IN THE COMPETITION APPEAL TRIBUNAL **Case no. 1339/7/7/20**

B E T W E E N : -

MARK MCLAREN CLASS REPRESENTATIVE LIMITED

Joint Applicant and Class Representative

-and-

(1) MOL (EUROPE AFRICA) LTD
(2) MITSUI O.S.K. LINES LIMITED
(3) NISSAN MOTOR CAR CARRIER CO. LTD

(5) NIPPON YUSEN KABUSHIKI KAISHA

Joint Applicants and Defendants

~~**(4) KAWASAKI KISEN KAISHA LTD**~~

~~**(6) WALLENIUS WILHELMSEN OCEAN AS**~~
~~**(7) EUKOR CAR CARRIERS INC**~~
~~**(8) WALLENIUS LOGISTICS AB**~~
~~**(9) WILHELMSEN SHIPS HOLDING MALTA LIMITED**~~
~~**(10) WALLENIUS LINES AB**~~
~~**(11) WALLENIUS WILHELMSEN ASA**~~

~~**(12) COMPANIA SUD AMERICANA DE VAPORES S.A.**~~

Defendants (stayed)

JOINT APPLICATION FOR A
COLLECTIVE SETTLEMENT APPROVAL ORDER

PROPOSED SETTLEMENT BETWEEN THE CLASS REPRESENTATIVE
AND THE FIRST TO THIRD AND FIFTH DEFENDANTS

For the Class Representative:

Signature: [redacted]

Name: Cian Mansfield

Position: Partner,
Scott+Scott UK LLP

Dated: 24 November 2025

For MOL:

Signature: [redacted]

Name: Jane Wessel

Position: Partner,
Arnold & Porter Kaye Scholer (UK) LLP

Dated: 25 November 2025

For NYKK:

Signature: [redacted]

Name: Angus Rodger

Position: Partner,
Steptoe International (UK) LLP

Dated: 25 November 2025

A INTRODUCTION AND SUMMARY

1. This is a joint application for a collective settlement approval order ("**CSAO**"), pursuant to rule 94 of the Competition Appeal Tribunal Rules 2015 No. 1648 (the "**Rules**") (the "**CSAO Application**"), which is made by the Class Representative ("**CR**") and the First to Third Defendants ("**MOL**") and Fifth Defendant ("**NYKK**") (together with MOL, the "**MN Defendants**"), regarding the proposed joint settlement among them.

2. For the reasons set out more fully below and in the evidence in support of this CSAO Application, both the CR and the MN Defendants believe that the terms of their proposed settlement, as set out in the settlement agreement dated 27 October 2025 (the "**Proposed Settlement**" and the "**Settlement Agreement**"), are just and reasonable, and they therefore respectfully invite the Tribunal to make a CSAO in the terms set out in the draft CSAO annexed to this CSAO Application at Annex 1.

3. This CSAO Application has been duly signed by the firms of solicitors acting, respectively, for the CR, for MOL and for NYKK.

4. The CSAO Application is supported by the following documents:

   (a) the sixth witness statement of Mr Mark McLaren ("**McLaren 6**"), the sole director and sole member of Mark McLaren Class Representative Limited, the CR, together with exhibits MM6.1 to MM6.2 (including, at MM6.1, a copy of the Settlement Agreement between the CR and the MN Defendants);

   (b) the first witness statement of Mr Douglas Campbell ("**Campbell 1**"), counsel at Scott+Scott UK LLP ("**SSUK**") with conduct of these proceedings for the CR, alongside Mr Mansfield, together with exhibit DCC1.1;

   (c) the privileged and confidential opinion of Ms Sarah Ford KC (the "**Ford Opinion**"), leading counsel for the CR throughout these proceedings since they were issued in February 2020, including at trial;

   (d) the fourth witness statement of Ms Jane Wessel ("**Wessel 4**"), the partner at Arnold & Porter Kaye Scholer LLP with conduct of the proceedings for MOL;

   (e) the privileged and confidential opinion of Mr Brendan McGurk KC and Mr Angus Rodger (the "**McGurk/Rodger Opinion**"), respectively leading counsel and solicitor advocate for NYKK in these proceedings, including at trial;

   (f) the draft CSAO;

   (g) two draft notices to publicise to the represented persons (**"RPs"**, being those class members remaining in the class after the deadline for opting out or opting in expired): (i) the filing of this CSAO Application and the hearing to be listed once this CSAO Application has been filed; and (ii) the making of the CSAO, if granted by the Tribunal pursuant to this CSAO Application; and

   (h) draft directions for the timetable to the hearing of this CSAO Application.

5. Nothing in this CSAO Application constitutes any waiver of privilege in the opinions referred to herein or otherwise.

6. The remainder of this application is structured as follows:

(a) **Section B** sets out salient elements of the factual background to this CSAO Application; and

(b) **Section C** addresses the terms of the proposed collective settlement by reference to the requirements of rule 94 of the Rules and related provisions of the Competition Appeal Tribunal Guide to Proceedings 2015 (the "**Guide**").

B FACTUAL BACKGROUND

7. This CSAO Application is made pursuant to section 47B of the Competition Act 1998 ("**CA98**") in the context of collective proceedings combining follow-on claims under section 47A CA98 for damages for alleged losses caused by the Defendants' breach of statutory duty in infringing Article 101(1) of the Treaty on the Functioning of the European Union and Article 53(1) of the Agreement on the European Economic Area. The Defendants' liability[1] was determined by the European Commission in an infringement decision adopted on 21 February 2018, in Case AT.40009 – *Maritime Car Carriers* (the "**Decision**"). The Decision was addressed to all of the Defendants and found that the cartel operated between 18 October 2006 and 6 September 2012, with MOL's participation having ended on 24 May 2012.

