



Case No: 1435/5/7/22 (T)

IN THE COMPETITION APPEAL TRIBUNAL

BETWEEN:

- (1) PSA AUTOMOBILES SA
- (2) GIE PSA TRÉSORERIE
- (3) STELLANTIS NV
- (4) OPEL AUTOMOBILE GMBH
- (5) FCA ITALY SPA
- (6) FCA SRBIJA D.O.O. KRAGUJEVAC
- (7) FCA POLAND SA
- (8) MASERATI SPA
- (9) SOCIETA EUROPEA VEICOLI LEGGERI (SEVEL) SPA
- (10) VAUXHALL MOTORS LTD
- (11) OPEL ESPAÑA SLU

Claimants

- v -

- (1) AUTOLIV AB
- (2) AUTOLIV, INC
- (3) AUTOLIV JAPAN LTD
- (4) AUTOLIV B.V. & CO. KG
- (5) AIRBAGS INTERNATIONAL LTD
- (6) ZF TRW AUTOMOTIVE HOLDINGS CORP.
- (7) ZF AUTOMOTIVE SAFETY GERMANY GMBH
- (8) ZF AUTOMOTIVE GERMANY GMBH
- (9) TRW SYSTEMS LTD
- (10) ZF AUTOMOTIVE UK LTD
- (11) TOKAI RIKI CO., LTD
- (12) ~~TOYODA GOSEI CO., LTD~~

Defendants

ORDER

UPON the Tribunal’s Orders of 7 June 2022 (a) establishing a confidentiality ring as between the Claimants and the First to Eleventh Defendants (the “**Confidentiality Ring Order**”); and (b) ordering disclosure from the First to Eleventh Defendants (the “**First CMC Order**”)

AND UPON the Claimants’ application for disclosure dated 28 February 2023

AND UPON the application of the Eleventh Defendant (“**Tokai Rika**”) dated 28 February 2023 for the Claimants’ claim against Tokai Rika to be struck out or for reverse summary judgment (“**Strike-Out Application**”)

AND UPON the First to Fifth Defendants’ (the “**Autoliv**”) application for disclosure dated 9 March 2023

AND UPON the Sixth to Tenth Defendants’ (the “**ZF/TRW**”) application dated 9 March 2023 for disclosure relating to issues of limitation

AND UPON the Claimants’ application dated 9 March 2023 seeking revised Disclosure Reports and Electronic Document Questionnaires

AND UPON considering the evidence variously filed by the parties in support of their applications, the response and evidence filed by the parties (as relevant) to the applications, and the replies and evidence filed by the parties (as relevant)

AND UPON hearing counsel for the Claimants and for each of Autoliv, ZF/TRW and Tokai Rika at the case management conference held on 28 and 29 March 2023 (“**Second CMC**”)

AND UPON the Claimants and ZF/TRW agreeing that if disclosure in connection with the limitation defences ordered in paragraph 9 below is given only by the First, Fourth and Fifth Claimants, the Claimants will accept that if the First, Fourth and Fifth Claimants are found to have actual or constructive knowledge of sufficient facts to plead their claim prior to 31 October 2017, the other Claimants in the PSA, Vauxhall/Opel and FCA corporate groups would also have such actual or constructive knowledge.

IT IS ORDERED THAT:

Tokai Rika’s Strike-Out Application

1. Tokai Rika’s Strike-Out Application is refused for the reasons given by the Tribunal.

2. If the Claimants and Tokai Rika are unable to agree the order to be made in relation to the costs of the Strike-Out Application, they should file brief written submissions on the same within 28 days of hand down of the Tribunal’s reasons for refusing the Strike-Out Application.

Confidentiality

3. The parties shall agree a form of revised terms to the Confidentiality Ring Order for the Tribunal’s approval to include a “Lawyers-Only Ring” (the “**Revised Confidentiality Ring Order**”).

