



Case Nos: 1339/7/7/20

1528/5/7/22 (T)

**IN THE COMPETITION APPEAL TRIBUNAL**

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) WALLENIUS WILHELMSSEN OCEAN AS
- (7) EUKOR CAR CARRIERS INC
- (8) WALLENIUS LOGISTICS AB
- (9) WILHELMSSEN SHIPS HOLDING MALTA LIMITED
- (10) WALLENIUS LINES AB
- (11) WALLENIUS WILHELMSSEN ASA
- (12) COMPANIA SUDAMERICANA DE VAPORES S.A.

Defendants

AND 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

**(10) MITSUI O.S.K. LINES, LIMITED**

Defendant

- and -

**NIPPON YUSEN KABUSHIKI KAISHA**

Rule 39 Defendant

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**CONFIDENTIALITY RING AND DOCUMENT MANAGEMENT ORDER**

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**UPON** the Confidentiality Ring Order of Mr Justice Jacobs made by consent on 10 June 2022 in the proceedings with High Court (Commercial Court) Claim No. CL-2020-000780

**AND UPON** the (Amended) Confidentiality Ring Order of the Tribunal made by consent on 6 February 2023 in the VW Proceedings (as defined below) (the “**VW Confidentiality Ring Order**”)

**AND UPON** the Confidentiality Ring and Document Management Order of the Tribunal made by consent on 23 February 2023 in the MMCLR Proceedings (as defined below) (the “**MMCRL Confidentiality Ring Order**”)

**AND UPON** the Order of the Tribunal made on 6 April 2023 giving directions to trial in respect of the MMCRL and VW Proceedings, including the disclosure of documentation and data in relation to potential overlapping issues in the Proceedings (as defined below)

**AND UPON** the Parties having agreed to the terms of this Order

**AND UPON** each of the persons named in Parts A and B of the Schedule to this Order giving a written undertaking to the Tribunal in the terms of Parts C or D respectively of the Schedule to this Order prior to receiving any Confidential Information (as defined below)

**IT IS ORDERED BY CONSENT THAT:**

**1. DEFINITIONS**

1.1. For the purposes of this Order:

1.1.1. “**Confidential Information**” means Inner Confidentiality Ring Information and Outer Confidentiality Ring Information.

1.1.2. “**Guide**” means the Tribunal’s Guide to Proceedings 2015 as amended, supplemented, or reissued from time to time.

1.1.3. “**Inner Confidentiality Ring Information**” means:

- (a) information provided by a Party:
  - (i) the disclosing Party has designated as Inner Confidentiality Ring Information in accordance with paragraph 6 of this Order; or
  - (ii) are designated as Inner Confidentiality Ring Information by the Tribunal; and
- (b) documents insofar as they contain information provided under paragraph 1.1.3(a), including for the avoidance of doubt:
  - (i) working documents created by the receiving Party or its advisers or experts;
  - (ii) *inter-partes* correspondence;
  - (iii) documents filed at the Tribunal, such as pleadings, witness evidence, expert reports, skeleton arguments, applications and draft orders; and
  - (iv) transcripts prepared by a third party service provider; and
- (c) for the avoidance of doubt, redacted versions of the documents described at paragraph 1.1.3(b) above are not Inner Confidentiality Ring Information if they have been redacted so that they no longer contain or refer to the content of the documents/information described at paragraph 1.1.3(a).

1.1.4. “**Inner Confidentiality Ring Members**” are:

- (a) those persons listed in Part A of the Schedule to this Order, as amended from time to time in accordance with the provisions of paragraph 5 below or by an order of the Tribunal, who have given a signed undertaking to the Tribunal in the terms of Part C of the Schedule to this Order and (in

the case of those persons who are added as Inner Confidentiality Ring Members in accordance with the provisions of paragraph 5 below) where the Proposing Party (as defined below) has complied with paragraph 5.1.1;

- (b) necessary secretarial and other support personnel including for the avoidance of doubt internal providers of eDisclosure or litigation support services (not including trainee solicitors but including counsels' clerks and paralegals) under the supervision of those persons identified at paragraph 1.1.4(a) above, provided that such personnel have been informed of the confidential nature of the Confidential Information and the terms of Part C of the Schedule to this Order (for the avoidance of doubt, the purpose of making such person aware of the terms of such Part is to reinforce the importance of keeping the information confidential and not to impose additional obligations on such person); and
- (c) any external eDisclosure or litigation support provider (including external document reviewers) engaged by any of the Parties in connection with the Proceedings to provide eDisclosure or similar services in support of those persons identified in paragraph 1.1.4(a) above, who may have access to Inner Confidentiality Ring Information as a consequence of the provision of their services, provided that such provider has been informed of the confidential nature of the Confidential Information and the terms of Part C of the Schedule to this Order.
- (d) Nothing in this Order shall prevent law firm management, personnel within the relevant law firms or chambers whose role is to assist with the firm or chambers' IT systems, auditors or the SRA from having access to documents on firm/chambers IT systems, subject to their usual confidentiality obligations.