8. In its Re-Re-Re-Amended Claim Form, the CR alleged, and at trial the CR argued, that vehicle shipping costs were unlawfully inflated as a result of the Defendants' anticompetitive conduct, and that these inflated charges were passed on through the supply chain as part of the delivery charges which were ultimately paid by the first person to purchase or finance a vehicle.

9. On 20 February 2020, the CR filed its application for a collective proceedings order ("**CPO**"). In his expert report filed in support of the CR's CPO application, the CR's expert, Mr Tom Robinson formerly of BDO LLP, now at Ankura Consulting (Europe) Limited, originally estimated the overall quantum of the claims against all of the Defendants to the collective proceedings (including interest) at between £73.5 million and £147.1 million: Robinson 1 § 8.22; McLaren 6 § 15. (As set out at paragraph 24 below, Mr Robinson revised those estimates following disclosure.)

[1] To be precise, the Decision made findings of infringement of EU law. It did not make any findings that the Defendants were liable to RPs or any other persons.

10. On 27 April 2022, the Tribunal ruled that the proceedings were not brought on behalf of natural persons who had died, or companies which had become defunct, before the proceedings were issued.[2]

11. On 20 May 2022, the Tribunal certified the claims as eligible for inclusion in opt-out collective proceedings and made the CPO accordingly. Pursuant to §§ 5-6 of the CPO, the notice period for persons domiciled within the United Kingdom ("**UK**") wishing to opt out, and persons domiciled outside of the UK wishing to opt in, expired on 12 August 2022.

12. On 8 and 9 November 2022, the Court of Appeal heard an appeal by the First to Eleventh Defendants against the Tribunal's certification decision, and on 21 December 2022 it handed down judgment dismissing the appeal, subject to a matter of case management which was remitted to the Tribunal. On 17 July 2023, permission to appeal to the Supreme Court was refused.

13. In the meantime, on 9 December 2022, the MN Defendants filed their respective Defences. The MN Defendants admitted that they had participated in, and were liable[3] for, the infringement found by the Decision. They disputed, however, whether the RPs had suffered any recoverable loss or, if they had, the extent of any such loss.

14. On 6 December 2023, the Tribunal approved a bilateral collective settlement between the CR and the Twelfth Defendant, Compañía Sud Americana de Vapores S.A. ("**CSAV**") (the "**CSAV Settlement**"); and made the CSAO of 6 December 2023 under rule 94 of the Rules (the "**CSAV CSAO**").

15. Pursuant to the CSAV Settlement, the CR and CSAV agreed that CSAV would pay £1.5 million (including costs) in full and final settlement of the claims for damages against CSAV. This was on the basis, as agreed bilaterally between the CR and CSAV, that the claims against CSAV represented 1.7% of the overall value of the claims against all of the Defendants together.

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2 [2022] CAT 18.

3 To be precise, they admitted infringement. They did not admit that they owed liability to any RP.

16. On 6 December 2024, the Tribunal made a CSAO in respect of a bilateral collective settlement between the CR and the Sixth to Eleventh Defendants ("**WWL/EUKOR**") (the "**WWL Settlement**"), after the joint hearing of their CSAO application and the CSAO application made in relation to the "K" Line Settlement (defined at paragraph 18 below) on 5 December 2024 (the "**December 2024 Settlement Hearing**").

17. Pursuant to the WWL Settlement, the CR and WWL/EUKOR agreed that WWL/EUKOR would pay £24.5 million (including costs) in full and final settlement of the claims for damages against WWL/EUKOR. That settlement sum comprised: (i) £8.75 million which was guaranteed to be distributed to RPs or to an approved charity; (ii) £6.5 million for distribution to RPs if the guaranteed amount and any other sums were not sufficient to compensate all RPs who came forward during the distribution process (of which up to £3.25 million could be used to pay costs, fees and disbursements if not required to pay RPs); (iii) £8.75 million towards payment of costs, fees and disbursements; and (iv) £0.5 million towards distribution costs. This was on the basis, as agreed bilaterally between the CR and WWL/EUKOR, that the claims against WWL/EUKOR represented 33.3% of the overall value of the claims against all of the Defendants together.

18. Also on 6 December 2024, the Tribunal made a CSAO in respect of a bilateral collective settlement between the CR and the Fourth Defendant ("**"K" Line**") (the "**"K" Line Settlement**") after the December 2024 Settlement Hearing.

19. Pursuant to the "K" Line Settlement, the CR and "K" Line agreed that "K" Line would pay £12.75 million (including costs) in full and final settlement of the claims for damages against "K" Line. That settlement sum comprised: (i) £5.25 million which was guaranteed to be distributed to RPs or to an approved charity; (ii) £1.75 million for distribution to RPs if the guaranteed amount and any other sums were not sufficient to compensate all RPs who came forward during the distribution process (of which up to £1.75 million could be used to pay costs, fees and disbursements if not required to pay RPs); (iii) £5.25 million towards payment of costs, fees and disbursements; and (iv) £0.5 million towards distribution costs. This was on the basis, as agreed bilaterally between the CR and "K" Line, that the claims against "K" Line represented 17.3% of the overall value of the claims against all of the Defendants together.

