



**IN THE COMPETITION**  
**APPEAL TRIBUNAL**

**Case Nos: 1292/5/7/19 (T)**  
**1293/5/7/18 (T)**  
**1294/5/7/18 (T)**  
**1355/5/7/20 (T)**  
**1356/5/7/20 (T)**  
**1358/5/7/20 (T)**  
**1371/5/7/20 (T)**  
**1372/5/7/20 (T)**

BETWEEN:

(1) – (339) SUEZ GROUPE SAS AND OTHERS

Claimants

**-v-**

(1) – (4) STELLANTIS N.V. (FORMERLY FIAT CHRYSLER AUTOMOBILES  
N.V.) AND OTHERS

Defendants

**-and-**

(1) – (15) IVECO S.P.A AND OTHERS

Third Parties

**“Suez Proceedings”**

AND

(1) – (139) VEOLIA ENVIRONNEMENT S.A. AND OTHERS

Claimants

**-v-**

(1) – (15) STELLANTIS N.V. (FORMERLY FIAT CHRYSLER AUTOMOBILES N.V.)  
AND OTHERS

Defendants

**-and-**

(1) – (4) PACCAR INC. AND OTHERS

Third Parties

**“Veolia Proceedings”**

AND

(1) – (154) WOLSELEY UK LIMITED AND OTHERS

Claimants

-v-

(1) - (4) STELLANTIS N.V. (FORMERLY FIAT CHRYSLER AUTOMOBILES N.V.)  
AND OTHERS

Defendants

-and-

(1) – (15) MAN SE AND OTHERS

Third Parties

**“Wolseley Proceedings”  
(together, the “VSW Proceedings”)**

AND BETWEEN:

(1) – (4) HERTZ AUTOVERMIETUNG GMBH AND OTHERS

Claimants

-and-

(1) – (14) STELLANTIS N.V. (FORMERLY FIAT CHRYSLER AUTOMOBILES N.V.)  
AND OTHERS

Defendants

**“Hertz Proceedings”**

AND

(1) – (13) BALFOUR BEATTY GROUP LIMITED AND OTHERS

Claimants

-and-

(1) – (14) STELLANTIS N.V. (FORMERLY FIAT CHRYSLER AUTOMOBILES N.V.)  
AND OTHERS

Defendants

**“Balfour Proceedings”**

AND

(1) – (76) ZAMENHOF EXPLOITATION AND OTHERS

Claimants

-and-

(1) – (14) STELLANTIS N.V. (FORMERLY FIAT CHRYSLER AUTOMOBILES N.V.)  
AND OTHERS

Defendants

-and-

(1) – (3) SCANIA AKTIEBOLAG (PUBL) AND OTHERS

Third Parties  
**“Zamenhof Proceedings”**

AND

(1) – (3) THE BOC GROUP LIMITED AND OTHERS

Claimants

-and-

(1) – (14) STELLANTIS N.V. (FORMERLY FIAT CHRYSLER AUTOMOBILES N.V.)  
AND OTHERS

Defendants  
**“BOC Proceedings”**

AND

(1) – (4) GIST LIMITED AND OTHERS

Claimants

-and-

(1) – (14) STELLANTIS N.V. (FORMERLY FIAT CHRYSLER AUTOMOBILES N.V.)  
AND OTHERS

Defendants

-and-

(1) – (3) SCANIA AKTIEBOLAG (PUBL) AND OTHERS

Third Parties  
**“Gist Proceedings”**  
**(together, the “Second Wave Proceedings”)**

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## ORDER

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**UPON** the matter coming back before the Tribunal for a Case Management Conference on 4 and 5 October 2021.

**AND UPON** the VSW Claimants having provided the VSW Defendants with the current working version of the Composite Dataset on 22 February 2021.

**AND UPON** the parties exchanging Redfern Schedules setting out disclosure requests in relation to the UK market on 16 April 2021 and on 3 September 2021 and in relation to the French and German markets on 3 September 2021.

**AND UPON** the VSW Claimants' application dated 15 September 2021 seeking an Order that (i) the VSW Defendants (save for the Iveco Defendants) should provide data and information relating to dependent dealers; (ii) the VSW Defendants should provide data relating to leased trucks; (iii) the Volvo/Renault Defendants, DAF Defendants and Scania Defendants should provide market-wide data and documentary evidence for Germany; and (iv) the VSW Defendants should conduct a reconciliation exercise with respect to the data contained in the Composite Dataset.