1.1.5. “**MMCRL Proceedings**” means the collective proceedings under section 47B of the Competition Act 1998 relating to car carriers with Case No. 1339/7/7/20 (as however amended), and any appeal therefrom.

1.1.6. “**Outer Confidentiality Ring Information**” means:

- (a) information provided by a Party which:
  - (i) the disclosing Party has designated as Outer Confidentiality Ring Information in accordance with paragraph 6 of this Order; or
  - (ii) are designated as Outer Confidentiality Ring Information by the Tribunal; and
- (b) documents insofar as they contain information provided under paragraph 1.1.6(a) including for the avoidance of doubt:
  - (i) working documents created by the receiving Party or its advisers or experts;
  - (ii) *inter-partes* correspondence;
  - (iii) documents filed at the Tribunal, such as pleadings, witness evidence, expert reports, skeleton arguments, applications and draft orders; and
  - (iv) transcripts prepared by a third party service provider; and
- (c) for the avoidance of doubt, redacted versions of the documents described at paragraph 1.1.6(b) above are not Outer Confidentiality Ring Information if they have been redacted so that they no longer contain or refer to the content of the documents/information described at paragraph 1.1.6(a).

1.1.7. “**Outer Confidentiality Ring Members**” are:

- (a) Inner Confidentiality Ring Members; and
- (b) those persons listed in Part B of the Schedule to this Order, as amended from time to time in accordance with the provisions of paragraph 5 below or by an order of the Tribunal, who have given a signed undertaking to the Tribunal in the terms of Part D of the Schedule to this Order and (in the case of those persons who are added as Outer Confidentiality Ring

Members in accordance with the provisions of paragraph 5 below) where the Proposing Party (as defined below) has complied with paragraph 5.1.1;

- (c) necessary secretarial and other support personnel including for the avoidance of doubt internal providers of eDisclosure or litigation support services (not including trainee solicitors, but including paralegals and counsels' clerks) under the supervision of those persons identified in paragraphs 1.1.7(a) and (b) above, provided that such personnel have been informed of the confidential nature of the Confidential Information and the terms of Part D of the Schedule to this Order (for the avoidance of doubt, the purpose of making such person aware of the terms of such Part is to reinforce the importance of keeping the information confidential and not to impose additional obligations on such person); and
- (d) any external eDisclosure or litigation support provider engaged by one of the Parties in connection with the Proceedings to provide eDisclosure or similar services in support of those persons identified in paragraphs 1.1.7(a) and (b) above, who may have access to Outer Confidentiality Ring Information as a consequence of the provision of their services, provided that such provider has been informed of the confidential nature of the Confidential Information and the terms of Part D of the Schedule to this Order.
- (e) Nothing in this Order shall prevent firm management, personnel within the relevant law firms or chambers whose role is to assist with the firm or chambers' IT systems, auditors or the SRA from having access to documents on firm/chambers IT systems, subject to their usual confidentiality obligations.

1.1.8. **“Parties”** means the parties to the Proceedings (and **“Party”** shall be construed accordingly).

1.1.9. **“Proceedings”** means the MMCRL Proceedings and VW Proceedings collectively.

1.1.10. “**Rules**” means the Competition Appeal Tribunal Rules 2015 as amended, supplemented or re-issued from time to time (and “**Rule**” shall be construed accordingly).

1.1.11. “**Tribunal**” means the Competition Appeal Tribunal.

1.1.12. “**VW Proceedings**” means the consolidated claim with Case No. 1528/5/7/22 (T) (as however amended) comprising the claim filed in the Commercial Court, a part of the King’s Bench Division of the High Court of Justice, on 27 November 2020 under Claim Number CL-2020-000780 (as however amended), as transferred to the Competition Appeal Tribunal by order of Mr Justice Calver dated 20 June 2022, and the claim filed in the Commercial Court on 18 August 2022 under Claim Number CL-2022-000452, as transferred to the Competition Appeal Tribunal by order of Mr Justice Picken dated 23 November 2022, and any appeal therefrom.

## 2. **INNER CONFIDENTIALITY RING INFORMATION**

2.1. Inner Confidentiality Ring Information provided in the context of the Proceedings is to be provided or made available solely to the Inner Confidentiality Ring Members, to be held by them on the terms set out in Part C of the Schedule to this Order, subject to the following paragraphs of this Order.

## 3. **OUTER CONFIDENTIALITY RING INFORMATION**

3.1. Outer Confidentiality Ring Information provided in the context of the Proceedings is to be provided or made available solely to Outer Confidentiality Ring Members, to be held by them on the terms as set out in:

3.1.1. if the individual is also an Inner Confidentiality Ring Member, Part C of the Schedule to this Order, subject to the following paragraphs of this Order; or

3.1.2. if the individual is not also an Inner Confidentiality Ring Member, Part D of the Schedule to this Order, subject to the following paragraphs of this Order.

