



IN THE COMPETITION
APPEAL TRIBUNAL

Case: 1292/5/7/18 (T)

Case: 1293/5/7/18 (T)

Case: 1294/5/7/18 (T)

BETWEEN

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

Claimants

-and-

(1) – (4) STELLANTIS N.V. AND OTHERS

Defendants

-and-

(1) – (15) IVECO S.P.A. AND OTHERS

Third Parties

(the *Suez Proceedings*)

AND BETWEEN

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

Claimants

-and-

(1) – (15) STELLANTIS N.V. AND OTHERS

Defendants

-and-

(1) - (4) PACCAR INC AND OTHERS

Third Parties

(the *Veolia Proceedings*)

AND BETWEEN

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

Claimants

-and-

(1) - (4) STELLANTIS N.V. AND OTHERS

Defendants

-and-

(1) - (15) TRATON SE AND OTHERS

Third Parties

(the *Wolseley Proceedings*)

(together, the *VSW Proceedings*)

DIRECTIONS ORDER

UPON HEARING the parties at the Case Management Conference held on 3 and 4 March 2022

AND UPON the Order of the Chairman made on 2 February 2022 that a trial of certain of the Claimants' claims 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 (and that the 28 weeks shall include 2 weeks reserved for the preparation and reading of written closings)

IT IS ORDERED THAT:

Interpretation

1. In this Order, save where otherwise provided, the following defined terms are used in respect of the various parties:
 - a. The *Veolia Claimants* means the Claimants in the Veolia Proceedings, among which:
 - i. *Veolia UK, Veolia France* and *Veolia Germany* mean, respectively, the Veolia Claimants which are incorporated in the United Kingdom, France and Germany;
 - ii. *C1 Veolia* means the first numbered Claimant on the Claim Form in the Veolia Proceedings, with other numbered Claimants identified in the same format;
 - b. The *Suez Claimants* means the Claimants in the Suez Proceedings, among which:
 - i. *Suez UK, Suez France* and *Suez Germany* mean, respectively, the Claimants in the Suez Proceedings which are incorporated in the United Kingdom, France and Germany;

- ii. ***CI Suez*** means the first numbered Claimant on the Claim Form in the Suez Proceedings, with other numbered Claimants identified in the same format;
 - c. The ***Wolseley Claimants*** means the Claimants in the Wolseley Proceedings, among which:
 - i. ***CI Wolseley*** means the first numbered Claimant on the Claim Form in the Wolseley Proceedings, with other numbered Claimants identified in the same format.
- 2. In this Order, save where otherwise provided, the following defined terms are also used:
 - a. ***Associated Losses*** means alleged losses arising out of or in connection with Truck Purchases attributable to any of the Purchasing Claimants and suffered by a Claimant other than the Purchasing Claimant for the Truck(s) in question (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);
 - b. ***Associated Losses Claimant*** means a Claimant entity which claims damages in respect of Associated Losses;
 - c. ***Purchased*** includes purchased (including by way of hire-purchase), leased or otherwise where the legal title and/or physical possession or use was acquired or obtained;
 - d. ***Purchasing Claimant*** means a Claimant entity which claims damages in respect of (i) Trucks which it Purchased from a Third Party, and/or (ii) Trucks which were Purchased from a Third Party by another entity whose alleged cause(s) of action have accrued to the Purchasing Claimant;
 - e. ***Third Party*** means, in relation to a given Claimant, a party outside the corporate group of which that Claimant forms part;

- f. *Truck* has the same meaning as in the Redfern Schedules filed in the VSW Proceedings *mutatis mutandis*.

Trial of claims in the VSW Proceedings

3. Subject to paragraph 4 below, there shall be a trial (*Trial 3*) of the claims brought by the following Claimants:

- a. From the Suez Proceedings:

- i. The *Suez Test Claimants*, namely:

1. Suez R&R UK Ltd (C28 Suez; Suez UK);
2. Suez RV Nord Est (C97 Suez; Suez France);
3. Suez Fleet Management GmbH (C226 Suez; Suez Germany);

- ii. The Associated Losses Claimants relating to Suez Fleet Management GmbH (C226 Suez), namely:

1. Sortier Service Sinn GmbH (C231 Suez);
2. Erich Krätz GmbH, now Suez Recycling Mitte GmbH (C238 Suez);
3. Suez Deutschland GmbH (C242 Suez);
4. Suez Entsorgung & Transport GmbH (C249 Suez);
5. Dornhoff GmbH & Co. KG (C250 Suez);
6. Suez Süd GmbH (C253 Suez);

b. From the Veolia Proceedings:

i. the *Veolia Test Claimants*, namely:

1. Veolia ES (UK) Limited (C74 Veolia; Veolia UK);
2. Veolia Umweltservice Sud GmbH & Co. KG (C87 Veolia; Veolia Germany);
3. Otus (C31 Veolia; Veolia France);

ii. The Associated Loss Claimant relating to Veolia ES (UK) Limited (C74 Veolia; Veolia UK), namely Veolia Environmental Services (UK) plc (C72 Veolia; Veolia UK).

c. From the Wolseley Proceedings:

i. The *Wolseley Test Claimants*, namely:

1. Metro Logistics Germany GmbH (C26 Wolseley);
2. Metro Pro-à-Pro (C112 Wolseley);

ii. The Associated Losses Claimants relating to Metro Logistics Germany GmbH (C26 Wolseley), namely:

1. Metro Deutschland GmbH (C27 Wolseley);
2. Metro SB-Großmärkte GmbH & Co. Kommanditgesellschaft (Esslingen) (C31 Wolseley);
3. Metro SB-Großmärkte GmbH & Co. Kommanditgesellschaft (Linden) (C32 Wolseley);

4. Multi-Center Warenvertriebs GmbH (C36 Wolseley);
5. real, GmbH (C50 Wolseley);
6. MGL METRO Group Logistics GmbH (C56 Wolseley); and
7. METRO Dienstleistungs-Holding GmbH (C127 Wolseley).

4. The claims of the Associated Losses Claimants identified in paragraph 3 above shall be determined at Trial 3 only in respect of those Claimants' claims for Associated Losses (and not in respect of any claim that any Associated Losses Claimant may have for any Truck(s) Purchased by that Associated Losses Claimant).
5. Subject to paragraph 6 below, the claims in the VSW Proceedings other than those to be tried in Trial 3 pursuant to paragraphs 3 and 4 above shall be stayed as from the date of this Order.
6. The stay referred to in paragraph 5 above does not apply in respect of:
 - a. Any request or application for disclosure, evidence or other information made for the purpose of facilitating the determination of the claims to be tried in Trial 3;
 - b. Any process that may be agreed between the parties (or ordered by the Tribunal) with the purpose of updating, developing or improving any schedule intended to identify the value of commerce in the VSW Proceedings.

Permission for expert evidence

7. By 4 pm on 27 May 2022, the parties shall notify each other of their proposals as to:
 - a. whether, and if so how many, experts should be permitted to give written and oral evidence;
 - b. the identity of their proposed experts and their field(s) of expertise; and

- c. a summary of the issues to be addressed by each expert.
8. By 4 pm on 8 July 2022, the parties shall notify the Tribunal of their proposals. The parties shall indicate whether their proposals are agreed and, if not, identify the areas of disagreement.
9. A further Case Management Conference be listed on the first available date after 17 October 2022, with a time estimate of two days, at which the Tribunal will consider (amongst other things) the parties' proposals regarding expert evidence.

Disclosure

10. Save for discrete disclosure applications, disclosure shall otherwise be completed by the parties on or before 18 November 2022.

Witness evidence

11. By no later than 4 pm on 3 March 2023, the parties shall exchange factual witness statements. Before witness statements are exchanged the parties shall liaise with a view to agreeing a method for identifying any documents referred to in the witness statements.
12. By no later than 4 pm on 5 May 2023, the parties shall, if so advised, exchange factual witness statements in reply.

Expert evidence

13. The experts of like discipline shall on or before 19 May 2023 hold without prejudice discussions in the absence of legal representatives for the purpose of:
 - a. identifying the issues, if any, between them;
 - b. explaining their respective proposed approach and methodology in relation to addressing the issues; and
 - c. where possible, reaching agreement on those issues.
14. Expert reports shall be exchanged by 4 pm on 7 July 2023.
15. Expert reports in reply shall be exchanged by 4 pm on 1 December 2023.

16. By no later than 22 December 2023, the experts of like discipline shall have held a discussion on a without prejudice basis in the absence of legal representatives for the purpose of: (a) identifying issues in dispute between them; and (b) where possible reaching agreement on those issues.

17. By no later than 26 January 2024, the experts of like discipline shall prepare and file a joint statement for the Tribunal summarising their position on each of the issues addressed in the expert reports and setting out: (a) those issues on which they are agreed and (b) those issues on which they disagree and a summary of their reasons.

Pre-Trial Review

18. A Pre-Trial Review shall be listed to commence in the week commencing 12 February 2024, with a provisional time estimate of 5 days (the parties shall notify the Tribunal in advance of the hearing if a lesser time estimate would be sufficient).

Opening submissions

19. The Claimants shall file and serve written opening submissions by 4 pm on 23 February 2024. The Defendants shall file and serve written opening submissions by 4 pm on 15 March 2024.

Costs

20. Costs in the case.

Other

21. Liberty to apply.

The Honourable Mr Justice Roth
Chairman of the Competition Appeal Tribunal

Made: 3-4 March 2022
Drawn: 23 March 2022