



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1339/7/7/20

BETWEEN:

MARK McLAREN CLASS REPRESENTATIVE LIMITED

Class Representative

- v -

- (1) MOL (EUROPE AFRICA) LTD
(2) MITSUI O.S.K. LINES LIMITED
(3) NISSAN MOTOR CAR CARRIER CO. LTD
(4) KAWASAKI KISEN KAISHA LTD
(5) NIPPON YUSEN KABUSHIKI KAISHA
(6) WALLENUS WILHELMSSEN OCEAN AS
(7) EUKOR CAR CARRIERS INC
(8) WALLENUS LOGISTICS AB
(9) WILHELMSSEN SHIPS HOLDING MALTA LIMITED
(10) WALLENUS LINES AB
(11) WALLENUS WILHELMSSEN ASA
(12) ~~COMPANIA SUD AMERICANA DE VAPORES S.A.~~

Defendants

CONSENT ORDER

UPON the Order of the Tribunal made on 6 April 2023 (the “**Original Directions to Trial Order**”)

AND UPON the further Orders of the Tribunal made on 20 November 2023, 31 January 2024, 10 April 2024 and 24 June 2024 varying the Original Directions to Trial Order

AND UPON the parties filing their Negative Position Papers and accompanying evidence on 26 July 2024

AND UPON trial in these proceedings having been listed to commence on 13 January 2025

AND UPON the Tribunal's Order of 25 June 2024 directing the parties to seek to agree any further directions that are required to trial, including a joint expert process, by 21 August 2024

AND UPON the parties agreeing that the terms of this Order should incorporate the agreed directions to trial reflected in the Order of 11 April 2024 amending the Original Directions to Trial Order

AND UPON the parties attending a Case Management Conference on 10 September 2024 to seek the Tribunal's approval of a draft of this Order

IT IS ORDERED THAT:

Joint Expert Process

1. The economic experts who have filed reports shall:
 - (a) by no later than 4pm on 30 September 2024, meet on a without prejudice basis pursuant to CPR 35.12 to discuss the areas of agreement and disagreement in the respective reports; and
 - (b) by no later than 4pm on 11 October 2024, produce and file with the Tribunal a document setting out (i) the issues on which they agree and (ii) the issues on which they disagree, including a summary of their respective reasons for disagreement.

Directions to Trial

2. By 4pm on 13 September 2024, the Defendants will reconsider their confidentiality designations of Confidential Information which has by then been identified as contained in a document intended to be relied upon by the parties at trial.
3. By 4pm on 1 October 2024, the Class Representative and Defendants will notify each other of which of the other parties' witnesses they wish to cross-examine at trial.
4. A timetable for the trial, a dramatis personae and a chronology (together, the "**Trial Documents**") are to be produced:

- (a) By 4pm on 11 October 2024, the Class Representative will serve drafts of the Trial Documents on the Defendants.
 - (b) The Defendants will provide comments to the Class Representative on the drafts of the Trial Documents promptly, and in any event by no later than 4pm on 25 October 2024.
 - (c) By 4pm on 1 November 2024, the Class Representative will file the agreed Trial Documents (or if agreement cannot be reached, Trial Documents showing the areas of agreement and disagreement).
5. The Class Representative shall organise and produce the bundles for trial:
- (a) By 4pm on 11 October 2024, the Class Representative will serve a draft trial bundle index on the Defendants. The Defendants will provide comments to the Class Representative on the draft trial bundle index promptly, and in any event by no later than 4pm on 18 October 2024.
 - (b) By 4pm on 25 October 2024, the Class Representative will file and serve the agreed trial bundle. The bundle is to be made available in electronic format only.
 - (c) By 4pm on 6 December 2024, the Class Representative shall provide a draft index to the authorities bundle. Each such authority must be cited using the most authoritative citation in accordance with applicable Court best practice guidance, and the index shall be provided together with a folder containing an electronic copy of each listed authority.
 - (d) By 4pm on 13 December 2024, the Defendants will serve on the Class Representative a provisional list of the additional authorities which the Defendants wish to include in the consolidated authorities bundle.
 - (e) By 12pm on 18 December 2024, the Defendants will serve on the Class Representative the final list of authorities they wish to include in the consolidated authorities bundle. Any additional authorities that the Defendants

include and which were not included in the provisional list, will be interspersed in the appropriate chronological positions alongside the CR's authorities.

- (f) The Defendants' provisional and final lists will also be cited in the same terms as set out in clause 5(c) of this Order, and be provided alongside an electronic copy of each listed authority, in the appropriate chronological order as set out in clause 5(e) of this Order.
- (g) By 4pm on 20 December 2024, the Class Representative will file an agreed authorities bundle.
- (h) In the event that the Defendants wish to add additional authorities to, and/or otherwise to make changes to the draft consolidated authorities bundle at any time after 18 December 2024, it will be for the Defendants to make the necessary arrangements (including by liaising directly with Opus 2 as necessary) to effect those changes in the versions of the bundles distributed or to be distributed without further input from the Class Representative's legal team.

6. A one-day pre-trial review shall be listed for 4 December 2024.

- (a) The parties shall endeavour to agree, file and serve a protocol by 4pm on 20 November 2024 for the use of 'hot tubs' to examine the evidence of the economic experts. The protocol shall include a list of issues and identify the relevant participants for those issues. The protocol shall also identify the timetable for the use of 'hot tubs.' To the extent there is disagreement between the parties, this should be indicated in the draft protocol to allow any disputes to be determined by the Tribunal at the pre-trial review.
- (b) The parties shall endeavour to agree an agenda for the pre-trial review to be filed and served by 4pm on 25 November 2024. If there is any disagreement, the agenda should be filed indicating the areas of disagreement.

- (c) Skeleton arguments for the pre-trial review are to be filed and served by 4pm on 27 November 2024.
7. By 4pm on 6 December 2024, the Class Representative will file and serve its skeleton argument for trial. The Class Representative's skeleton argument shall be no longer than 80 pages, size 12 font, 1.5 line spacing.
8. By 4pm on 20 December 2024, the Defendants will file and serve their skeleton arguments for trial. Each of the Defendant's skeleton arguments shall be no longer than 50 pages, size 12 font, 1.5 line spacing, alternatively the combined total length of the Defendants' skeleton arguments shall be no more than 200 pages, size 12 font, 1.5 line spacing. The Defendants are to avoid duplication in so far as possible.

Amendments to Pleadings

9. By 4pm on 27 September 2024, the Class Representative will serve its proposed amendments to its Claim Form, which are made to reflect the approved settlement with the Twelfth Defendant.
10. By 4pm on 18 October 2024, the Class Representative will file the amended Claim Form with the Tribunal or, to the extent the amendments have not been agreed between the parties, file an application to amend the Claim Form.

General

11. Liberty to apply.
12. Costs in the case.

Bridget Lucas KC
Chair of the Competition Appeal Tribunal

Made: 9 October 2024
Drawn: 9 October 2024