#### 4. SCOPE AND EFFECT OF THE ORDER

- 4.1. The terms of this Order are to supersede the terms of the VW Confidentiality Ring Order and the terms of the MMCRL Confidentiality Ring Order in their entirety from the made date of this Order. Documents and/or information designated as Inner Confidentiality Ring Information or Outer Confidentiality Ring Information pursuant to the VW Confidentiality Ring Order or the MMCRL Confidentiality Ring Order shall be treated as though they have been disclosed and given the same designation – i.e. as Inner Confidentiality Ring Information or Outer Confidentiality Ring Information (as appropriate) – pursuant to the terms of this Order.
- 4.2. Any undertaking given to the Tribunal in either of the Proceedings within the scope of the VW Confidentiality Ring Order or of the MMCRL Confidentiality Ring Order prior to the date of this Order shall continue to have effect and the corresponding persons from each of the Parties shall not be required to sign or otherwise validate any such undertaking again for that purpose. Any such undertaking shall be deemed to refer also to this Order as from the date of making of this Order.
- 4.3. Nothing in this Order or in its Schedule applies to documents and/or information received by a Party other than via the Proceedings under the terms of this Order, the VW Confidentiality Ring Order or the MMCRL Confidentiality Ring Order.

#### 5. ADDITIONS TO OR REMOVAL FROM THE INNER OR OUTER CONFIDENTIALITY RING

- 5.1. If a Party (the “*Proposing Party*”) wishes to add an additional person as an Inner Confidentiality Ring Member or as an Outer Confidentiality Ring Member:
  - 5.1.1. The Proposing Party shall notify and request the express written consent of the other Parties (each a “*Receiving Party*”), and when requesting such written consent specify the name and role of the proposed additional person and provide an explanation of why the addition is reasonable and necessary.
  - 5.1.2. Following receipt of a notice pursuant to paragraph 5.1.1 above, a Receiving Party shall notify the Proposing Party in writing within 5 working days if it objects to such addition and state the reason(s) for the objection.



- 5.1.3. If express consent is given by all the Receiving Parties, or any Receiving Party fails to give express consent and fails to give written notice of objection within the 5 working day period specified in paragraph 5.1.2 above:
- (a) the Proposing Party will obtain a written undertaking from the additional person, in the terms of Part C or D (as applicable) of the Schedule to this Order; and
  - (b) the Proposing Party concerned will provide the written undertaking referred to in paragraph 5.1.3(a) above and an amended version of Part A or B (as appropriate) of the Schedule to this Order to the Tribunal and the other Parties.
- 5.1.4. Upon those steps being completed, the additional person will become an Inner Confidentiality Ring Member or an Outer Confidentiality Ring Member (as applicable).
- 5.1.5. If any objection referred to in paragraph 5.1.2 above is received within the 5 working day period there referred to, the Proposing Party may apply on notice to the Tribunal and the additional person will become an Inner Confidentiality Ring Member or an Outer Confidentiality Ring Member (as applicable) if the Tribunal so orders.
- 5.2. If a Party wishes to remove a person as an Inner Confidentiality Ring Member or an Outer Confidentiality Ring Member, that Party will notify the other Parties and provide an amended version of Part A or B (as appropriate) of the Schedule to this Order to the Tribunal and the other Parties. The Party must also (so far as it is able to do so) destroy, or procure that the removed person destroys, any copies of Confidential Information held by that person pursuant to this Order (in both hard and soft copy) (insofar as technologically feasible) or transfer such copies to persons who remain within the relevant Confidentiality Ring. A Party may only remove a person whom it had (initially or by following the process in paragraph 5.1) proposed as an Inner Confidentiality Ring Member or an Outer Confidentiality Ring Member.
- 5.3. A person who ceases to be an Inner Confidentiality Ring Member or an Outer Confidentiality Ring Member remains bound by the terms of the undertaking they have

signed in relation to Confidential Information they received before they ceased to be an Inner Confidentiality Ring Member or an Outer Confidentiality Ring Member.

- 5.4. If a Party ceases to be involved in the Proceedings, the persons nominated by that Party as Confidentiality Ring Members shall automatically cease to be Confidentiality Ring Members.

## 6. DESIGNATION OF DOCUMENTS/INFORMATION

- 6.1. A Party providing a document/information in connection with the Proceedings may designate that the document/information is: (i) Inner Confidentiality Ring Information; (ii) Outer Confidentiality Ring Information; or (iii) not confidential.
- 6.2. Designation of a document/information as Inner Confidentiality Ring Information or Outer Confidentiality Ring Information must be made in writing to the Party or Parties receiving the document/information and must comply with paragraph 7.46 of the Guide.
- 6.3. Any document/information that is not designated as Inner Confidentiality Ring Information or Outer Confidentiality Ring Information is not Confidential Information. Rule 102 continues to apply (to the extent it would otherwise have applied) to any document/information in the Proceedings.
- 6.4. Failure to provide a designation for a document/information at the time the document/information is provided shall be deemed to be a designation that the document/information in question is not Confidential Information. A Party may alter the designation of a document/information to correct any erroneous designation by notice in writing to all Parties that received such document/information. The other Parties shall not be responsible for any action taken in the meantime in good faith reliance on the original designation.
- 6.5. A Party receiving documents/information in the Proceedings may request that the disclosing Party or Parties amend the designation of a document/information that it has or they have provided (including amendment to a designation of not confidential) as follows:
  - 6.5.1. The requesting Party shall provide a written request to the disclosing Party or Parties (copied to the other Parties) specifying the following:

- (a) the relevant document/information concerned;
- (b) the designation the requesting Party believes is appropriate; and
- (c) why it is reasonable and necessary for the designation of the document/information to be amended.