Disclosure of Other Regulator Documents

4. By 4pm on 9 June 2023 Autoliv, ZF/TRW and Tokai Rika shall:
 - (a) disclose by list and provide inspection of all contemporaneous documents (the “**Other Regulator Documents**”) (not otherwise encompassed by paragraph 4 to the First CMC Order) that:
 - (i) are or have been in their control;
 - (ii) have been provided by them (or by any of their current or former subsidiaries) to one or more of the regulators and/or authorities in the USA, Brazil and South Africa in connection with the investigation of anti-competitive practices in the market for occupant safety systems (seatbelts, airbags and steering wheels) (together, “**OSS**”), including any contemporaneous documents provided in response to requests for information from one or more of the regulators and/or authorities; and/or
 - (iii) were provided to them (or to any of their current or former subsidiaries) by one or more of the regulators and/or authorities in the USA, Brazil and South Africa in connection with the investigation of anti-competitive practices in the market for OSS, in particular by means of any process equivalent to the “access to file” process before the European Commission;

- (b) provide a description (in sufficient detail to enable the Claimants to assess any assertion and potentially challenge it by way of an application to the Tribunal, if so advised) identifying any documents which have been redacted or withheld by Autoliv, ZF/TRW and/or Tokai Rika and the basis on which they have been redacted or withheld pursuant to paragraph 5 below; and
 - (c) identify which documents are to be designated as Inner Confidentiality Ring Information or Outer Confidentiality Ring Information pursuant to the Confidentiality Ring Order and the Revised Confidentiality Ring Order.
 - (d) by way of exception to sub-paragraph (c) above, all documents that were either provided by the Defendants to the South African competition authorities or provided by the South African competition authorities to the Defendants, and which are liable to disclosure pursuant to sub-paragraph (a) above (the “**SACC Documents**”) shall only be disclosed into the Lawyers-Only Ring as defined in the Revised Confidentiality Ring Order.
5. The obligation to give disclosure and inspection pursuant to paragraph 4 above shall be subject only to a right to redact or withhold material on one of the following grounds, or otherwise as required by applicable local laws:
- (a) they are leniency or settlement submissions;
 - (b) they are subject to legal professional privilege; and/or
 - (c) they are irrelevant.
6. Where a document contains material in the categories identified in paragraph 5 above, it is only those parts of the document that may be redacted, not the entire document.

Effects and quantum / expert disclosure

7. By 4pm on 6 October 2023:

- (a) each Defendant shall provide disclosure of any data, documents and information as set out in Annex 1 to this Order; and
 - (b) the Claimants shall provide disclosure of any data, documents and information as set out in Annex 2 to this Order.
8. In relation to the disclosure of an agreed set of Requests for Quotation (“RFQs”):
- (a) The Claimants and Defendants shall attempt to agree by 4pm on 24 May 2023 a set of RFQs relating to the Claimants’ project codes and/or vehicle models (the “**Sampled RFQs**”) in respect of which the disclosure set out in (i) Annex 1, paragraphs 6(d) and 7; and (ii) paragraph 3 of Annex 2 shall be given;
 - (b) in default of agreement, the Claimants shall make a written application by 26 May 2023 for the Tribunal to determine the RFQs that shall comprise the Sampled RFQs; and
 - (c) The Defendants shall make any written submissions to the Tribunal in response to the Claimants’ application by 2 June 2023.
9. The data, documents and information to be disclosed pursuant to paragraph 7 above:
- (a) may be confined to the best available evidence about the information which is the subject matter of the listed categories, which may be in the form of electronic databases or other electronic sources, save where:
 - (i) the disclosing party does not in fact keep any documents in respect of that subject matter in electronic form; or
 - (ii) although it does keep data, documents and information in respect of that subject matter in electronic form, the relevant information in the electronic form is unreliable in view of the way in which it was collected; or

- (iii) the best available evidence falls instead to be obtained from physical documents or a combination of physical documents and electronic databases or other electronic sources. In each case, the disclosing party should explain why the evidence it is providing is the “best available evidence” and why further disclosure is not proportionate, in particular if the excluded information is within an electronic database or other electronic sources; and
- (b) if contained in the form of an electronic database or extract therefrom, should be provided with a brief explanation on how the relevant information has been compiled for the database, and, if appropriate, guidance on how it is to be examined.

The Defendants’ Limitation Defences

10. By 4pm on 31 July 2023, the First, Fourth and Fifth Claimants shall disclose by list and provide inspection of all documents that are or have been in their possession and control and which can be identified following a reasonable and proportionate search which:
- (a) refer to or discuss:
 - (i) the investigations in respect of OSS undertaken by: (i) the European Commission (Case AT.39881 (“OSS1”) and Case AT.40481 (“OSS2”)); (ii) the US Department of Justice (“DoJ”); (iii) the South African Competition Commission (“SACC”); and/or (iv) the Brazilian Competition Authority (“CADE”); (together, the “Investigations”); and/or
 - (ii) a possible infringement of applicable competition laws by manufacturers of OSS; and/or
 - (iii) a potential action for damages against any of the addressees of the European Commission’s decisions in OSS1 or OSS2 or members of their corporate groups at the relevant time (including, but not limited to,

antitrust class actions against manufacturers of OSS brought before the United States District Court for the Eastern District of Michigan); and

(b) date from 9 June 2011 to 31 October 2017 (inclusive).