20. Accordingly, the CR's position is that, following these previous settlements, 47.7% of the total losses to the Class remains subject to the claim. The MN Defendants have contested that figure, and the MN Defendants' position is that their share would be significantly lower than 47.7%. Prior to trial, the Tribunal panel which went on to hear the trial (the "**Trial Tribunal**") directed that the attribution of liability among all of the Defendants should be addressed after the judgment following the trial of the CR's claims against the MN Defendants (the "**Trial Judgment**") had been handed down. In this CSAO Application, the settling parties make comparisons between (A) amounts payable by the MN Defendants under the Proposed Settlement and (B) what the MN Defendants' share of liability would be if calculated on the alternative assumptions that (i) the CR is correct (and the MN Defendants' share is 47.7%) or (ii) the MN Defendants are correct (and their share is less than 47.7%). Without waiving privilege, it is MOL's position that the MN Defendants' share of liability, based on value of commerce data, is approximately 40%. NYKK's position as to the Defendants' shares of liability is fully reserved. This is the alternative share of liability figure used in this CSAO Application for the purposes of making the comparisons as just described.

21. From 13 January to 13 March 2025, that trial of these collective proceedings took place against the MN Defendants only. The key aspects of the dispute between the CR and the MN Defendants were, broadly: the level of overcharge; the extent, if any, of umbrella effects on prices across the wider market beyond the cartelised part of the market; the extent of upstream pass-on; the question of 'ongoing losses'; the extent to which RPs did not suffer loss by reason of, or they mitigated their losses by, downstream pass-on; and the correct approach to calculating interest. The Trial Judgment is pending, but the Trial Tribunal has been requested not to hand down the Trial Judgment pending the outcome of this CSAO Application.

C THE PROPOSED COLLECTIVE SETTLEMENT

22. The CR and the MN Defendants address below each of the matters specified under rule 94(4) as being required for inclusion in the CSAO Application.

(1) Details of claims to be settled by the proposed collective settlement: rule 94(4)(a)

23. As set out in **Section B** above and discussed more fully in Campbell 1, Section B, and Wessel 4 §§ 7-8 the claims to be settled by the proposed collective settlement between

the CR and the MN Defendants are for the damages attributable to the MN Defendants' share of the liability arising from the Decision which are the subject of the present collective proceedings. Since the CR has already achieved settlements with the other Defendant groups (as summarised above) the claims will be concluded if this Proposed Settlement is approved, leaving only matters concerning the distribution of the funds received and payment of costs, fees and disbursements.

24. After fuller analysis following disclosure, the CR's economic expert, Mr Robinson, assessed the overall quantum of the claims against all of the Defendants to the collective proceedings, resulting (under different methodological 'scenarios') in calculations ranging from £86.1 million to £215.8 million.[4]

25. NYKK considers that a more relevant comparison than those above would be to compare the CR's estimate of the value of damages in the proceedings with the Damages Sum under the Settlement Agreement. Such a comparison does not change NYKK's position that the proposed settlement is just and reasonable

26. As set out in more detail below, the CR seeks the Tribunal's approval to settle the CR's claim against the MN Defendants in these proceedings for a total settlement sum of £54 million (the "**Settlement Sum**"). This represents between 52.5% and 62.5% of the MN Defendants' share of the overall value of the claim[5], based on Mr Robinson's assessment of total damages and interest in 'scenario 1' (*i.e.*, £215.8 million), and

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4 The figure £86.1 million comes from Dr De Coninck's third expert report, dated 26 November 2024 and prepared in support of the WWL/EUKOR settlement. Dr De Coninck took the 'scenario 3' figure of £52.8 million from Mr Robinson's sixth expert report, of 26 July 2024, filed with the CR's Negative Position Statement and responding to the expert reports of the Defendants' experts ("**Robinson 6**"). Dr De Coninck then made deductions to allow for deceased persons and defunct companies; and added interest to arrive at the £86.1 million figure. The revised £215.8 million figure for 'scenario 1' comes from Robinson 5: see § 11.26 and Table 28. Mr Robinson's calculations included interest which had accrued up to around the date when Robinson 5 was filed in March 2024. Subsequently, during the joint expert process, Mr Robinson adjusted his approach to interest in respect of certain elements of the claim (to reflect the gradual repayment of overcharge during the financing period: see Wessel 4 § 33), which could have made the total claim value lower. However, the total claim value by the point at which damages would have been calculated post-trial would need to have been adjusted upwards to reflect the further interest which had accrued on the MN Defendants' share of the claim since March 2024. Consequently, the exact total claim value would have required further calculation after trial (including netting off the effects of the two factors just mentioned), which could have resulted in a total claim value which was, overall, either lower or higher. In the circumstances, the figure £215.8 million has been used for the purposes of the CSAO Application on the basis that it represents the most convenient proxy for the total claim value. These figures can be compared with Mr Robinson's lower initial estimates: see paragraph 9 above.