**AND UPON** the MAN Defendants', Daimler Defendants', VT/RT Defendants', DAF Defendants' and Iveco Defendants' joint application dated 15 September 2021 seeking orders for disclosure from the VSW Claimants in relation to categories PO4-PO6, Tax, Interest and Acquisitions in the Defendants' Redfern Schedules.

**AND UPON** the MAN Defendants', Daimler Defendants', VT/RT Defendants' and Iveco Defendants' individual applications dated 15/16 September 2021 seeking orders for disclosure from the VSW Claimants in relation to categories VOC2/O1, PO1, PO2, PO3, Tax and Interest in the Defendants' Redfern Schedules.

**AND UPON** the Daimler Defendants' application dated 16 September 2021 seeking an order that the Wolseley Claimants be required by 29 October 2021 to respond to certain questions sent in September 2020 and further questions posed in April 2021 regarding the Wolseley Claimants' disclosure.

**AND UPON** the Daimler Defendants' application dated 16 September 2021 seeking an order that the Wolseley Claimants provide inspection of certain documents mentioned in the Pro a Pro and SYSCO France pass-on and mitigation statements pursuant to CPR 31.14(1) and Rule 61 of the Competition Appeal Tribunal Rules 2015 as set out in the Daimler Defendants' letter dated 20 August 2021.

**AND UPON** hearing Counsel for the VSW Claimants and Counsel for the VSW Defendants at the Case Management Conference held on 4 and 5 October 2021.

**AND UPON** the following definitions applying for the purposes of this Order:

- **“VSW Claimants”** means the Claimants in the **“VSW Proceedings”** (Cases: 1292-4/5/7/18(T)).
- **“VSW Defendants”** means the Defendants and Third Parties in the VSW Proceedings.
- **“Claimants’ Redfern Schedules”** means the Redfern Schedules containing the VSW Claimants’ requests for disclosure from the VSW Defendants in relation to the UK market exchanged on 16 April 2021 and 3 September 2021 and in relation to the French and German markets exchanged on 3 September 2021.
- **“Defendants’ Redfern Schedules”** means the Redfern Schedules containing the VSW Defendants’ requests for disclosure from the VSW Claimants in relation to the UK market exchanged on 16 April 2021 and 3 September 2021 and in relation to the French and German markets exchanged on 3 September 2021.
- **“Composite Dataset”** means the dataset provided by the VSW Claimants to the VSW Defendants on 22 February 2021, which sought to reconcile, cross-refer and combine the VSW Claimants’ Master RFI Spreadsheets and underlying documents disclosed by the VSW Claimants with the VSW Defendants’ disclosure.
- **“Master RFI Spreadsheets”** means the spreadsheets (the most recent versions of which were provided in December 2019) provided by the VSW Claimants that are intended to consolidate certain information regarding volume of commerce.
- **“MAN”** means the 5<sup>th</sup> to 8<sup>th</sup> Defendants in Case 1293/5/7/19 (T), the 3<sup>rd</sup> to 4<sup>th</sup> Third Parties in Case 1292/5/7/18 (T) and the 1<sup>st</sup> to 3<sup>rd</sup> Third Parties in Case 1294/5/7/18 (T).<sup>1</sup>
- **“VT/RT”** means, for the Volvo Trucks (VT), the 9<sup>th</sup> to 11<sup>th</sup> Defendants in Case 1293/5/7/19 (T), the 6<sup>th</sup> to 8<sup>th</sup> Third Parties in Case 1292/5/7/18 (T) and the 4<sup>th</sup> to 6<sup>th</sup>

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<sup>1</sup> MAN SE was merged into TRATON SE by registration in the commercial register at the Munich Local Court (Amtsgericht) (HRB 246068) on 31 August 2021 and has ceased to exist as an independent legal entity. TRATON SE will be substituted into the VSW Proceedings by agreement between the parties.

Third Parties in Case 1294/5/7/18 (T), and for the Renault Trucks (RT), the 12<sup>th</sup> to 13<sup>th</sup> Defendants in Case 1293/5/7/18, the 9<sup>th</sup> Third Party in Case 1292/5/7/18 (T) and the 7<sup>th</sup> Third Party in Case 1294/5/7/18 (T).