6.5.2. A disclosing Party may consent in writing to amend the designation of any document(s)/information, with such consent not to be unreasonably withheld and, in any event, any response must be provided within 10 working days of having received the written request referred to in paragraph 6.5.1.

6.5.3. Should the consent referred to in paragraph 6.5.2 not be obtained from each disclosing Party, the requesting Party may apply to the Tribunal for an order pursuant to Rule 101(2) that the documents/information should be designated as either: (i) Inner Confidentiality Ring Information; (ii) Outer Confidentiality Ring Information; or (iii) not confidential (as the requesting Party deems appropriate), provided that prior written notice is given of that application to the other Parties. In responding to such an application a disclosing Party shall comply with the procedural requirements of Rule 101(1), and the requirements of paragraphs 7.46 and 7.47 of the Guide.

## **7. PROVISION OF CONFIDENTIAL INFORMATION TO PERSONS OUTSIDE THE RINGS**

7.1. Nothing in this Order or its Schedule prevents a Party, its advisors or experts from sharing (or from consenting to the sharing of) Confidential Information provided by that Party in the Proceedings.

7.2. A Party that receives Confidential Information in the Proceedings may request that:

7.2.1. certain Confidential Information is to be provided or made available to one or more persons who are neither Inner Confidentiality Ring Members nor Outer Confidentiality Ring Members; and/or

7.2.2. certain Inner Confidentiality Ring Information is to be provided or made available to one or more persons who are Outer Confidentiality Ring Members (but not also Inner Confidentiality Ring Members).

- 7.3. If a Party wishes such Confidential Information to be provided or made available to such persons in accordance with paragraph 7.2:
- 7.3.1. it shall notify and request the express written consent of the other Parties, specifying the name and role of the proposed person(s), the specific Confidential Information that is to be provided or made available to such person(s) (by reference to the relevant documents insofar as practicable) and provide an explanation of why it is reasonable and necessary for the Confidential Information to be provided or made available to such person(s);
  - 7.3.2. following receipt of a notice pursuant to paragraph 7.3.1 above, any recipient of such notice shall not unreasonably withhold or delay their consent and if any such recipient objects to Confidential Information being provided or made available to the proposed person, they shall notify the requesting Party in writing within 10 working days of receipt of the notice that they so object;
  - 7.3.3. if each recipient required to be provided with a notice under paragraph 7.3.1 (i) gives express consent; or (ii) fails to give express consent and fails to give written notice of objection within the 10 working day period specified in paragraph 7.3.2 above:
    - (a) the proposing Party will obtain from such person(s) written undertaking(s) in the terms of Part C or D (as appropriate) of the Schedule to this Order, amended to list the specific documents and/or information that are to be provided or made available to such person(s);
    - (b) the Party concerned will provide the written undertaking(s) referred to in paragraph 7.3.3(a) above to the Tribunal and the other Parties; and
    - (c) on the completion of those steps, the additional person may be provided with the documents and/or information.
- 7.4. If any objection referred to in paragraph 7.3.2 above is received within the 10 working day period specified, the requesting Party may apply to the Tribunal, provided that prior written notice is given of such application to the other Parties. The additional person may be provided with the documents and/or information if the Tribunal so orders.

## 8. COPIES OF CONFIDENTIAL INFORMATION

- 8.1. Subject to the exceptions in paragraph 8.2 below, each Party must destroy copies of Confidential Information provided pursuant to this Order (in both hard and soft copy) (insofar as technologically feasible) or make them inaccessible at the conclusion of the Proceedings, or when that Party ceases to be involved in the Proceedings, and at such time that Party shall notify its Inner Confidentiality Ring Member(s) and Outer Confidentiality Ring Member(s) that they must destroy (insofar as technologically feasible) or make inaccessible all Confidential Information in their possession. (The foregoing obligations and the corresponding obligations of individuals pursuant to the undertakings in Part C and D of the Schedule do not require a Party or person to take steps beyond selecting the files in question and providing the Windows command to “*delete*” such files, and repeating such instruction with the copy of the file in the Windows “*recycle bin*” or the equivalent commands for any other operating system or document management system.) In such circumstances, each Party concerned shall notify the remaining Parties within a reasonable time that the Confidential Information has been destroyed (insofar as technologically feasible) or made inaccessible (as appropriate).
- 8.2. The obligation in paragraph 8.1 above is subject to the following exceptions:
- 8.2.1. Paragraph 8.1 does not apply to solicitors’, counsel’s or economists’ notes.
- 8.2.2. Paragraph 8.1 does not create an obligation to search for transitory or deeply stored (such as back-up tapes or similar off-line electronic copies) soft copies of Confidential Information which may exist on the computer system of the receiving Party and which cannot be recovered without special measures, provided that such documents and/or information will be promptly deleted in the event of the restoration of such copies.
- 8.2.3. Paragraph 8.1 does not apply to Parties’ copies of pleadings, evidence, skeleton arguments, transcripts, applications, draft orders, correspondence referred to at trial or in a hearing or submitted in the Proceedings, as well as lawyer work product referring to Confidential Information, subject to continued compliance with the terms of this Order in respect of the Confidential Information contained within such documents.

