadham College, University of Oxford, for the 2022-23 academic year. Before commencing pupillage, Zhi spent a year as a judicial assistant in the Commercial Court. He is familiar with the workings of the Court and has assisted in several cases across the range of commercial disputes.

[>See Zhi’s full profile here](#)

zhi-yu-foo@quadrantchambers.com