5 These percentages are estimates provided for convenience only. They are based on Mr Robunson's pre-trial estimates of damages and interest up to March 2024, whereas the Settlement Sum includes payments relating to damages, interest and *inter partes* costs.

depending on what share of liability is attributed to the MN Defendants (which is a disputed issue, as explained at paragraph 20 above): Campbell 1 §§ 40-41; Wessel 4 §§ 14, 36; and the McGurk/Rodger Opinion.[6] The total Settlement Sum of £54 million includes *inter partes* costs, whereas Mr Robinson's estimates do not. However, one can add the CR's *inter partes* costs of approximately £15.8 million (see Campbell 1 § 63) to Mr Robinson's 'scenario 1' estimate of £215.8 million for damages and interest. On that basis, the overall value of the claim plus *inter partes* costs is around £231.6 million (*i.e.*, £215.8 million + £15.8 million) ("**Damages Plus Costs**"). The Settlement Sum of £54 million represents between 48.9% and 58.3% of the MN Defendants' share of the total Damages Plus Costs figure (again depending on the disputed share of liability to be attributed to the MN Defendants).

(2) Terms of the proposed collective settlement: rule 94(4)(b)

27. The Settlement Agreement is exhibited to McLaren 6 at MM6.1 and its terms, and particularly the overall Settlement Sum, are discussed in Campbell 1 Sections C and D; and Wessel 4 §§ 40-45.

28. In summary:

(a) As set out in clause 2 of the Settlement Agreement, the CR and the MN Defendants agree that, in full and final settlement of the collective proceedings against the MN Defendants, and subject to the Tribunal making a CSAO, the MN Defendants shall pay the CR, within 28 days of the date of the Tribunal making the CSAO, a total of £54 million (of which 45% is payable by MOL; and 55% by NYKK, on a several basis).

(b) This Settlement Sum comprises the following:

(i) the "**Damages Sum**" of £32.5 million, which in turn comprises:

1. the "**Guaranteed Damages Sum**" of £20 million, which the CR will (subject to any order of the Tribunal) distribute in its entirety to the

[6] These figures are based on the CR's and MOL's respective positions as to the proportions of the total damages which should be attributed to the MN Defendants, namely 47% and 40% respectively: see paragraph 20 above. NYKK's position in that regard is reserved.

Class or by way of *cy-près* to a charity (or charities) approved by the Tribunal; and

2. the "**Additional Damages Sum**" of £12.5 million which shall be available: (1) for distribution in the event that the number of RPs who claim in the distribution means that the sum required to pay them all exceeds the level of the funds available (from the Guaranteed Damages Sum and prior settlements); or (2) for payment of the CR's costs, fees and disbursements;

(ii) the "**CFD Sum**" of £20 million, as a contribution towards costs, fees and disbursements in the Collective Proceedings, which include the costs of the litigation incurred to date, insurance premiums and success fees; and

(iii) the "**Distribution Costs Contribution**" of £1.5 million, as a contribution to the costs of distribution.

The amount of the settlement is discussed further in McLaren 6 §§ 41-44; Campbell 1 at Section C; Wessel 4 §§ 42-45; and at paragraphs 33 to 35 below.

(c) Clause 3.8 provides that the Settlement Sum shall be held in escrow until the Tribunal approves the payment out of any part of it.. This provision, and the level of interest which has accrued on the sums paid under the previous settlements in these proceedings, and which will accrue on the amount paid under the Proposed Settlement, if approved, is discussed further in McLaren 6 at Section F; and at paragraphs 46 to 49 below.

(d) Clause 4 makes provision for the parties to apply jointly to the Tribunal for a CSAO, as they now do by this CSAO Application.

(e) Subject to the Tribunal's approval, clauses 5, 6 and 7 make provision for a stay of the collective proceedings against the MN Defendants, release and waiver, and agreements not to sue. Clause 8 is a non-admission clause, and clause 9 makes provision as to the immediate effect of the agreement once concluded.

(f) Clauses 10 to 17 set out 'boilerplate' provisions.

(3) The applicants' belief that the terms are just and reasonable: rule 94(4)(c) (and rule 94(9))

29. For the reasons set out in the applicants' evidence in support of this application, and taking account of all relevant circumstances (including the matters set out in rule 94(9)(a)-(g), and discussed at Guide §§ 6.125 to 6.128), the CR and the MN Defendants believe that the terms of the Proposed Settlement are just and reasonable: see McLaren 6 at §§ 11-44; Campbell 1 at Section D generally (as explained at § 84); Wessel 4 §§ 46-53; the Ford Opinion; and the McGurk/Rodger Opinion. As to § 6.127 of the Guide in particular, the CR refers to paragraph 45 below.

30. In the CR's case, this belief is based on the matters set out in the supporting evidence, including the fact that, if the Proposed Settlement is approved, these collective proceedings will have secured over £92.75 million, including costs, which will lead to a very substantial payment being made to the Class and/or by way of *cy-près* to one or more charities. Taking account of the guaranteed damages elements of the "K" Line and WWL/EUKOR Settlements, the Class (and/or charity) is guaranteed to receive £34 million from these proceedings, including £20 million from this Proposed Settlement alone. Taking account of the deferred and additional elements of the "K" Line and WWL/EUKOR Settlements, there is also provision for the Class to receive up to a ***further*** £20.75 million from these proceedings, including £12.5 million from this Proposed Settlement alone.

31. In the MN Defendants' case, their belief that the terms are just and reasonable is based on the matters explained in the evidence of Wessel 4 §§ 46-53, which the Tribunal is invited to read.

32. The parties' beliefs are also supported by the Ford Opinion, in the case of the CR, and the McGurk/Rodger Opinion, in the case of NYKK. Each of the Ford Opinion and the McGurk/Rodger Opinion is of course privileged and confidential. Consequently, the CR has not seen, and is not entitled to see, the McGurk/Rodger Opinion; and the MN Defendants have not seen, and are not entitled to see, the Ford Opinion. Accordingly, no reference is made in this (jointly prepared) CSAO Application to the details of the Ford Opinion or the McGurk/Rodger Opinion. The Tribunal is respectfully invited to read both Opinions in advance of the hearing of the CSAO Application.