8.2.4. Paragraph 8.1 does not apply to a Party in respect of the Confidential Information it provided.

## **9. UNAUTHORISED DISCLOSURE OF CONFIDENTIAL INFORMATION**

9.1. In the event of any disclosure of Confidential Information other than in a manner authorised by this Order, including any unintentional or inadvertent disclosure, solicitors for the improperly disclosing Party shall as soon as reasonably practicable notify the improper recipient(s) and the solicitors for the Party or Parties which provided the Confidential Information in the Proceedings, and the improperly disclosing Party shall use all reasonable endeavours to further prevent unauthorised disclosure including for example using all reasonable endeavours to retrieve all copies of the Confidential Information from the improper recipient(s) thereof and secure the agreement of such recipient(s) not to further disseminate the Confidential Information in any form.

## **10. DISCLOSURE PURSUANT TO COURT ORDER**

10.1. If at any time any Confidential Information is made the subject of a court disclosure or discovery order (or similar) anywhere in the world, the person upon whom the order is served shall immediately give written notice to the solicitors of the Party or Parties which produced the Confidential Information. If no Party which provided the Confidential Information in the Proceedings takes steps to prevent the further disclosure of such Confidential Information within 10 working days of the date on which such written notice was given, the Party against whom the order was made may produce such Confidential Information but shall take all reasonable measures to have the Confidential Information treated in accordance with the terms of this Order. For the avoidance of doubt, this paragraph only applies to a Party who is the recipient of Confidential Information provided in the Proceedings and does not apply to the Party which provides the Confidential Information in the Proceedings.

## **11. ENFORCEMENT OF THE ORDER, LIBERTY TO APPLY AND COSTS**

11.1. In the event of any anticipated or actual breach of this Order, any Party may seek to enforce the terms of this Order.

11.2. The costs of compliance with and of drafting this Order shall be costs in the case in the Proceedings.

11.3. There shall be liberty to apply to vary the terms of this Order.

## 12. NOTICES

12.1. Any notice, consent or objection to be given under or in connection with this Order (each a “*Notice*” for the purposes of this paragraph) shall be in writing.

12.2. Service of a Notice must be effected by email.

12.3. Notices shall be addressed as follows:

12.3.1. Notices for the Class Representative in the MMCLR Proceedings shall be marked for the attention of Scott+Scott UK LLP.

Email Address: bhollway@scott-scott.com

dcampbell@scott-scott.com

rmanson@scott-scott.com

Reference: 18191UK / Belinda Hollway

12.3.2. Notices for the Claimants in the VW Proceedings shall be marked for the attention of Slaughter and May.

Email Address: SMMaritimeCarCarriers@slaughterandmay.com

Reference: CLZS/EXJ

12.3.3. Notices for the First to Third Defendants to the MMCLR Proceedings and the First and Tenth Defendants to the VW Proceedings shall be marked for the attention of Arnold & Porter Kaye Scholer (UK) LLP.

Email Address: jane.wessel@arnoldporter.com

alastair.brown@arnoldporter.com

AP\_RoRo@arnoldporter.com

Reference: JW/AB/0023660.00016

12.3.4. Notices for the Fourth Defendant to the MMCRL Proceedings and the Seventh, Eighth and Ninth Defendants to the VW Proceedings shall be marked for the attention of Cleary Gottlieb Steen & Hamilton LLP.

Email Address: jkelly@cgsh.com

pstuart@cgsh.com

Team-Kline-RoRo-CGSHOnly@cgsh.com

Reference: VW: JK/PXS/LS/FD/31550-016

MMCRL: JK/PXS/LS/31550-013

12.3.5. Notices for the Fifth Defendant to the MMCRL Proceedings and the Rule 39 Defendant to the VW Proceedings shall be addressed to Steptoe & Johnson UK LLP, for the attention of Charles Whiddington and Angus Rodger.

Email Address: cwhiddington@steptoe.com

arodger@steptoe.com

sjroro@steptoe.com

Reference: CRW/AR/26318.0007

12.3.6. Notices for the Sixth to Eleventh Defendants to the MMCRL Proceedings shall be marked for the attention of Baker Botts (UK) LLP.

Email Address: matthew.levitt@bakerbotts.com

chris.caulfield@bakerbotts.com

DLBB\_RoRo@BakerBotts.com

Reference: 087018.0102



12.3.7. Notices for the Twelfth Defendant to the MMCRL Proceedings shall be marked for the attention of Wilmer Cutler Pickering Hale & Dorr LLP.