11. The documents referred to in paragraph 10 above include *inter alia*:

(a) any communications between:

(i) the Claimants (including members of their corporate groups at the relevant time), their predecessor entities, as well as external advisors; and

(ii) the European Commission, the DoJ, the SACC and/or CADE;

(b) publicly available documents within the possession and control of the Claimants that refer to any of the Investigations;

(c) internal or external communications; and

(d) board minutes.

The Claimants' specific allegations of anti-competitive behaviour in the Re-Amended Particulars of Claim

12. By 4pm on 31 July 2023:

(a) the Claimants, Autoliv and ZF/TRW Defendants shall each provide disclosure of any documents and internal or external communications that refer to or discuss the implementation of Opel's "*global sourcing*" strategy as referenced by the Claimants at paragraph 40B of the Re-Amended Particulars of Claim.

(b) The Claimants and the Autoliv Defendants shall provide disclosure of any documents and internal or external communications that refer to or discuss the information supplied to the Autoliv Defendants by Vauxhall/Opel in respect of

other potential suppliers for the RFQs for the Adam model (code-name Junior) referenced by the Claimants at paragraph 40F of the Re-Amended Particulars of Claim.

Financing Losses

13. By 4pm on 31 July 2023, the Claimants shall provide disclosure of documents concerning their cost of debt over the period for which they claim damages in this case.

Disclosure reports and electronic documents questionnaires

14. By 4pm on 28 April 2023 the Parties shall file and serve revised disclosure reports and electronic documents questionnaires, save that Tokai Rika shall file and serve its revised disclosure report by 4pm on 11 May 2023.

Witnesses of fact

15. By 4pm on 8 December 2023 the Parties shall file and serve the witness statements of the oral evidence which they intend to rely on in relation to any issues of fact to be decided at the trial.
16. By 4pm on 26 January 2024 the Parties shall file and serve any witness statements in reply.

Expert evidence in competition economics

17. The Claimants and Defendants shall have permission to rely on expert evidence in the field of competition economics. The Claimants and the Defendants shall each have permission to rely on one expert in this field (being one expert in total for the Claimants and one expert in total for the Defendants).
18. By 4pm on 9 February 2024 the Claimants' expert in the field of competition economics shall file and serve a report.

19. By 4pm on 5 April 2024 the Defendants' expert in the field of competition economics shall file and serve a report in response.
20. By 4pm on 7 June 2024 the Claimants' expert in the field of competition economics shall file and serve a reply report.
21. By 4pm on 21 June 2024 the parties' experts in the field of competition economics shall meet (without the Parties) and discuss on a without prejudice basis according to the provisions of Civil Procedure Rule 35.12, and identify in a joint memorandum filed with the Tribunal by no later than 4pm on 5 July 2024, clearly and concisely and in terms that can be understood by a non-expert, attaching any relevant documents, and with the assistance of the Parties' legal representatives where necessary:
 - (a) the areas in dispute between them;
 - (b) whether each area in dispute is material to the outcome of the case; and
 - (c) in relation to each material area in dispute:
 - (i) the extent to which it is material and why;
 - (ii) any assumptions underpinning each expert's views;
 - (iii) a summary of each expert's criticism of the other expert's position;
 - (iv) all key documents and/or pieces of evidence which are relevant to the particular areas of dispute between them and its resolution; and
 - (v) their opinions on what the Tribunal has to decide in order to resolve the particular areas of dispute and how this can be achieved.
22. In order to assist in the production of the joint memorandum described in paragraph 21 above:

- (a) By 4pm on 21 June 2024 the Parties' experts shall submit a template of the joint memorandum for the Tribunal's approval; and
- (b) By 4pm on 28 June 2024 the Parties' experts shall file with the Tribunal a short progress report, which it is anticipated is likely to be no more than a page in length, stating whether good progress is being made on the production of the joint memorandum and identifying any issues which it is anticipated the Tribunal may need to resolve to assist in the production of the memorandum.