(a) The amount and terms of the settlement

33. The Guide § 6.98 (third indent) states that the evidence filed in support of the settling parties' belief that the terms of the settlement are just and reasonable may include a report from an independent expert (such as an economist) or an opinion by counsel as to the merits of the settlement.

34. As to the merits of the settlement as a whole, and as noted above, the CR relies on the Ford Opinion, MOL relies on Wessel 4, and NYKK relies on the McGurk/Rodger Opinion.

35. As to the amount of the Proposed Settlement (*i.e.*, the Settlement Sum of £54 million), the MN Defendants' share of the total liability estimated by Mr Robinson can be measured in different ways.

    (a) Based on Mr Robinson's revised higher estimate of the overall value of the claim (under 'scenario 1', *i.e.*, £215.8 million)[7], the MN Defendants' share of liability by value is between £86.3 million and £102.9 million, depending on whether the MN Defendants' share is 40% or 47.7%: see paragraph 20 above.[8] On this estimate, the Settlement Sum represents between 52.5% and 62.5% of the MN Defendants' share of the damages, on Mr Robinson's revised estimates: see Campbell 1 § 41.

    (b) Based on the revised lower estimate of the overall value of the claim (under 'scenario 3'), of £86.1 million, the MN Defendants' share of liability is between £34.44 million and £41.07 million. On this estimate, the Settlement Sum represents between 131.5% and 156.8% of the MN Defendants' share of the damages.

    (c) Based on his original higher estimate of the overall claim value (i.e., £147.1 million)[9], the MN Defendants' share of liability by value is between £58.84 million and £70.17 million; and the Settlement Sum represents between 77.0% and 91.8% of the MN Defendant's share of the damages: see Campbell 1 § 56.

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7 Robinson 5 § 11.26.

8 As noted in paragraph 20 above, NYKK's position as to Defendants' shares of liability is fully reserved.

9 Robinson 1 § 8.22.

36. The Settlement Sum of £54 million can also be measured against the MN Defendants' share of the total Damages Plus Costs figure (calculated at paragraph 26 above) and the other estimates of damages set out in sub-paragraphs 35(b) and (c) above, in each case plus the total *inter partes* costs figure.

(a) Based on Mr Robinson's revised higher estimate of the overall value of the claim (under 'scenario 1', i.e., £215.8 million) [10] plus the total *inter partes* costs figure (*i.e.*, approximately £15.8 million), the MN Defendants' share of liability by value is between £92.64 million and £110.47 million,[11] depending on whether the MN Defendants' share is 40% or 47.7%: see paragraph 20 above. On this estimate, the Settlement Sum represents between 48.9% and 58.3% of the MN Defendants' share of Damages Plus Costs: see Campbell 1 §§ 56 and 64.

(b) Based on the revised lower estimate of the overall value of the claim (under 'scenario 3') of £86.1 million plus the total *inter partes* costs figure (*i.e.*, approximately £15.8 million)[12], the MN Defendants' share of liability is between £40.76 million and £48.61 million.[13] On this estimate, the Settlement Sum represents between 111.1% and 132.5% of the MN Defendants' share of the damages plus *inter partes* costs.

(c) Based on his original higher estimate of the overall claim value (*i.e.*, £147.1 million) plus the total *inter partes* costs figure (*i.e.*, approximately £15.8 million), the MN Defendants' share of liability by value is between £65.16 million and £77.7 million.[14] On this estimate, the Settlement Sum represents between 69.5% and 82.8% of the MN Defendant's share of the damages plus *inter partes* costs: see Campbell 1 §§ 56 and 64.

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10 Robinson 5 § 11.26.

11 £215.8 million + £15.8 million = £231.6 million; £231.6 million * 40% = £92.65 million; £231.6 million * 47.7% = £110.47 million.

12 Robinson 1 § 8.22.

13 £86.1 million + £15.8 million = £101.9 million; £101.9 million * 40% = £40.76 million; £101.9 million * 47.7% = £48.61 million.

14 £147.1 million + £15.8 million = £162.9 million; £162.9 million * 40% = £65.16 million; £162.9 million * 47.7% = £77.70 million.

(b) The number or estimated number of persons likely to be entitled to a share of the settlement

37. The CR refers to its best estimate of the size of the class in the Re-Re-Re-Amended Claim Form § 50, i.e., that the class will certainly number in the millions. The CR considers that the number of persons entitled to a share of the settlement would also number in the millions (albeit that deceased persons and defunct companies are not included in the claim, as explained in paragraph [10] above): see Campbell 1 § 115.

(c) The likelihood of judgment being obtained in collective proceedings for an amount significantly in excess of the amount of the settlement

38. As stated in Campbell 1 (at §§ 32, 116), and, for MOL, Wessel 4 (at § 51), while it remains possible that, were the Trial Judgment to be handed down, the CR would obtain judgment in the collective proceedings for an amount in excess of the amount of the Proposed Settlement, it is not likely that any damages award following the Trial Judgment would be significantly in excess of the amount agreed in the Proposed Settlement and there are circumstances in which it could be lower. NYKK has addressed its position on the likelihood of judgment being obtained in collective proceedings for an amount significantly in excess of the amount of the settlement in the McGurk/Rodger Opinion, and not in this CSAO Application document.

