



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1347/5/7/20

BETWEEN:

- (1) JAGUAR LAND ROVER LTD
- (2) JAGUAR E LAND ROVER BRASIL INDÚSTRIA E COMÉRCIO DE VEÍCULOS LTDA
- (3) JAGUAR LAND ROVER (CHINA) INVESTMENT CO., LTD.
- (4) JAGUAR LAND ROVER (SOUTH AFRICA) (PTY) LIMITED
- (5) JAGUAR LAND ROVER AUSTRALIA PTY LTD
- (6) JAGUAR LAND ROVER AUSTRIA GMBH
- (7) JAGUAR LAND ROVER BELUX NV
- (8) JAGUAR LAND ROVER CANADA, ULC
- (9) JAGUAR LAND ROVER CLASSIC DEUTSCHLAND GMBH
- (10) JAGUAR LAND ROVER ESPANA SL
- (11) JAGUAR LAND ROVER FRANCE S.A.S.
- (12) JAGUAR LAND ROVER ITALIA SPA
- (13) JAGUAR LAND ROVER JAPAN LIMITED
- (14) JAGUAR LAND ROVER KOREA CO., LTD
- (15) JAGUAR LAND ROVER NEDERLAND BV
- (16) JAGUAR LAND ROVER NORTH AMERICA, LLC
- (17) JAGUAR LAND ROVER PORTUGAL-VEICULOS E PECAS, LDA
- (18) LIMITED LIABILITY COMPANY "JAGUAR LAND ROVER" (RUSSIA)

Claimants

- v -

- (1) MOL (EUROPE AFRICA) LTD
- (2) WALLENIUS WILHELMSSEN ASA
- (3) WALLENIUSREDERIERNA AB
- (4) WALLENIUS WILHELMSSEN OCEAN AS
- (5) WALLENIUS LOGISTICS AB
- (6) WILHELMSSEN SHIPS HOLDING MALTA LTD
- (7) EUKOR CAR CARRIERS INC.
- (8) KAWASAKI KISEN KAISHA, LTD.
- (9) COMPANIA SUDAMERICANA DE VAPORES S.A.

Defendants

ORDER

UPON reading the Claimants' applications made on 30 April 2020 pursuant to Rule 31(2) of the Competition Appeal Tribunal Rules 2015 ("the 2015 Rules") for permission to serve the claim form out of the jurisdiction on the Seventh to Ninth Defendants

IT IS ORDERED THAT:

1. The Claimants be permitted to serve the Seventh to Ninth Defendants outside the jurisdiction.
2. This Order is without prejudice to the rights of the Seventh to Ninth Defendants to apply pursuant to Rule 34 of the 2015 Rules to dispute the jurisdiction.

REASONS

1. The claim is for damages for loss alleged to have been suffered by the Claimants between 18 October 2006 to at least the end of 2014, comprising inflated prices and inflated import duties and taxes paid by the First Claimant on international shipping services for roll-on, roll-off cargo, loss of profit and/or increased borrowing costs by the First Claimant, and the costs for the international shipping services for roll-on, roll-off cargo which may have been borne by the Second to Eighteenth Claimants under a transfer pricing arrangement for freight. There is a reasonable prospect of success in the claim against the Seventh to Ninth Defendants in that the claim is a follow-on claim based on the settlement decision of the European Commission dated 21 February 2018 in case AT.40009 – Maritime Car Carriers (the "Decision"). Each of the Defendants is an addressee of the Decision, and the damages are said to result from the infringements of competition law established by the Decision.
2. It appears likely that, as the Claimants submit, the proceedings will be treated as taking place in England and Wales under Rule 18 of the 2015 Rules.
3. The Claimants are serving the claim form (and supporting annexes) on the First to Sixth Defendants (the "UK and EU/EEA Defendants") in respect of which the Tribunal's permission to serve out of the jurisdiction is not required.
4. I am satisfied that there is between the Claimants and the UK and EU/EEA Defendants a real issue to try and that the Seventh to Ninth Defendants are necessary and proper parties to the follow-on claims being pursued against the UK and EU/EEA Defendants in that: (a) the Seventh to Ninth Defendants are addressees of the Decision; (b) the Claimants allege that the Defendants are jointly and severally liable for any loss suffered by the Claimants; and (c) it would be burdensome and costly, as well as cause duplication, if the Claimants had to bring separate proceedings in the Republic of Korea against the Seventh Defendant, in Japan against the Eighth Defendant and in Chile against the Ninth Defendant instead of bringing a single set of proceedings.
5. I am satisfied that the Tribunal is the proper place in which to bring the claim.

The Hon Mr Justice Roth

President of the Competition Appeal Tribunal

Made: 20 May 2020

Drawn: 20 May 2020