- “**Daimler**” means the Tenth Named Third Party in Case 1294/5/7/18 (T).
- “**Iveco**” means the 1<sup>st</sup> to 4<sup>th</sup> Defendants in Case 1293/5/7/18 (T), the 1<sup>st</sup> and 2<sup>nd</sup> Defendants and 1<sup>st</sup> and 2<sup>nd</sup> Named Third Parties in 1292/5/7/18 (T) and the 1<sup>st</sup> and 2<sup>nd</sup> Defendants and 14<sup>th</sup> and 15<sup>th</sup> Named Third Parties in Case 1294/5/7/18 (T).
- “**DAF**” means the 14<sup>th</sup> and 15<sup>th</sup> Defendants and 1<sup>st</sup> Named Third Party in Case 1293/5/7/18 (T), the 3<sup>rd</sup> and 4<sup>th</sup> Defendants and 14<sup>th</sup> and 15<sup>th</sup> Third Parties in Case 1292/5/7/18 (T) and the 3<sup>rd</sup> and 4<sup>th</sup> Defendants and 8<sup>th</sup> and 9<sup>th</sup> Third Parties in Case 1294/5/7/18 (T).
- “**Scania Defendants**” means the 2<sup>nd</sup> to 4<sup>th</sup> Third Parties in Case 1293/5/7/18 (T), the 11<sup>th</sup> to 13<sup>th</sup> Third Parties in Case 1292/5/7/18 (T) and the 11<sup>th</sup> to 13<sup>th</sup> Third Parties in Case 1294/7/18 (T).
- “**Truck**” has the same meaning as in the Redfern Schedules filed in the VSW Proceedings.
- “**Associated Losses**” means alleged losses arising out of or in connection with Truck purchases or leases attributable to any of the Purchasing Entities and suffered by VSW Claimants other than the Purchasing Entities (including, for the avoidance of doubt, any alleged losses suffered from the use of Truck(s), the provision of intra-group services, financing arrangements, treasury activities relevant to interest and profit and loss shifting mechanisms).
- “**Purchasing Entities**” bears the same meaning as alleged in the Particulars of Claim (as amended) for each of the VSW Proceedings.
- “**Affiliated Leasing and Financing Companies**” means companies (i) that are or were in the same corporate group as any of the relevant VSW Defendants; and which (ii) in

the period of the infringement carried on the business of leasing trucks or of financing the purchase of trucks.

- **“Additional Leasing Data”**, means disclosure from the Affiliated Leasing and Financing Companies over which the relevant VSW Defendants have, or had, control.
- **“Board Papers”** means any documents provided to the attendees of the relevant company’s board or executive management meetings, in connection with those meetings, including but not limited to all annexes, appendices or papers attached thereto.
- **“Second Wave Claimants”** means the Claimants in the Second Wave Proceedings.
- **“Second Wave Defendants”** means the Defendants and Third Parties in the **“Second Wave Proceedings”** (Cases 1355/5/7/20 (T), 1356/5/7/20 (T), 1358/5/7/20 (T), 1371/5/7/20 (T) and 1372/5/7/20 (T)).
- **“Zamenhof Claimants”** means the Claimants in the Zamenhof Proceedings.
- **“Zamenhof Defendants”** means the Defendants and Third Parties in the Zamenhof Proceedings.
- **“Hertz Claimants”** means the Claimants in the Hertz Proceedings.
- **“Hertz Defendants”** means the Defendants in the Hertz Proceedings.
- **“Brakes Group Claimants”** means C12 - 21 in the Wolseley Proceedings.

**IT IS ORDERED THAT:**

**Statements of Case on Applicable Law**

1. By 4pm on 5 November 2021:
  - (a) The VSW Claimants shall, if so advised, file and serve proposed Re-Amended Statements of Case on Applicable Law, supported by an application to amend.

- (b) The Hertz Claimants and the Zamenhof Claimants shall, if so advised, each file a Statement of Case on Applicable Law in a free-standing document.
2. By 4pm on 6 December 2021, the VSW Defendants, the Hertz Defendants and the Zamenhof Defendants shall, if so advised, file and serve Statements of Case on Applicable Law (amended or re-amended if appropriate) in response to the pleadings at paragraph 1 above.
3. By 4pm on 11 January 2022, the VSW Claimants, Hertz Claimants and Zamenhof Claimants shall, if so advised, file Reply Statements of Case on Applicable Law.