(d) The likely duration and costs of the collective proceedings if they proceed to trial

39. Read strictly, this factor does not apply in this case, because there has already been a trial of the collective proceedings, with the Trial Judgment pending. However, it is relevant to note in the present context that, if the Proposed Settlement is not approved and the Trial Judgment is handed down, then these proceedings are likely to continue for some time, as explained below.

40. As noted above, the MN Defendants dispute the CR's allocation of liability amongst the Defendants. Accordingly, if the CR is successful at trial, there will be a further hearing to consider share of liability, which is likely to include expert evidence. The resolution of that dispute may take a further six months or more, and could cost in excess of a further £300,000 for the CR and a substantial amount for the MN Defendants: Campbell 1 at §§ 117-118; Wessel 4 §§ 39(b), 52.

41. There is also the potential for application(s) for permission to appeal, and the substantive appeal(s) if permission is granted, which would occasion further delay and significant further cost before the collective proceedings are finally determined.

42. The Proposed Settlement would avoid that delay and cost, and the attendant uncertainty which continuing the litigation would bring.

(e) Any opinion by an independent expert and any legal representative(s)

43. As explained at Campbell 1 §§ 119-121, this CSAO Application is supported by witness evidence from Mr Campbell for the CR and Ms Wessel for MOL, as legal representatives for the CR and MOL, respectively. It is also supported by the Ford Opinion and the McGurk/Rodger Opinion provided by leading counsel for the CR and leading counsel and solicitor-advocate for NYKK, respectively. Mr Campbell also explains the reasons why the CR did not consider it necessary or desirable to obtain an opinion from an independent expert in the circumstances of this Proposed Settlement, not least the inherent challenges which an independent expert would face in trying to assess how the trial went based a review of the written evidence and transcripts, as well as the significant costs that such an exercise would incur: see Campbell 1 §§ 121-122.

(f) The views of any represented person (or other appropriate category of person)

44. The CR and the MN Defendants will, if so advised, make submissions in advance of and at the hearing of the CSAO Application in respect of any views expressed by represented persons following the publication of this CSAO Application.

(g) Other matters

45. The Guide § 6.127 notes that the Tribunal will wish to be satisfied that the CR and its lawyers had sufficient information to assess the reasonableness of the settlement to represented persons. As set out in the supporting evidence and in this CSAO Application, the CR and its lawyers have carefully considered all of the information available to them in reaching the view that the Proposed Settlement is just and reasonable. In particular, the CR and the MN Defendants note that this Proposed Settlement was agreed at a much later stage in the proceedings than the previous settlements. The parties have had the benefit of seeing how each of the witnesses performed at trial, and of gauging the reactions of the Tribunal to the parties' respective submissions during the trial and, in

light of that background, they are well placed to assess the reasonableness of the settlement. As the trial has now taken place, there is no further evidence to be heard which could enhance the CR's ability to assess the reasonableness of the settlement (other than in respect of the MN Defendants' share of the liability, on which see paragraph 40 above). Without waiving privilege, this is also a matter which has been discussed with the CR. The CR has also informed, and sought the views of, its experienced and independent advisory committee, none of whom has raised any concerns. See McLaren 6 §§ 11-13, 62-64; Campbell 1 § 34.

(4) How any sums received are to be paid and distributed: rule 94(4)(d)

46. The CR's proposals in respect of the formulation and execution of a plan for the distribution of the sums received both in this Proposed Settlement, if approved, and in the previous settlements with CSAV, WWL/EUKOR and "K" Line are set out in McLaren 6 §§ 45-61; and Campbell 1 §§ 98-111.

47. In brief summary, having taken advice from Case Pilots (as Claims Administrator) and from Thorndon (as a survey specialist), the CR has confirmed its understanding that a distribution plan can only be prepared meaningfully and productively once the total sum available for distribution is known, which in practice means after the Tribunal has decided whether to approve this Proposed Settlement with the only Defendants who have not already settled with the CR.

48. In the interim, and in the period since the December 2024 Settlement Hearing, the trial in January to March 2025, and the filing of detailed post-trial submissions in late June 2025, the CR has sought to progress matters as far as possible by taking preparatory steps with Case Pilots, Thorndon and Questor Consulting (the CR's public relations adviser), and by preparing a detailed budget for its distribution plan.

49. In addition, following the Tribunal's indication on 15 October 2025 that it was minded to approve a payment of £325,000 for the CR to prepare its distribution plan, the CR promptly instructed Thorndon to undertake the first of its two surveys. Further, after the Tribunal's approval on 6 November 2025 of the CR's revised proposed budget for the distribution plan, the CR is now also in a position to progress the further steps necessary to prepare the application for the distribution plan. The CR understands that the first survey, including an indicative range of likely take-up rates, should be available in

advance of the hearing of this CSAO Application, assuming it is listed in the window which is currently (if tentatively) proposed (i.e., in the week commencing 8 December 2025).

50. Relatedly, RPs include approximately 52% business purchasers, some of whom (e.g., car dealerships and rental companies) may be expected to have purchased hundreds and in some cases thousands of vehicles during the relevant period, and who would therefore have substantially higher claims than individual purchasers. Those large business purchasers are therefore more likely to take up the opportunity to participate in the distribution: see Wessel 4 § 48.