Email Address: cormac.odaly@wilmerhale.com

WHRoRoEngland@wilmerhale.com

Reference: COD/SF

**Bridget Lucas KC**

Chair of the Competition Appeal Tribunal

**The Hon Mrs Justice Cockerill**

Chair of the Competition Appeal Tribunal

Made: 30 May 2023

Drawn: 31 May 2023

## **SCHEDULE**

### **PART A: Inner Confidentiality Ring Members**

#### **Mark McLaren Class Representative Limited**

1. *McLaren Class Representative*

a. Mark McLaren

2. *Scott+Scott UK LLP*

a. Douglas Campbell

b. Saphya Hamoud

c. Belinda Hollway

d. Ruth Manson

e. Chloe Tsai

f. Philippa Winstansley

3. *Brick Court Chambers*

a. Sarah Ford KC

b. Emma Mockford

c. Sarah O’Keeffe

4. *BDO LLP*

a. Tom Robinson

b. Steven Law

c. Nick Andrews

d. Michael Smith

e. Claire Taylor

- f. Charlotte Okninski
- g. James Tilston
- h. Fraser Jensen
- i. Manmeet Singh
- j. Emma Barr
- k. Jyrki Kolsi
- l. Ui Yoshida
- m. Qingyuan Wang
- n. Leila Kirby
- o. Martin Anastasov
- p. Eniko Guest
- q. Inderpal Dhillon
- r. Hamish Russell
- s. Molly Semple
- t. Michael Roberts
- u. Sara Ahmed
- v. Paul Hennin
- w. Hannah Phillips
- x. Bradley Toseland
- y. Nicolas Harrington

5. *Industry Experts*

- a. Andrew Goss

- b. Anthony Whitehorn

**First to Twelfth Defendants to the MMCRL Proceedings**

1. *4 New Square Chambers*

- a. Nicholas Bacon KC

**First to Third Defendants to the MMCRL Proceedings and First and Tenth Defendant to the VW Proceedings**

1. *Arnold & Porter Kaye Scholer (UK) LLP*

- a. Jane Wessel
- b. Niels Ersbøll
- c. Alastair Brown
- d. Louis van der Werff
- e. Samuel Milucky
- f. Konstantinos Lampropoulos
- g. William Radcliffe

2. *Brick Court Chambers*

- a. Mark Hoskins KC
- b. David Bailey
- c. Matthew Kennedy

3. *Monckton Chambers*

- a. Natalie Nguyen

4. *The Brattle Group*

- a. Dr Pinar Bagci

- b. Dr Can Çeliktemur
- c. Eleonora Corbo
- d. Nastia Copin
- e. Filippo Nezzo

**Fourth Defendant to the MMCRL Proceedings and Seventh to Ninth Defendants to the VW Proceedings**

*1. Cleary Gottlieb Steen & Hamilton LLP*

- a. Jonathan Kelly
- b. Paul Stuart
- c. Lanto Sheridan
- d. Alexandros Athanasopoulos
- e. Sabrina Stewart
- f. Julia Kelsoe
- g. Fay Davies
- h. Nikita Lall
- i. Pamela Holmes
- j. Georgina Rawson
- k. Andreas Wildner
- l. Maddison Shin

*2. Nishimura & Asahi*

- a. Tokuhiko Matsunaga
- b. Nobuhiro Tanaka

- c. Taisuke Ueno
  - d. Kaetsu Yan
  - e. Yukiko Tomimatsu
3. *Brick Court Chambers*
- a. Tony Singla KC
4. *Monckton Chambers*
- a. Anneliese Blackwood
5. *RBB Economics*
- a. Adrian Majumdar
  - b. Richard Murgatroyd
  - c. Dean Curry
  - d. Jasmine Peng
  - e. Vitaliy Oryshenko
  - f. Chiara Muzi

**Fifth Defendant to the MMCRL Proceedings and Rule 39 Defendant to the VW Proceedings**

1. *Steptoe & Johnson UK LLP*
- a. Charles Whiddington
  - b. Angus Rodger
  - c. Yumiko Takahashi
  - d. Yuliya Luy
  - e. Natalia Gofman

2. *Brick Court Chambers*
  - a. Marie Demetriou KC
  - b. Daniel Piccinin KC
  - c. Allan Cerim
3. *Economists*
  - a. Paul E. Godek of Secretariat Economists
  - b. Rick Warren-Boulton of Ankura Consulting Group, LLC
4. *Secretariat Economists*
  - a. Dr Paul Godek

**Sixth to Eleventh Defendants to the MMCRL Proceedings**

1. *Baker Botts LLP / Baker Botts (UK) LLP*
  - a. Matthew Levitt
  - b. Chris Caulfield
  - c. Dina Jubrail
  - d. Duncan Saunders
  - e. Laurence Ridgway
2. *Monckton Chambers*
  - a. Josh Holmes KC
  - b. Michael Armitage
  - c. Jenn Lawrence
3. *CRA Economists*
  - a. Raphaël De Coninck