Expert evidence in foreign laws

- 23. The Claimants and Defendants shall have permission to rely on expert evidence in the field of foreign laws. The Claimants shall have permission to rely on one expert for each of the foreign laws. The Defendants shall collectively have permission to rely on one common expert for each of the foreign laws.
- 24. By 4pm on 19 April 2024 the Parties' experts in the field of foreign applicable laws shall file and serve their reports.
- 25. By 4pm on 24 May 2024 the Parties' experts in the field of foreign applicable laws shall file and serve any reports in reply.
- 26. By 4pm on 7 June 2024 the parties' experts for each of the foreign applicable laws shall meet (without the Parties) and discuss on a without prejudice basis according to the provisions of Civil Procedure Rule 35.12, and identify in joint memorandums (produced for each of the foreign applicable laws) filed with the Tribunal by no later than 4pm on 21 June 2024, clearly and concisely and in terms that can be understood by a non-expert, attaching any relevant documents, and with the assistance of the Parties' legal representatives where necessary:
 - (a) the matters agreed between them; and
 - (b) the areas in dispute between them.

Further case management conference

27. A further one-day case management conference (the “Third CMC”) shall be listed on the first available date from 20 October 2023.
28. The Parties shall file with the Tribunal an agreed agenda for the Third CMC by no later than one week prior to the listed date of that hearing.

Pre-trial review

29. A one-day pre-trial review shall be fixed in July 2024.

General provisions

30. The Parties’ disclosures shall be accompanied by a disclosure statement in the form described at CPR Rule 31.10(5)-(7).

Costs

31. Save in relation to the costs to which paragraph 2 above applies, the costs of the Second CMC shall be costs in the case.

Other

32. The Parties have liberty to apply.

Justin Turner KC
Chair of the Competition Appeal Tribunal

Made: 15 May 2023
Drawn: 16 May 2023

Annex 1

Effects and quantum disclosure by the Defendants

For the purposes of this Annex, “data” constitutes figures and related numerical information, stored electronically in Excel or equivalent format and includes (but is not limited to) electronic databases. Data is to be regarded as ‘available’ if it has already been produced and/or collated for the purpose of these proceedings, or is capable of being produced and/or collated for the purpose of these proceedings on the basis of reasonable and proportionate searches.

For the purposes of this Annex, supplies to the Claimants include supplies to TPCA which were incorporated into PSA vehicles.

Volume of Commerce

1. For the period from 1 January 2000 to 31 December 2022 (to the extent available in electronic database form), a transaction-level dataset of EEA sales made by the relevant Defendant to the Claimants per OSS product/component part (as defined in the Re-Amended Particulars of Claim at paragraph 4), derived from the relevant databases (or such other sources where they may be found) together with any available information on technical specifications for the OSS product/component part, including a breakdown at the level of each individual OSS product/component part of:
 - (a) volume supplied;
 - (b) price per unit;
 - (c) total value of sales (including the currency in which the sale was made);
 - (d) the Defendant’s product part number, including:
 - (i) any associated descriptions of the product (i.e. the type of OSS product/component);
 - (ii) the Claimants’ corresponding product part number; and
 - (iii) the purchase order number associated with the sale;

- (e) the name and location where the OSS product/component part was manufactured;
- (f) the name and location of the Claimants' plant where they were delivered to;
- (g) the purchase date (and delivery date if different);
- (h) whether the values are delivered or ex-factory prices; and
- (i) whether the sale is for the main market or the aftermarket, categorising these separately where they are sold for both the main market and aftermarket.

The information requested above shall include, to the extent possible, an explanation of the units used for the volume data and any technical specifications of the OSS product/component part.

Overcharge

Quotations / initial contract prices

2. Data on quotations/initial contract prices per OSS product/component part covered in each of the contracts between the relevant Defendant and the Claimants for supply in the EEA in the period from 1 January 2000 to 31 December 2022 (to the extent available in electronic database form), including:
 - (a) dates on which any price quotes were made;
 - (b) contract signing dates;
 - (c) the names and locations of the contracting parties;
 - (d) whether the OSS product/component is an original or re-engineered part, and whether it is linked to another part number (in which case a mapping to the corresponding Claimants' part number should be provided);
 - (e) whether it is a new contract or a renewal of an existing contract;

- (f) prices and any surcharges and duties that form part of the total quotation;
- (g) transaction price to be charged and/or offered by the Defendant, including how this would vary over time (e.g. any specific volume thresholds associated with the price); and
- (h) any costing data produced as to the budgeted/expected costs of the OSS product/component part supporting these price quotes/initial contract prices, including a description of how this costing data was compiled and what costs were included/excluded, including with respect to both internal figures and any figures shared with the Claimants.

Price amendments

3. For the period from 1 January 2000 to 31 December 2022 (to the extent available in electronic database form), to the extent not covered in paragraph 1 above, data on price amendments per OSS product/component part covered in each of the contracts between the relevant Defendant and the Claimants for supply in the EEA, including:
 - (a) the scale of the price amendment;
 - (b) type of/reason for the price amendment (e.g. change in technical specification, raw material cost changes, volume changes);
 - (c) the dates when a given price amendment was agreed and when it came into effect; and
 - (d) details that enable a matching of the price amendment to the original price and contract.

Technical specifications

4. For the period from 1 January 2000 to 31 December 2022 (to the extent available in electronic database form), to the extent not covered in paragraph 1 above, a list of technical specifications which were the main determinants of prices for the relevant OSS product/component parts, including all technical specifications which

significantly affected their production costs, including (but not limited to) the following:

- (a) For steering wheels:
 - (i) material used on the steering wheel (e.g. leather, plastic);
 - (ii) whether the steering wheel included heating;
 - (iii) whether the steering wheel included shift paddles;
 - (iv) whether the steering wheel included electronic switches;
 - (v) the size of the steering wheel; and
 - (vi) whether the steering wheel included a hands-on detection.
 - (vii) any other technical features and/or characteristic of the steering wheel item that may affect costs.

- (b) For airbags:
 - (i) type/location of the airbag;
 - (ii) smart features present in the airbag (e.g. whether the airbag was adaptive or dual); and
 - (iii) whether the airbag contained an active vent.
 - (iv) any other technical features and/or characteristic of the airbag item that may affect costs.

- (c) For seat belts:
 - (i) seatbelt location;

- (ii) the retractor type used;
- (iii) whether load limiting features were used;
- (iv) buckle type (e.g. single, double); and
- (v) whether a buckle switch was present (i.e. a sensor detecting whether an anchor is inserted or not).
- (vi) Any other technical features and/or characteristic of the seat belt item that may affect costs.

The information requested above shall specify, to the extent possible, any model-specific circumstances that may also affect the price of contracts.

Costs

5. For the period from 1 January 2000 to 31 December 2022 (to the extent available in electronic database form), data regarding the costs incurred by the relevant Defendant in the production of each OSS products/component part supplied to the Claimants in the EEA, as well as expectations of future costs at the time the contract was awarded by the Claimants. Such cost data shall include a breakdown of all key costs, including all key variable costs and their proportions, broken down by OSS product/component part, including:
- (a) manufacturing location;
 - (b) the costs of raw material inputs (e.g. steel, aluminium, manganese, nylon);
 - (c) manufacturing and carrying costs;
 - (d) overheads, transport and selling costs;
 - (e) any relevant raw material index or indices used;
 - (f) hedging of costs (including currency costs and raw material costs);

- (g) any other relevant costs;
- (h) the basis of allocation for any allocated costs (i.e. the relevant costs drivers);
- (i) any internal reporting on margins; and
- (j) how changes in input costs affected pricing strategies.

Supplier Contracts / Amendments

6. For the period from 1 January 2000 to 31 December 2022 (to the extent available):
- (a) copies of supplier contracts for supply in the EEA (including any letters of intent and award letters)
 - (i) between the Claimants and the Defendants; and/or
 - (ii) between the Defendants and the predecessors in title or assignors of claims now brought by the Claimants;
 - (b) information on whether those contracts are a new or a carry-over contract;
 - (c) any amendments to those contracts; and
 - (d) any communications between the Defendant and any competitor (not otherwise encompassed by paragraph 1 of this Order and paragraph 4 of the First CMC Order) relating to price amendments to any OSS product/component that relate to the Sampled RFQs (whether exclusively or not) over the entire life of the underlying contract (up until 30 March 2011), including in relation to any price reduction requests from the Claimants and any requests for raw materials price increases from the Defendants.