(5) The draft CSAO: rule 94(4)(e) (and rule 94(10))

51. The draft CSAO is annexed to this CSAO Application at Annex 1.

(a) Deferring specification of a time and manner for opt-out / opt-in

52. For the reasons set out at McLaren 6 §§ 69-70, the draft CSAO does <u>not</u> specify a time and manner by which a represented person must opt out (for UK-domiciled persons) or opt in (for non-UK-domiciled persons): cf. rule 94(10) of the Rules (and Guide § 6.132). The CR does not believe it would be fair and reasonable to set a deadline by which represented persons must opt out or be bound by the CSAO at this stage, principally because if the Proposed Settlement is approved, the next step will be for the CR to prepare and execute its plan for the distribution of the sums available to represented persons, which is now being prepared in anticipation of that possibility and will include the calculation of the amount to be distributed to each represented person: see paragraphs 46 to 49 above. Pending confirmation of the amount which will be available for each represented person in the distribution, the represented persons cannot yet make a properly informed decision as to whether or not they should opt out, which decision may be based on their likely recovery. Instead, the CR proposes to set an opt-out deadline in due course after the distribution proposal is approved by the Tribunal.

(b) Other matters

53. The Settlement Agreement is exhibited to McLaren 6, and the CSAO includes the statements recommended at Guide § 6.133, save the statement at the third indent[15] (since that statement will only become appropriate once the represented persons have had an opportunity to decide whether to opt out in due course: see paragraph 52 above).

(6) Form and manner by which the class representative proposes to give notice to represented persons: rule 94(4)(f)(i) (and rules 94(11) and 94(13))

54. Mr McLaren's witness statement sets out details of the form and manner by which the CR proposes to give notice to represented persons: see McLaren 6, Section E.

55. In particular, Mr McLaren explains that once the CSAO Application is filed, a notice will be published on the claim website in a form approved by the Tribunal, the CR's social media pages will be updated, and an email update will be sent to all those who have registered their interest on the claim website or by other means, including RPs who have done so: see McLaren 6 § 66 and Campbell 1 § 113.

56. The CR proposes to undertake rigorous further noticing of RPs in due course if the Tribunal makes a CSAO approving the Proposed Settlement: see McLaren 6 § 67.

SARAH FORD KC

NICHOLAS GIBSON

SARAH O'KEEFFE

For the Class Representative

DAVID BAILEY

MICHAEL QUAYLE

NATALIE NGUYEN

For MOL

BRENDAN McGURK KC

ANGUS RODGER

For NYKK

[15] *I.e.*, *"a statement that any other action commenced in the Tribunal by a UK-domiciled class member who has not opted out of the collective settlement (or collective proceedings) or a non-UK-domiciled class member who has opted in to the collective settlement is dismissed."*

[[1] The paragraph in green below is sought by the MN Defendants. In accordance with its duties of full and frank disclosure in a CSAO application, the Class Representative shall address the potential implications for the Tribunal's supervisory jurisdiction of including a provision for the future automatic dismissal of the claims in circumstances where the future process, and potential further applications, or other procedural steps which may be required by the Tribunal, are at present unknown.]

IN THE COMPETITION APPEAL TRIBUNAL **Case no. 1339/7/7/20**

B E T W E E N : -

MARK MCLAREN CLASS REPRESENTATIVE LIMITED

Joint Applicant and Class Representative

-and-

(1) MOL (EUROPE AFRICA) LTD
(2) MITSUI O.S.K. LINES LIMITED
(3) NISSAN MOTOR CAR CARRIER CO. LTD
(5) NIPPON YUSEN KABUSHIKI KAISHA

Joint Applicants and Defendants

~~**(4) KAWASAKI KISEN KAISHA LTD**~~
~~**(6) WALLENIUS WILHELMSEN OCEAN AS**~~
~~**(7) EUKOR CAR CARRIERS INC**~~
~~**(8) WALLENIUS LOGISTICS AB**~~
~~**(9) WILHELMSEN SHIPS HOLDING MALTA LIMITED**~~
~~**(10) WALLENIUS LINES AB**~~
~~**(11) WALLENIUS WILHELMSEN ASA**~~
~~**(12) COMPANIA SUD AMERICANA DE VAPORES S.A.**~~

Defendants (stayed)

[DRAFT] COLLECTIVE SETTLEMENT APPROVAL ORDER

UPON the making of an order dated 20 May 2022, pursuant to section 47B of the Competition Act 1998 (the "**1998 Act**") and Rules 77 and 80 of the Competition Appeal Tribunal Rules 2015 ("**Tribunal Rules**"), that Mark McLaren Class Representative Limited (the "**Class Representative**") be authorised to act as class representative to continue collective proceedings on an opt-out basis (the "**CPO**")

AND UPON the CPO specifying a deadline of 12 August 2022 by when (i) persons satisfying the class definition who are domiciled within the UK on 20 May 2022 must notify an intention to opt out and (ii) persons satisfying the class definition who are domiciled outside the UK must notify an intention to opt in

AND UPON the Class Representative and the First to Third and Fifth Defendants (together, the "**MN Defendants**") reaching a settlement in principle on 18 September 2025

AND UPON the Class Representative and the MN Defendants having finalised the terms of their proposed settlement agreement on 27 October 2025 (the "**Proposed Collective Settlement**") as set out in the Annex to this order

AND UPON the Class Representative and MN Defendants making a joint application dated [DATE] November 2025, pursuant to Rule 94 of the Tribunal Rules, for a collective settlement approval order (the "**CSAO Application**")

AND UPON the Tribunal considering the joint CSAO Application, the terms of the Proposed Collective Settlement and the supporting evidence and written submissions for the Class Representative and the MN Defendants, and oral submissions from Counsel for the Class Representative and Counsel for the MN Defendants at an in-person hearing on [DATE].