- b. Elina Koustoumpardi

### **Twelfth Defendant to the MMCRL Proceedings**

#### *1. Wilmer Cutler Pickering Hale & Dorr LLP*

- a. Cormac O'Daly
- b. Kelly Burrowes
- c. Steven Cherry
- d. Frederic Louis
- e. Christina von Post
- f. Eduoard Bruc

#### *2. Brick Court Chambers*

- a. Sarah Abram KC

#### *3. Fountain Court Chambers*

- a. Hannah Bernstein

#### *4. Compass Lexecon*

- a. Lorenzo Coppi
- b. Andy Parkinson
- c. Michael Scheidgen

### **Claimants to the VW Proceedings**

#### *1. Slaughter and May*

- a. Richard Swallow
- b. Camilla Sanger
- c. Elizabeth Jordan



- d. Edward Coles
- e. Olga Ladrowska
- f. James Lawrence
- g. Tristan Crump
- h. Naomi Rasooly
- i. Kathryn Bevan
- j. Honor Kerry
- k. Ross Muir
- l. Lale Cengiz
- m. Alexandra Poole
- n. Peter May
- o. Charlotte Lazarowicz
- p. Charlotte Asher
- q. Max Cheung
- r. Abbie Bauckham
- s. Kaoru Ito
- t. Georgia McGlennon
- u. Ethan Focas-Turk
- v. Samuel Gilmer

2. *Blackstone Chambers*

- a. Brian Kennelly KC
- b. Andrew Scott KC

3. *Monckton Chambers*
  - a. Philip Woolfe
  
4. *Oxera Consulting LLP*
  - a. Robin Noble
  - b. Enno Eilts
  - c. Kimela Shah
  - d. Luca Grezio
  - e. Jeremy Macrae
  - f. Julian Kullik
  - g. Sophie Kuemmel
  - h. Hannes Seidel
  - i. Eleanor Smith
  - j. Max Hesseling
  - k. Nicolás Fajardo Acosta
  - l. Thomas Nau
  
5. *Gibson Dunn & Crutcher LLP*
  - a. Georg Weidenbach
  - b. Linda Vögele
  
6. *Epiq Systems*
  - a. Emma Watson
  - b. Dayanna Ritter
  - c. Ineta Zviedre
  - d. Jennifer Liang

- e. Geoffrey Ford
- f. Nana Elliott
- g. Ryan Stults
- h. Tanner Henderson
- i. Antony Worth

## **PART B: Outer Confidentiality Ring Members**

*(excluding Outer Confidentiality Ring Members who are also Inner Confidentiality Ring Members)*

### **First to Third Defendants to the MMCRL Proceedings and First and Tenth Defendants to the VW Proceedings**

Yuichi Hirano, Associate General Manager (Legal), Mitsui O.S.K. Lines Ltd

Rudolf Luttmann, Strategy and Business Development, MOL (Europe Africa) Ltd

Akira Tsuda, Deputy General Manager (Car Carrier Division), Mitsui O.S.K. Lines, Ltd.

Hideki Utsunomiya, Partner, Mori Hamada & Matsumoto

### **Fourth Defendant to the MMCRL Proceedings and Seventh to Ninth Defendants to the VW Proceedings**

Fumiyoshi Sato, Kawasaki Kisen Kaisha, Ltd.

Satofumi Asahi, Kawasaki Kisen Kaisha, Ltd.

Kiyotaka Suzuki, Kawasaki Kisen Kaisha, Ltd.

### **Fifth Defendant to the MMCRL Proceedings and Rule 39 Defendant to the VW Proceedings**

Takaaki Hashimoto

Chie Kato

Satoru Katsube

Eriko Kawauchi

Kazuhiko Nakashima

Richard Beyer, NYK Group Europe Limited

**Sixth to Eleventh Defendants to the MMCRL Proceedings**

Kristin Schjødt Bitnes, Senior Vice President Legal & Compliance and General Counsel,  
Wallenius Wilhelmsen ASA

Daniel M. Conaton, Vice President, Senior Legal Counsel, Wallenius Wilhelmsen Ocean AS

Jan-Erik Mathiesen, Vice President Business Development and Contracting, Wallenius  
Wilhelmsen Ocean AS

Pilseon Kang, Vice President Legal & Compliance, EUKOR Car Carriers Inc.

**Twelfth Defendant to the MMCRL Proceedings**

Edmundo Eluchans, Legal Compliance Officer, Compañía Sud Americana de Vapores S.A.

Oscar Hasbún, Chief Executive Officer, Compañía Sud Americana de Vapores S.A.

**Claimants to the VW Proceedings**

Caroline Hemler

Philipp Dembowski

Markus Cichy

Tina Schmidt

Halyna Tsytskun

## PART C

### UNDERTAKING (TO BE PROVIDED BY INNER CONFIDENTIALITY RING MEMBERS)

In respect of any Inner Confidentiality Ring Information and/or Outer Confidentiality Ring Information disclosed to them pursuant to this Order, each Inner Confidentiality Ring Member undertakes that they will comply with the following requirements, to the extent applicable to them, in the terms below.

