



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1292/5/7/18 (T)

BETWEEN:

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

Claimants

- and -

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

Defendants

- and-

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

Third Parties

REASONED ORDER

UPON the Claimants' application of 30 August 2019 for permission to amend their claim form dated 15 December 2017

AND UPON the Defendants consenting to those amendments

AND UPON the Claimants providing their draft re-amended consolidated particulars of claim to the Defendants on 28 June 2019

AND UPON the Claimants giving the undertaking set out in Annex A to this order (the “**Undertaking**”)

AND UPON the Defendants consenting to those amendments subject to the Undertaking

AND UPON the Claimants’ application for permission further to amend their claim form to remove certain additional claimant entities, and the correspondence with the Tribunal and the Defendants dated 8, 25 and 29 November 2019 clarifying the identity of those entities

AND UPON the Defendants consenting to those further amendments

AND UPON reading the letters dated 4 December 2019 sent on behalf of the Defendants and on behalf of the Claimants

IT IS ORDERED THAT:

1. The Claimants have permission to amend their Claim Form as enclosed in Annex B.
2. The Claimants have permission to amend their Particulars of Claim in the form of the Re-Amended Consolidated Particulars of Claim as enclosed in Annex C save that in respect of the amendments relating to matters which fall beyond the scope of the settlement decision of the European Commission dated 19 July 2016 in Case AT.39824 - Trucks (the “**Disputed Amendments**”), permission is granted on the basis that the effect of the amendment is not, for limitation purposes, to give rise to a relation back of the Disputed Amendments to the date of the issue of these proceedings, unless the Claimants can show at trial that, for the purpose of section 35 Limitation Act 1980:
 - (a) the Disputed Amendments do not add or substitute a new claim or claims; or
 - (b) in respect of any Disputed Amendments which do add or substitute a new claim or claims, each new claim arises out of the same facts or substantially the same facts as the claim which is pleaded in the Particulars of Claim.
3. Costs in the case.

REASONS

It is not appropriate to award the Defendants the costs occasioned by these amendments in any event. The amendments all involved the removal of certain individual claimant entities or, in a few cases, the change in the name of a claimant. While it appears that in many cases these matters could have been ascertained prior to the issue of proceedings, none of these amendments will lead to any consequential amendment of the defences. Although the Defendants may have undertaken some work to verify the position by considering the relevant documents where claims previously vesting in a removed claimant entity are now said to vest in another claimant entity by reason of merger, or a claimant entity has changed its name since engaging in the transactions giving rise to the claim, that is work which the Defendants would at some stage have carried out in any event if at the outset the claimant entities in the claim form and statement of claim had been named as now amended. Accordingly, the appropriate order for costs is costs in the case, which mirrors the costs orders made on similar (although less extensive) amendments in the Veolia and Wolseley proceedings.

The Hon Mr Justice Roth
President of the Competition Appeal Tribunal

Made: 13 December 2019
Drawn: 13 December 2019

Annex A

The Claimants undertake that they will not assert that the effect of the amendment, permission for which is granted by paragraph 2 of the order to which this undertaking is annexed (the “**Order**”), is otherwise than as stated in paragraph 2 of the Order regarding the effect of relation back and/or assert for the purposes of relation back that it was not reasonably arguable that the Disputed Amendments were outside the applicable limitation period as at 30 August 2019 (such undertaking being without prejudice to the Claimants’ right to argue that any limitation defence is wrong).

Annex B

Annex C