Sampled RFQs

7. In respect of the Sampled RFQs, the Defendants shall disclose and provide inspection of:

- (a) the documents comprising the RFQ;
- (b) responses sent to the RFQ;
- (c) documents relating to the process or strategy concerning the way in which the Defendant went about securing business through the RFQ and negotiating the final price with the Claimants with respect to both internal figures and any figures shared with the Claimants, including:
 - (i) any cost categories and the level of costs taken into account;
 - (ii) the market considerations taken into account;
 - (iii) the profit or margin targets taken into account;
 - (iv) the internal assessments of each RFQ;
 - (v) the high-level process or strategy for responding to RFQs;
 - (vi) any communications between the Defendant and any competitor (not otherwise encompassed by paragraph 1 of this Order and paragraph 4 of the First CMC Order).

Annex 2

Effects and quantum disclosure by the Claimants

For the purposes of this Annex, “data” constitutes figures and related numerical information, stored electronically in Excel or equivalent format and includes (but are not limited to) electronic databases. Data is to be regarded as ‘available’ if it has already been produced and/or collated for the purpose of these proceedings, or is capable of being produced and/or collated for the purpose of these proceedings on the basis of reasonable and proportionate searches.

Volume of Commerce / Overcharge

Purchase Data

1. To the extent available to the Claimants in electronic database form and can be extracted following a reasonable and proportionate search, transaction level data of purchases of OSS products made by the Claimants from the relevant Defendant in the EEA of OSS products for the period the Claimants contend is the relevant period (provisionally 1 January 2000 to 31 December 2022) (the “**Relevant Period**”), broken down by OSS product on the level of part number, and including information on:
 - (a) product part number, including an explanation of the unique product code/ID;¹
 - (b) sales date on the most granular level available (daily or monthly);
 - (c) country and plant of origin;
 - (d) country and plant of destination;
 - (e) brand using the purchased OSS product;
 - (f) brand/entity receiving the invoice for the purchased OSS product;
 - (g) platform, car line, and model in which OSS product is used;

¹ For example, first three digits indicate product characteristics A and B, next three digits indicate packaging, etc. (as the case may be).

- (h) volume;
- (i) unit price;
- (j) currency of transaction;
- (k) purchase value, including, where applicable, information relating to:
 - (i) rebates and discounts such as retroactive volume discounts;
 - (ii) whether values are ex-factory or delivered;
 - (iii) whether the purchased OSS products were returned to the supplier and refunded;
 - (iv) included free samples (if any);
 - (v) whether the sale is for the main market or the aftermarket, categorising these separately where they are sold for both the main market (OE) and aftermarket (OES);
 - (vi) engineering costs charged by the supplier;
 - (vii) any one-time payments made by or to the Claimants;
 - (viii) whether the sourcing was direct or indirect; and
- (l) OSS product type (e.g., airbags, steering wheels, seatbelts, etc.).

RFQs

2. Information on the relevant RFQs (limited to RFQs issued by the Claimants to a Defendant in the EEA) per OSS product in the Relevant Period, including:
 - (a) date of the RFQ at the most granular level, i.e. to the day or month;

- (b) dates offers made;
- (c) date of award; and
- (d) contract signing date.

The information provided pursuant to paragraph 2 shall be limited to information that is either:

- (e) contained within supplier contracts; or
- (f) available in electronic database form and capable of being extracted following a reasonable and proportionate search.

3. In respect of the Sampled RFQs:

- (a) documents comprising the RFQ;
- (b) names of all suppliers to whom the RFQ was sent;
- (c) documents relating to selection of tenders for the RFQs;
- (d) documents relating to the criteria for awarding a contract to a tenderer or group thereof by way of the RFQs;
- (e) shortlist criteria for successful tenders for the RFQs;
- (f) responses to the RFQs from tenders;
- (g) evaluations of responses to the RFQs from tenders;
- (h) documents relating to the process or strategy of negotiating the final price for all tenders considered; and
- (i) procurement manuals or other guidance materials for procurement by RFQ.

To the extent the information sought under paragraph 3 is available in database form, data should be provided in that format, supported by a sample of underlying documents to verify the accuracy of the database information.