I, **[name]**, of **[company]** being **[legal or other qualification or position]** undertake to the Tribunal and each of the Parties as follows:

1. I have read and understand the Tribunal's Order of 30 May 2023.
2. I have read Rule 102 and am aware of and will comply with the obligations imposed by that Rule.
3. I will not disclose Inner Confidentiality Ring Information to any person who is not an Inner Confidentiality Ring Member, including by reading it out in open proceedings (except to the extent that I am aware of the same information from another document that does not constitute "Confidential Information" and that was not obtained in breach of this undertaking or of the Tribunal's Order).
4. I will not disclose Outer Confidentiality Ring Information to any person who is not an Outer Confidentiality Ring Member, including by reading it out in open proceedings (except to the extent that I am aware of the same information from another document that does not constitute "Confidential Information" and that was not obtained in breach of this undertaking or of the Tribunal's Order).
5. I will use the Confidential Information only for the purpose of these Proceedings and for the purpose of no other current or future proceedings or proposed proceedings, dispute, complaint, or other use whatsoever in any jurisdiction (except to the extent that I am aware of the same information from another document that does not constitute "Confidential Information" and that was not obtained in breach of this undertaking or of the Tribunal's Order).

6. I shall not provide any documents containing any Inner Confidentiality Ring Information to any person other than another Inner Confidentiality Ring Member and shall ensure that any such documents in my possession shall at all times be held in a manner appropriate to the circumstances for the purpose of preventing unauthorised access. For the avoidance of doubt, where documents are stored at a Party's chambers or solicitors offices there shall be no presumption that additional security measures are required to be put in place.
7. I shall not provide any documents containing any Outer Confidentiality Ring Information to any person other than another Outer Confidentiality Ring Member and shall ensure that any such documents in my possession shall at all times be held in a manner appropriate to the circumstances so as to prevent unauthorised access. For the avoidance of doubt, where documents are stored at a Party's chambers or solicitors offices there shall be no presumption that additional security measures are required to be put in place.
8. The production of further copies by me of documents containing Inner Confidentiality Ring Information shall be limited to those required for the use of the Inner Confidentiality Ring Members for the purposes of these Proceedings only and such copies shall be held in accordance with paragraph 6 of this undertaking.
9. The production of further copies by me of documents containing Outer Confidentiality Ring Information shall be limited to those required for the use of the Outer Confidentiality Ring Members for the purposes of these Proceedings only and such copies shall be held in accordance with paragraph 7 of this undertaking.
10. Subject to the exceptions in paragraph 8.2 of the Order, and to the extent permitted by law, any and all copies of Confidential Information which are within my control will be securely disposed of insofar as is technologically feasible or rendered inaccessible from any computer systems, disk or device, so that the Confidential Information is not available to any person at the conclusion of these proceedings or upon receiving a notice in accordance with paragraph 8.1 of the Order.

Signed:

Name:

Date:

## PART D

### UNDERTAKING (TO BE PROVIDED BY OUTER CONFIDENTIALITY RING MEMBERS)

In respect of any Outer Confidentiality Ring Information disclosed to them pursuant to this Order, each Outer Confidentiality Ring Member undertakes that they will comply with the following requirements, to the extent applicable to them, in the terms below.

I, [name], of [company] being [legal or other qualification or position] undertake to the Tribunal and each of the Parties as follows:

1. I have read and understand the Tribunal's Order of 30 May 2023.
2. I have read Rule 102 and am aware of and will comply with the obligations imposed by that Rule.
3. I will not disclose Outer Confidentiality Ring Information to any person who is not an Outer Confidentiality Ring Member, including by reading it out in open proceedings (except to the extent that I am aware of the same information from another document that does not constitute "Confidential Information" and that was not obtained in breach of this undertaking or of the Tribunal's Order).
4. I will use the Outer Confidentiality Ring Information only for the purpose of these Proceedings and for the purpose of no other current or future proceedings or proposed proceedings, dispute, complaint, or other use whatsoever in any jurisdiction (except to the extent that I am aware of the same information from another document that does not constitute "Confidential Information" and that was not obtained in breach of this undertaking or of the Tribunal's Order).
5. I shall not provide any documents containing any Outer Confidentiality Ring Information to any person other than another Outer Confidentiality Ring Member and shall ensure that any such documents in my possession shall at all times be held in a manner appropriate to the circumstances for the purpose of preventing unauthorised access. For the avoidance of doubt, where documents are stored at a Party's chambers or solicitors offices there shall be no presumption that additional security measures are required to be put in place.



6. The production of further copies by me of documents containing Outer Confidentiality Ring Information shall be limited to those required for the use of the Outer Confidentiality Ring Members for the purposes of these Proceedings only and such copies shall be held in accordance with paragraph 5 of this undertaking.
7. Subject to the exceptions in paragraph 8.2 of the Order, and to the extent permitted by law, any and all copies of Confidential Information which are within my control will be securely disposed of insofar as is technologically feasible or rendered inaccessible from any computer systems, disk or device, so that the Confidential Information is not available to any person at the conclusion of these proceedings or upon receiving a notice in accordance with paragraph 8.1 of the Order.

Signed:

Name:

Date: