



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

Case No: 1294/5/7/18 (T)

BETWEEN:

**WOLSELEY UK LIMITED AND OTHERS**

Claimants

- and -

- (1) FIAT CHRYSLER AUTOMOBILES N.V.**
- (2) CNH INDUSTRIAL N.V.**
- (3) DAF TRUCKS N.V.**
- (4) DAF TRUCKS LIMITED**

Defendants

- and -

- (1) MAN SE**
- (2) MAN TRUCK & BUS AG**
- (3) MAN TRUCK & BUS DEUTSCHLAND GMBH**
- (4) AKTIEBOLAGET VOLVO (PUBL)**
- (5) VOLVO LASTVAGNAR AKTIEBOLAG**
- (6) VOLVO GROUP TRUCKS CENTRAL EUROPE GMBH**
- (7) RENAULT TRUCKS SAS**
- (8) PACCAR INC**
- (9) DAF TRUCKS DEUTSCHLAND GMBH**
- (10) DAIMLER AG**
- (11) SCANIA AKTIEBOLAG (PUBL)**
- (12) SCANIA CV AKTIEBOLAG (PUBL)**
- (13) SCANIA DEUTSCHLAND GMBH**
- (14) IVECO S.P.A.**
- (15) IVECO MAGIRUS AG**

Third Parties

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**ORDER**

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**UPON** hearing Counsel for the Claimants and Leading Counsel for the Tenth Named Third Party at a hearing on 19 and 20 September 2019

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

- **“Claimants”** means the Claimants in the Wolseley Proceedings
- **“Daimler”** means the Tenth Named Third Party in Case 1294/5/7/18 (T)
- **“Disclosing Parties”** means the Claimants and Daimler
- **“Claimant Group”** means the Claimants forming part of the Wolseley Group, Brakes Group, CM Downton, Dairy Crest Group, Metro Group and NWF Group respectively
- **“Claimants’ Redfern”** means the Redfern Schedule of claimant disclosure requests filed by the Claimants on 31 July 2019
- **“Confidentiality Ring Order”** means the Confidentiality Ring Order of Mr Justice Roth dated 12 June 2019
- **“Defendants’ Redfern”** means the Redfern Schedule of defendant disclosure requests filed by the Defendants on 31 July 2019
- **“VOC”** means volume of commerce

**AND UPON** the Disclosing Parties having agreed to disclose by consent a first phase of quantum disclosure, to be given in multiple tranches

**AND UPON** the Disclosing Parties having agreed that they each retain the right to seek additional quantum disclosure from the other Disclosing Party in due course

**IT IS ORDERED BY CONSENT THAT:**

*First Tranche*

With reference to the categories set out in Annexes 1 and 2 to this Order

1. By 4pm on 20 December 2019, Daimler shall disclose and provide inspection of the data/documents referred to under the heading Tranche 1 in Annex 2.
2. By 4pm on 20 December 2019, the Claimants shall disclose and provide inspection of the information referred to under the heading Tranche 1 in Annex 1.

*Second Tranche*

3. By 4pm on 31 January 2020, Daimler shall disclose and provide inspection of the data/documents referred to under the heading Tranche 2 in Annex 2.
4. By 4pm on 31 January 2020, the Claimants shall disclose and provide inspection of the data/documents referred to under the heading Tranche 2 in Annex 1.
5. The Disclosing Parties agree that the data/documents to be disclosed pursuant to paragraphs 1 to 4 above:
  - (a) are confined to information and data readily available to the Disclosing Parties; and
  - (b) if contained in the form of an electronic database or extract therefrom, should be provided in their native electronic format or electronic excel format, together with (i) a statement setting out how the relevant information has been compiled for the database (including details of any data cleaning exercise conducted before disclosing the data), (ii) if appropriate, guidance on how the data is to be examined or any other explanatory notes or material which would assist the Disclosing Parties' expert economists in analysing the disclosed information.

**IT IS FURTHER ORDERED THAT:**

**Tax Disclosure**

6. By 4pm on 31 December 2019, the Claimants shall disclose and provide inspection of the tax returns as submitted by each Claimant to the relevant tax authority together with the final tax computation, or equivalent in respect of the non-English domiciled Claimants, setting out the corporation taxes each Claimant was liable to pay each year from 1 January 1997 to 30 September 2017, including the amounts of corporation tax actually paid by each Claimant in those years, and details of any capital or other allowances / reliefs claimed and granted attributable to Truck purchases. Where any individual Claimant does not prepare and submit individual tax returns to the relevant tax authority but rather has consolidated tax returns submitted on behalf of a number of companies within the same corporate group, then the consolidated tax returns and final tax computations of for the consolidated returns are to be disclosed and made available for inspection.

### **Disclosure into the Confidentiality Ring**

7. The parties may choose to disclose data/documents into the Confidentiality Ring in accordance with the Confidentiality Ring Order.

### **Disclosure Statements**

8. The disclosure given pursuant to this Order shall be accompanied by a disclosure statement by an appropriate person which shall (a) set out the extent of the search that has been made in order to locate the documents ordered to be disclosed, (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 his knowledge and belief that the disclosure ordered has been provided.

### **Extension of time limits**

9. The parties may agree to extend any time period in this Order for a period or periods of up to 28 days in total without reference to the Tribunal, provided that this does not affect the date given for any case or costs management conference or any other court hearing or pre-trial review or the date of the trial. The parties shall notify the Tribunal in writing of the expiry date of any such extension.

### **Costs**

10. Costs in the case.

### **Liberty to apply**

11. The Disclosing Parties shall have liberty to apply.

**Hodge Malek QC**  
Chairman of the Competition Appeal Tribunal

Made: 4 November 2019  
Drawn: 5 November 2019