Supplier Contracts

4. Supplier contracts (including letters of intent, award letters and term sheets) between the Claimants and the Defendants (and members of their corporate groups from time to time) in the Relevant Period, limited to supplier contracts between any of the Claimants and any of the Defendants in the EEA, to the extent that the same can be retrieved following a reasonable and proportionate search, and information where contained within such contracts as to:
 - (a) whether the contract is a new or a follow-on contract and any amendments to those contracts;
 - (b) indication of whether the supplier is an incumbent supplier;
 - (c) indication of whether forward sourcing or re-sourcing;
 - (d) degree to which the contracted OSS product is identical or only marginally different from previously contracted OSS products;
 - (e) details of the OSS products delivered and prices paid (including details of rebates or discounts, and whether prices are inclusive of delivery and other costs and/or taxes);
 - (f) details of the location of the ultimate destination of OSS products supplied for incorporation into the Claimants' automotive vehicles;
 - (g) sales volumes projections included in such contracts;
 - (h) price variation mechanisms or other price varying agreements; and

- (i) internal cost estimates and/or benchmarks (relating to the costs of suppliers of OSS products).

To the extent such information is available in database form, data should be provided in that format, supported by a sample of underlying documents to verify the accuracy of the database information.

Price Amendments

5. Documents relating to annual price reductions or other price adjustments to contracts between any of the Claimants and any of the Defendants in the EEA, and to the extent that the same are available in electronic database form and capable of being extracted following a reasonable and proportionate search, as to:

- (a) annual price reduction requests;
- (b) reviews, negotiations, renegotiations and amendments to pricing; and
- (c) price changes, including reasons therefore (e.g. change in technical specification, raw material cost changes, volume changes etc.).

To the extent such information is available in database form, data should be provided in that format, supported by a sample of underlying documents to verify the accuracy of the database information.

Technical Specifications

6. To the extent available in database form (or extracts therefrom), a list of technical specifications of OSS products purchased from the Defendants in the EEA, limited to the following:

- (a) For steering wheels:
 - (i) material used on the steering wheel (e.g. leather, plastic);
 - (ii) whether the steering wheel included heating;

- (iii) whether the steering wheel included shift paddles;
 - (iv) whether the steering wheel included electronic switches;
 - (v) the size of the steering wheel; and
 - (vi) whether the steering wheel included a hands-on detection.
 - (vii) any other technical features and/or characteristic of the steering wheel item that may affect costs.
- (b) For airbags:
- (i) type/location of the airbag;
 - (ii) smart features present in the airbag (e.g. whether the airbag was adaptive or dual); and
 - (iii) whether the airbag contained an active vent.
 - (iv) any other technical features and/or characteristic of the airbag item that may affect costs.
- (c) For seat belts:
- (i) seatbelt location;
 - (ii) the retractor type used;
 - (iii) whether load limiting features were used;
 - (iv) buckle type (e.g. single, double); and
 - (v) whether a buckle switch was present (i.e. a sensor detecting whether an anchor is inserted or not).

- (vi) Any other technical features and/or characteristic of the seat belt item that may affect costs.

The information requested above shall specify, to the extent possible, any model-specific circumstances that may also affect the price of contracts.

Pass-on

- 7. Technical specifications and descriptions of vehicles produced by the Claimants over the Relevant Period including:
 - (a) brand;
 - (b) platform;
 - (c) car line;
 - (d) model;
 - (e) trim levels;
 - (f) options;
 - (g) technical characteristics of car model (such as horsepower, weight, size, miles per litre, air conditioning, type of engine: electric, hybrid, diesel or petrol);
 - (h) list price;
 - (i) date of start of Production (SoP); and
 - (j) date of end of Production (EoP).

Pricing Data

- 8. Documents, data or information for the Relevant Period for each allegedly affected car model manufactured by the Claimants, including all options, for each country where it

was sold, by month and, if applicable, by dealer type (independent and Claimant-owned dealers), as to:

- (a) the price books setting out the recommended retail price (RRP);
- (b) invoicing/actual sales data on vehicles sold to dealers, including the actual prices paid;
- (c) information on discounts;
- (d) financial information on profit and loss, volume, gross revenue and target margins on vehicles; and
- (e) characteristics of each car model, to the extent not covered above, that affect pricing.

Pricing Strategies and Processes

- 9. Policies and/or internal guidelines used to build pricing architecture between brands, between models, and across countries.

Costs

- 10. For base (standard) vehicle and options, full information on key costs broken down by plant and car model, on a monthly basis during the Relevant Period, including without limitation total average cost, labour costs, input costs, manufacturing or administrative costs.
- 11. For the cost category that encompasses costs related to OSS products (e.g. input costs), a full breakdown of the cost subcategories that make up that more aggregate cost category, and the cost values for all subcategories that include costs related to OSS products.