



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

Case Nos: 1528/5/7/22 (T)  
1571/5/7/22 (T)

BETWEEN:

**VOLKSWAGEN AG & OTHERS**

Claimants

- v -

- (1) **MOL (EUROPE AFRICA) LTD**
- (7) **“K”-LINE HOLDING (EUROPE) LTD**
- (8) **“K”-LINE (EUROPE) LTD**
- (9) **KAWASAKI KISEN KAISHA, LTD**

Defendants / Rule 39 Claimants

- and -

**NIPPON YUSEN KABUSHIKI KAISHA**

Rule 39 Defendant

(the “**First Proceedings**”)

AND BETWEEN:

**VOLKSWAGEN AG & OTHERS**

Claimants

- v -

**MITSUI O.S.K. LINES, LIMITED**

Defendant

(the “**Second Proceedings**”)

---

**ORDER**

---

**UPON** the First Proceedings having been transferred to the Tribunal by the Order of Mr Justice Calver made my consent on 20 June 2022 (the “**First Transfer Order**”)

**AND UPON** the Second Proceedings having been transferred to the Tribunal by the Order of Mr Justice Picken made by consent on 23 November 2022 (the “**Second Transfer Order**”)

**AND UPON** the Order of Mr Justice Picken dated 14 July 2022 following the case management conference in the First Proceedings (the “**CMC Order**”)

**AND UPON** a case management conference in the First Proceedings having been listed for 15-16 March 2023 (the “**March CMC**”)

**AND UPON** the Claimants, the Defendants and the Rule 39 Defendant in the First Proceedings, and the Claimants and Defendant in the Second Proceedings agreeing to the terms of this Order

**BY CONSENT IT IS ORDERED THAT:**

1. The claims in the First Proceedings and the claims in the Second Proceedings shall be consolidated (the “**Consolidation**”) from the date of this Order (the “**Consolidated Proceedings**”) subject to the other provisions of this Order. The Defendant in the Second Proceedings shall be referred to as the 10th Defendant in the Consolidated Proceedings and the Consolidated Proceedings shall proceed under Case No. 1528/5/7/22 (T).
2. Neither this Order giving effect to Consolidation, nor the Consolidation itself, is intended to alter, limit or exclude in any respect any element of the Defendants’ accrued rights in respect of defence to the Claimants’ claims as constituted prior to the Consolidation taking effect, including, but not limited to, applicable law, process for service, jurisdiction, liability (including as to any defence or argument based on limitation, time bar, laches, delay, or related issues), or the existence of a statutory duty, or otherwise howsoever in relation to the claims.
3. For the avoidance of doubt, the First Transfer Order and Second Transfer Order shall remain unaffected by the Consolidation.

4. The reference to “parties” in paragraph 25 of the CMC Order shall be read also to include the 10th Defendant to the Consolidated Proceedings.
5. Any disclosure given by the Claimants pursuant to paragraph 16.3 of the CMC Order (as inserted by paragraph 2 of the Tribunal’s Order made by consent on 26 October 2022) shall also be given to the 10th Defendant to the Consolidated Proceedings.
6. As to the statements of case in the Consolidated Proceedings:
  - (a) No party in the Consolidated Proceedings shall be required to amend statements of case served in the Consolidated Proceedings to reflect the Consolidation, pending the amendments set out in sub-paragraph (c) below.
  - (b) Pending the amendments set out in sub-paragraph (c) below, statements of case in the Second Proceedings shall be treated as separate statements of case in the Consolidated Proceedings.
  - (c) Following the March CMC, the parties shall amend their statements of case to incorporate the statements of case from the Second Proceedings so that a single set of statements of case exist following amendment. The parties shall seek in advance of the March CMC to agree a timetable for the filing of consolidated statements of case, and in default of agreement shall seek a direction from the Tribunal
7. In accordance with Rule 102(2) and (3) of the Tribunal Rules, all documents that have been disclosed, served or filed to date in the First Proceedings and/or in the Second Proceedings may be used by all parties in the Consolidated Proceedings.
8. An amended confidentiality ring order shall be established by separate order (the “**Amended Confidentiality Ring Order**”) that is identical in terms to the Confidentiality Ring Order of Mr Justice Jacobs dated 10 June 2022 made by consent in the First Proceedings but that provides for the Consolidation by adding the 10th Defendant as a party to the Amended Confidentiality Ring Order.

9. The costs of this Order for Consolidation and the costs of the amendments to the Confidentiality Ring Order referred to in paragraph 8 shall be costs in the case. Otherwise, the costs of the Second Proceedings up to and including the date of Consolidation and the costs of and occasioned by the Consolidation are reserved.
  
10. The parties shall have liberty to apply.

**The Hon Mrs Justice Cockerill DBE**  
Chair of the Competition Appeal Tribunal

Made: 11 January 2023  
Drawn: 12 January 2023