### **Test Claims Information**

4. By 4pm on 16 February 2022, the VSW Claimants set out below shall provide the VSW Defendants with a schedule setting out: (i) the geographic area in which they provided services, (ii) the particular nature of the services which they provided and the sector in which they operated, and (iii) the nature and size of their customers:
- 4.1 From the Veolia Group, such information to be disaggregated to the level of each of the following Claimants in the Veolia Proceedings:
- (a) From the Waste Business Unit in the United Kingdom: C72 and C74.
- (b) From the Waste Business Unit in Germany: C79, C80, C82, C83, C84, C85, C86, C87, C88 and C139.
- (c) From the SADE Business Unit in France: C11, C16, C17, C18, C22, C26, C34, C42, C46, C48, C119, C120, C121, C122, C123 and C124.
- 4.2 From the Suez Group:
- (a) C28 in the United Kingdom.
- (b) C45, C97, C116 in France.
- (c) C226 in Germany.
- 4.3 From the Metro Group:



- (a) C110 and C112 in France.
  - (b) C26 in Germany.
- 4.4 CM Downton Claimant, C22 in the Wolseley Proceedings.
- 4.5 Brakes Bros Limited, C12 in the Wolseley Proceedings.
- 5. By 4pm on 16 February 2022, the Suez and Metro Group in Germany shall provide information identifying the Claimants:
  - 5.1 For the Suez Group in Germany, that used trucks acquired by C226.
  - 5.2 For the Metro Group in Germany, to which C26 provided logistics services.
- 6. By 4pm on 16 February 2022, the VSW Claimants, identified in para 4 above, shall confirm whether there are any Associated Losses in respect of Trucks they purchased or leased, and if so, shall provide information in a standalone document identifying the other VSW Claimants which allegedly suffered those Associated Losses.

**Disclosure of Leasing Data**

- 7. By 4pm on 25 February 2022 the DAF Defendants shall conduct reasonable and proportionate searches for, and disclose and provide inspection of, documents, data and information in their possession or under their control from their Affiliated Leasing and Financing Companies in relation to the UK, France and Germany as requested by the VSW Claimants under Leased New Trucks categories VOC2/O1(e), (h), (p), (q), and (r) in the Claimants' Redfern Schedules (see Annex 2 of the Order) relating to Additional Leasing Data in respect of leased new Trucks in the period from 1 January 1997 to 30 September 2017.
- 8. By 4pm on 25 February 2022 the DAF Defendants shall file and serve a disclosure statement that confirms the relevant currency of order in relation to the UK, France and Germany as requested by the VSW Claimants under Leased New Trucks category VOC2/O1(i) in respect of leased new Trucks in the period from 1 January 1997 to 30 September 2017.

### **Composite Dataset**

9. By 4pm on 29 October 2021, the Wolseley Claimants shall answer the outstanding questions sent in September 2020 and further questions posed in April 2021 regarding the Wolseley Claimants' disclosure.
10. If there is no answer to the questions, or they cannot be answered, the Wolseley Claimants shall explain in their answer that there is no answer and/or explain the reason why an answer cannot be given.
11. By 4pm on 4 February 2022, the VSW Claimants shall provide the VSW Defendants with an updated version of the Composite Dataset.

### **Daimler's CPR 31.14 Application**

12. By 4pm on 29 October 2021, the Wolseley Claimants shall provide inspection of one document from the category of "contracts with key account customers" referred to in each of paragraph 29 of the Pro a Pro pass-on and mitigation statement and paragraph 34 of the Sysco France pass-on and mitigation statement pursuant to CPR 31.14(1) and Rule 61 of the Competition Appeal Tribunal Rules 2015 as set out in the Daimler Defendants' letter dated 20 August 2021.

### **VOC2/O1, PO1 and PO2 Disclosure**

13. By 4pm on 25 February 2022:
  - (a) The VSW Claimants shall, to the extent that they have not already done so, conduct reasonable and proportionate searches for, disclose and provide inspection of documents, data and information regarding the UK, France and Germany that are responsive to categories VOC2/O1, PO1 and PO2 as set out in the Annex to this Order; and
  - (b) To the extent that any of the VSW Claimants have already conducted such searches and provided the relevant disclosure, those VSW Claimants shall file and serve disclosure statements that confirm that they have conducted

reasonable and proportionate searches and describe those searches in accordance with paragraph 19 below.

### **PO3 Disclosure**

14. By 4pm on 25 February 2022, the VSW Claimants shall conduct reasonable and proportionate searches for, and disclose and provide inspection of, documents, data and information in their possession or under their control regarding the UK, France and Germany falling within disclosure category PO3 as set out in the Annex to this Order.

### **Tax Disclosure**

15. By 4pm on 25 February 2022, to the extent that they have not done so already, the VSW Claimants shall conduct reasonable and proportionate searches for, and disclose and provide inspection of, documents, data and information in their possession or under their control regarding the UK, France and Germany, falling within the following categories of documents for the period from 1 January 1997 to 30 September 2017:
  - (a) Corporate tax returns for any tax imposed on business profits (consolidated or stand-alone as the case may be);
  - (b) Tax computations or similar documentation regarding the calculation of the corporation taxes in any relevant jurisdiction (consolidated or stand-alone as the case may be);
  - (c) Yearly consolidated financial statements with notes per jurisdiction (consolidated or stand-alone as the case may be); and
  - (d) Business/corporate structure information, such as organigrams or lists of subsidiaries.
  - (e) All transfer pricing reports, analyses and relating documentation connected in any way to the Truck purchases including their financing for the period concerned.

