

Persons who purchased one or more new cars, SUVs, 4x4s or light or medium commercial vehicles between 18 October 2006 and 6 September 2015 could benefit from a proposed collective settlement.

THIS NOTICE

This is a legal notice published at the direction of the UK Competition Appeal Tribunal (the “**Tribunal**”) which granted a Collective Proceedings Order on 20 May 2022 (“**CPO**”) in favour of Mark McLaren Class Representative Limited (the “**Class Representative**”) to bring proceedings against the following companies, all of whom have been found by the European Commission to have infringed EU competition law in relation to deep sea carriage services for new motor vehicles (“**Car Carriers**”) on routes to/from countries in the European Economic Area (EEA) (the “**Claim**”). The relevant Car Carriers are:

- (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 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) Compañía Sud Americana de Vapores S.A.

(together, the “**Defendants**”).

This notice may be relevant to you if you are someone who falls within the class defined in the CPO, i.e.:

“All Persons (other than Excluded Persons) who during the period 18 October 2006 to 6 September 2015 either Purchased or Financed, in the United Kingdom, a New

Vehicle or a New Lease Vehicle, other than a New Vehicle or New Lease Vehicle produced by an Excluded Brand or, in the event such a Person has died on or after 20 February 2020, their Personal Representative.”

A copy of the CPO, with an explanation of all the capitalised terms in the class definition, can be viewed online at www.cardeliverycharges.com.

This notice relates to an in-principle settlement (the “**Proposed Settlement**”) agreed between the Class Representative and the Twelfth Defendant, Compañía Sud Americana de Vapores S.A. or “**CSAV**” (together, the “**Settling Parties**”). In accordance with Rule 94 of the Tribunal Rules 2015 (which can be viewed online at <https://www.catribunal.org.uk/rules-and-guidance>), the Settling Parties are seeking the Tribunal’s approval of the Proposed Settlement. The Tribunal will only approve the Proposed Settlement if it is satisfied that the terms of the Proposed Settlement are “*just and reasonable*”. Therefore, the Settling Parties have filed an application with the Tribunal dated 6 October 2023 (the “**Settlement Application**”), the primary purpose of which is to explain why the Proposed Settlement is “*just and reasonable*”. The Settlement Application will be considered by the Tribunal at a hearing on 6 December 2023, which is expected to last for at least one day and potentially two (the “**Settlement Hearing**”).

This notice is for your information so that you can consider whether you wish to apply to the Tribunal for permission to make submissions regarding the Settlement Application either in writing in advance of, or in person at, the Settlement Hearing.

A full copy of the Settlement Application can be viewed online at www.cardeliverycharges.com, along with other information about the claim. This notice gives important information about the Proposed Settlement.

THE PROPOSED SETTLEMENT

Importantly, the Proposed Settlement relates to CSAV only and does not settle the claim against the other eleven Defendants. The case against the other eleven Defendants will proceed in line with the directions of the Tribunal, with a trial due to be listed in early 2025. The Proposed Settlement is entered into without any admission of liability by CSAV.

It is noteworthy that CSAV is the smallest Defendants - it has a market share of only 1.5% (when considering the capacity of vessels) or 1.7% (when considering the number of vessels). On the basis of a market share of 1.7%, CSAV’s share of the total Claim value as it was provisionally quantified at filing would be £2,422,500.

With this in mind, the terms of the Proposed Settlement are as follows:

- (a) **Settlement value:** £1.5 million in total, comprised of:
 - (i) Damages of £1.12 million. This is the part of the settlement which is available in due course for distribution to the persons represented by the Class Representative (but also includes CSAV’s contribution to the ultimate costs of distributing the damages to persons represented by the Class Representative).

- (ii) Costs of £280,000. This is to cover CSAV's share of the costs incurred to date in bringing the Claim.
 - (iii) Costs of making the Settlement Application of £100,000. These costs are a contribution to the legal and other fees that have been and will be incurred in preparing the Settlement Application.
- (b) **Timing of payment:** CSAV is to pay the Settlement sum to the Class Representative within 28 days of the Tribunal making an order approving the Proposed Settlement.
- (c) **Escrow:** Following payment by CSAV to the Class Representative, it is proposed that the Class Representative will hold the damages sum in escrow until the Claim has concluded against all Defendants (either through further settlements or a judgment after trial). We believe that the size of the Proposed Settlement does not justify the costs of distributing these monies to Class Members now. We have based this proposal on the advice of Clare Dicksbury of Case Pilots, the claims administration firm appointed to assist the Class Representative, who has extensive experience of managing distribution processes. Following the conclusion of the case, the Class Representative will then distribute the total funds recovered (through settlement or judgment) using the distribution plan that will have to be approved by the Tribunal.
- (d) **Reverter:** the term 'Reverter' is used to refer to a mechanism whereby, in the event that there are any unclaimed damages after the process of distribution is complete, then, subject to the approval of the Tribunal, part of the unclaimed damages may be paid back to (i.e., 'revert' to) the Defendants. We have included a "first in, last out" 'Reverter'. This means that the damages paid by the **first** Defendant to settle into the pot of monies available for distribution are the **last** damages to be paid out to represented persons as part of the distribution process. In other words, the other Defendants' damages will be used to make payments to represented persons before the first settling Defendant's damages are used for that purpose. This increases the chances that the first settling Defendant will benefit under the 'Reverter' by receiving some or all of its damages back. This is intended to incentivise Defendants to settle and to settle before other Defendants do so. Although there is as yet no precedent, the Tribunal Rules explicitly refer to the possibility of reverters. In practice, this means that:
 - (i) Following distribution, and if there is money remaining because not all class members came forward, the Class Representative will then apply to the Tribunal for money to make any outstanding payment to the stakeholders (litigation funders and lawyers who have acted on a contingent basis) in accordance with its litigation funding arrangements.
 - (ii) To the extent that there is money remaining, the Class Representative will ask the Tribunal to remit those remaining funds to any settling Defendants, in the order in which they settled with the Class Representative. Accordingly, as the first Defendant to settle, CSAV would be entitled to remittal of up to 100% of the damages paid, if the Tribunal so ordered.

RIGHT TO BE HEARD AT THE SETTLEMENT HEARING

As set out above, the Tribunal has listed the Settlement Hearing to begin on 6 December 2023. This hearing will take place at the Competition Appeal Tribunal, Salisbury Square House, 8 Salisbury Square, London EC4Y 8AP (tel.: 020 7979 7979).

In accordance with Tribunal Rule 94(7), any Class Member may “*apply to make submissions either in writing or orally at the hearing of the application for a collective settlement approval order*”. The Tribunal has directed in its Order dated 29 September 2023 that any “*reasoned application for permission to make such submissions*” should be filed with the Tribunal by 30 October 2023.

The Tribunal has also directed in its Order dated 29 September 2023 that if permission is granted by the Tribunal, the written submissions or a skeleton argument in advance of oral submissions will need to be filed with the Tribunal and provided to the Class Representative and CSAV by 4pm on 20 November 2023.

Should any Class Member have questions about its right to be heard, it can contact the Class Representative by email or by post to either of the following addresses info@cardeliverycharges.com or Car Delivery Charges, PO Box 13260, BRAINTREE, CM7 0PL.