AND UPON the lawyers representing the Class Representative undertaking to the Tribunal not to seek any proportion of their entitlement to payment of costs, fees and disbursements in the Collective Proceedings from the Guaranteed Damages Sum, as defined in paragraph 4 below (the "**Stakeholder Undertakings**")

AND UPON "**Represented Person**" having the meaning defined in clause 1.1 of the Proposed Collective Settlement

AND UPON the Tribunal being satisfied that in the light of the Stakeholder Undertakings the terms of the Proposed Collective Settlement are just and reasonable

IT IS ORDERED THAT:

Approval of the Proposed Collective Settlement

1. Pursuant to section 49A(5) of the 1998 Act, the Proposed Collective Settlement at Annex 1 of this Order (the "**Collective Settlement**") is approved.

The Damages Sum

2. Pursuant to the Collective Settlement, and within 28 days of this Order, the MN Defendants shall pay to the Class Representative £32,500,000 for damages in these collective proceedings (the "**Damages Sum**"), of which 45% is payable by the First to Third Defendants; and 55% by the Fifth Defendant, on a several (not a joint) basis.

3. The Damages Sum shall be held in escrow or otherwise retained by the Class Representative in its solicitors' client account subject to the further order(s) which the Tribunal shall make in due course as regards the distribution of the Damages Sum.

4. Of the Damages Sum, the Class Representative shall distribute the entirety of the "**Guaranteed Damages Sum**" of £20,000,000 to the Represented Persons and/or to one or more charities approved by the Tribunal.

5. In relation to the remaining £12,500,000 of the Damages Sum (the "**Additional Damages Sum**"):

    (a) if the Distribution Cost Contribution (as defined at paragraph 10(b) below), together with the other sums the Class Representative has obtained to pay the costs of preparing the plan to distribute and/or distributing the Damages Sum and any other sums to Represented Persons (the "**Distribution Process**") are not sufficient to meet the entirety of the Class Representative's costs of the Distribution Process, the Class Representative may use up to £500,000 from the Additional Damages Sum to pay for the costs of the Distribution Process; and

(b) if the CFD Sum (as defined at paragraph 10(a) below) and any other sums that the Class Representative obtains or has obtained to pay costs, fees and disbursements are not sufficient to meet the entirety of the Class Representative's costs, fees and disbursements (the difference being the "**CFD Shortfall Amount**"), the Class Representative may apply to the Tribunal for the Additional Damages Sum (or such lesser amount of the Additional Damages Sum as remains after the Distribution Process) to be paid towards the CFD Shortfall Amount.

Stay [and dismissal] of collective proceedings against the MN Defendants

6. These collective proceedings against the MN Defendants shall be stayed upon the terms of the Collective Settlement, except for the purpose of enforcing those terms.

7. [Following the conclusion of the Distribution Process and final determination of any and all related applications including subsequent application(s) for payment of costs, fees and/or disbursements from any undistributed sums, the Class Representative shall procure the dismissal of the Collective Proceedings against the MN Defendants.][1]

Opting out and opting in

8. The decision of the Tribunal as to the time and manner by when: (i) Represented Persons domiciled in the UK on a domicile date to be specified may opt out of the Collective Settlement; and (ii) Represented Persons not domiciled in the UK on that domicile date may opt into the Collective Settlement, shall be deferred until further order.

Notification

9. The Class Representative is to publicise this order using a notice approved by the Tribunal and in accordance with the proposal set out in the evidence in support of the CSAO Application.

Costs

10. Pursuant to the Collective Settlement, within 28 days of this Order, the MN Defendants shall pay the Class Representative (in the same proportions and on the same several basis as set out in paragraph 2 above):

(a) £20,000,000 in respect of the MN Defendants' share of the Class Representative's costs, fees and disbursements of or occasioned by these proceedings (excluding any costs awards already made and settled between the Class Representative and the MN Defendants and/or the other Defendants) (the "**CFD Sum**"); and

(b) £1,500,000 by way of contribution by the MN Defendants to the Class Representative's costs of distributing the Damages Sum (with any unused portion returned to the MN Defendants pro-rata and *pari passu* based on the level of contribution of the MN Defendants, the Fourth Defendant and the Sixth to Eleventh Defendants) (the "**Distribution Costs Contribution**").

General

11. There be liberty for each party to the Collective Settlement to apply to the Tribunal for purpose of enforcing the terms of the Collective Settlement without the need to bring a new claim.

12. There be liberty for the Class Representative and any Represented Person to apply in respect of paragraphs 3 and 8 of this Order.

<Name> Made: <Date>

[President/Chair] of the Competition Appeal Tribunal Drawn: <Date>

ANNEX

COLLECTIVE SETTLEMENT AGREEMENT

BETWEEN

MARK MCLAREN CLASS REPRESENTATIVE LIMITED

AND

MOL (EUROPE AFRICA) LTD.

MITSUI O.S.K. LINES LIMITED

NISSAN MOTOR CAR CARRIER CO. LTD

NIPPON YUSEN KABUSHIKI KAISHA

DATED

27 OCTOBER 2025