### **Interest Disclosure**

16. By 4pm on 25 February 2022, the Brakes Group Claimants shall conduct reasonable and proportionate searches for, and disclose and provide inspection of, documents, data and information in their possession or under their control regarding the UK and France falling within disclosure categories I7, I7/B01, I8, I9 and I10 as set out in the Annex to this Order.

#### **PO4 to PO6 Disclosure**

17. By 4pm on 17 December 2021, Suez Recycling and Recovery UK Ltd (Suez C28), Pro-à-Pro Distribution Sud SAS (Wolseley C112), Suez RV Nord Est (Suez C97), Brake Bros Limited (Wolseley C12) and CM Downton (Haulage Contractors) Limited (Wolseley C22) shall conduct reasonable and proportionate searches for, and disclose and provide inspection of, Board Papers in their possession or under their control regarding their operations in the UK, France and Germany from 1 January 1997 to 31 December 2018.

#### **Disclosure and disclosure statements**

18. A party that provides disclosure under this Order may choose to disclose documents or provide information into the Confidentiality Ring in accordance with the applicable Confidentiality Ring Order (as amended).
19. A party that provides disclosure under this Order shall, by the date on which the final tranche of disclosure for the relevant disclosure category is due to be provided, serve a disclosure statement by an appropriate person which shall (a) describe the extent of the searches for disclosure that have been undertaken in sufficient detail to allow the other parties to evaluate the adequacy of those searches, (b) specify the manner in which the search has been limited on reasonableness and proportionality grounds and why, and (c) certify to the best of the knowledge and belief of the person providing the statement that the disclosure ordered has been provided.

#### **Trial 3**

20. A trial of certain of the VSW Claimants' claims ("**Trial 3**") shall be listed to start on 9 April 2024 for 28 weeks, excluding 31 July to 16 September 2024, which shall be non-

sitting days. The 28 weeks shall include 2 weeks reserved for the preparation and reading of written closings.

21. Trial 3 will try claims in respect of Trucks acquired in the United Kingdom, France and Germany.
22. The VSW Claimants shall inform the VSW Defendants of their proposed test claimants by 5pm on 16 February 2022.
23. The VSW Defendants shall inform the VSW Claimants of their respective positions in relation to the proposed test claimants and provide any counterproposals by 5pm on 23 February 2022.
24. The parties are to inform the Tribunal of any dispute regarding the selection of the proposed test claimants, by 12 noon on 28 February 2022.
25. Trial 3 will try the claims of such VSW Claimants to be determined at the next CMC, such determination to be made from the following VSW Claimants:
  - (a) The Veolia Claimants (UK, France and Germany);
  - (b) The Suez Claimants (UK, France and Germany);
  - (c) The Metro Claimants (France and Germany);
  - (d) CM Downton, C22 in the Wolseley Proceedings; and
  - (e) The Brakes Claimants (UK) in the Wolseley Proceedings.

#### **Further CMC**

26. A further CMC shall be listed on the 3<sup>rd</sup> and 4<sup>th</sup> March 2022 (the “**VSW Sixth CMC**”) to address (without limitation):
  - (a) The identification of the participants from within the VSW Proceedings in Trial 3;
  - (b) Directions to Trial 3;

- (c) Whether it would be appropriate to list a preliminary issue hearing to determine any issues of applicable law; and
- (d) Disclosure issues.

### **Second Wave Proceedings**

- 27. By 4pm on 13 October 2021, the Second Wave Defendants shall indicate whether they oppose the amendments to the Amended Particulars of Claim in the form already circulated and, if so, on what grounds.
- 28. The VSW Sixth CMC shall include the Hertz Claimants and Zamenhof Claimants for the sole purpose of determining any procedural issues relating to applicable law and the listing of any preliminary issue hearing.
- 29. A further CMC shall be listed in the Second Wave Proceedings for the first available date after the VSW Sixth CMC.

### **Costs**

- 30. Costs in the case.

### **Other**

- 31. Liberty to apply.

**The Honourable Mr Justice Roth**  
Chairman of the Competition Appeal Tribunal

Made: 2 February 2022  
Drawn: 2 February 2022