

Stichting Truck Claim

Annual Report 2020

Table of Contents

Directors' Statement.....	3
Annual accounts 2020.....	7
A. Balance Sheet.....	8
B. Statement of income and expenses.....	9
Notes to the Annual Accounts 2020.....	10
A. Notes to the balance sheet.....	11
B. Notes to statement of income and expenses.....	12

Directors' Statement

Mission

Stichting Truck Claim is a non-profit Dutch foundation with its registered seat in Rotterdam, the Netherlands.

Representation

The foundation represents the interests of professional users, being transport companies that have bought or leased one or more trucks or truck combinations in the period 1997-2011, and have paid too much for the purchase or lease of these trucks or truck combinations, and are not engaged in any civil proceedings against one or more truck manufacturers in connection with the cartel.

Objective and approach

The foundation was incorporated on 1 December 2016 to recoup the damages that have been incurred by trucking companies as a result of the truck cartel. The foundation intends to obtain redress for these affected companies from the truck manufacturers in two ways:

- **Settlement** - The objectives of the foundation are drafted in light of the primary goal of concluding a fair and reasonable solution for all involved parties by means of reaching a collective settlement.
- **Litigation** - If (one or multiple) truck manufacturer(s) would not be willing to pursue an out of court solution the Dutch legal system enables the foundation to litigate on the merits of the case in the Netherlands.

By virtue of its articles of association the foundation is allowed to collect claims of affected companies and subsequently file one or more lawsuits in order to obtain redress for these companies.

Governance

Management Board

The foundation is governed and represented by the management board. The management board is responsible for the strategy, financial policy and day-to-day business of the foundation. In 2020, the management board consisted of Mr Cornelis den Ouden. The foundation is currently looking for opportunities to further expand the management board.

Supervisory Board

The articles of the foundation allow the possibility to install a supervisory board to supervise the foundation's management board and the general course of affairs and business of the foundation. The foundation appointed Mr. Arie van der Steen on 3 March 2020 as supervisory board member.

Case Background

On 19 July 2016, the European Commission (EC) found that MAN, Volvo/Renault, Daimler, Iveco, and DAF breached EU Antitrust rules. On 27 September 2017 the EC issued a press release informing that it had also concluded that Scania participated in the cartel. Scania was fined as well.

The truck manufacturers were involved in prohibited collusion on truck pricing and on passing on the costs of compliance with stricter emission rules for a period of about 14 years. The five truck manufacturers (and subsidiaries) listed in the decision acknowledged their liability for the cartel and reached a settlement with the EC. Scania chose not to cooperate with the EC during the investigation, but was fined in a later stage. MAN escaped a fine since they applied for leniency and revealed the existence of the cartel.

The EC decision

The EC found that the anticompetitive behavior of the truck manufacturers was related to (at least):

- coordinating prices at "gross list" level for medium (6-16 tons) and heavy (>16 tons) trucks in the EEA;
- the timing for the introduction of emission technologies for medium and heavy trucks to comply with the increasingly strict European emissions standards (from Euro III through to the currently applicable Euro VI); and
- the passing on to customers of the costs for the emissions technologies required to comply with the increasingly strict European emissions standards (from Euro III through to the currently applicable Euro VI).

Scope and period

The infringement covered the entire European Economic Area (EEA), including the UK, and lasted about 14 years - roughly from 1997 until January 2011 - when the EC carried out unannounced inspections of the firms.

Affected companies

The truck cartel has affected a significant number of haulers operating in Europe, together with companies which have their own fleets. These are *inter alia* businesses which purchased medium and heavy duty trucks from MAN, Volvo/Renault, Daimler, Iveco and/or DAF between 17 January 1997 and 20 September 2010 (MAN) /18 January 2011 (others). It is clear from

a EC press release of 17 September 2017 that Scania also participated in the cartel.

By virtue of its articles of association, the foundation represents the interests of all these affected companies.

Participants and Partners

Participants

Since its incorporation, the foundation has built a portfolio of affected companies in multiple European jurisdictions, thereby focusing on SME companies. This multi-jurisdiction approach allows the foundation to bundle damage claims and data relating to the same infringement.

The terms and conditions of the participation are laid down in a Participation Agreement.

Partners

The foundation has concluded partnerships with organizations from local jurisdictions to help the foundation with (the collection of) claims in the start-up phase. Partners of the foundation provide multiple services, such as:

- rendering general advice and expertise to the foundation with respect to relevant aspects of law within the partner's jurisdiction;
- operating as a local contact for local victims, other relevant interest groups and the media;
- securing active support of victims that become a participant in the foundation; and
- promoting of the Foundation and its efforts within the certain jurisdiction.

Actions of the foundation during the year 2020

The year 2020 has been the fourth financial year since the incorporation of the foundation on 1 December 2016.

Legal Proceedings in the Netherlands

On 18 December 2019, the foundation submitted the writ of summons with the Amsterdam District Court. With this step, the foundation initiated legal proceedings for its participants.

Alongside the participants' proceedings, there are various other legal proceedings ongoing in the Netherlands. The Amsterdam District Court tries to coordinate these cases as much as possible. Legal proceedings that have been filed within a certain period are clustered in "Batches" so that these legal proceedings can be addressed in an efficient manner.

The participants' proceedings are part of the so-called "Second Batch".

Organizational Hearing "Second Batch"

An organizational hearing for the "Second Batch" took place on 12 March 2020. During the hearing, all parties discussed the further course of the proceedings and made some practical arrangements (i.e. filing of documents and exhibits, terms for submissions, etc.).

Hearing "First Batch"

The Truck Manufacturers submitted their written defences for the "First Batch" on 1 July 2020. The Amsterdam District Court ordered a (digital) hearing on certain legal topics in the "First Batch". This hearing took place on 24-26 November 2020.¹

Next steps

The Defendants need to submit their written submissions in the "Second Batch" in Q3 2021. The Amsterdam District Court ordered a similar hearing as in the "First Batch", which will take place in Q3 2022.

Financials

The foundation follows a strict "*no-cure-no-pay*" arrangement with its participants. Participants can join the foundation completely free of charge. All costs (including legal costs) will be borne by the foundation, for which it has obtained external funding from Vannin Capital – a professional litigation funder from the UK.

In return, the foundation deducts a certain percentage of the settlement amount (if aggrieved companies settle their claim) or from the compensation amount that has been obtained in court (in case of successful litigation on the merits). This is 20% of the compensation amount after successfully litigating individual claims and 15% of the settlement amount after a voluntarily settlement.

The foundation has corresponded with the tax authorities regarding its tax obligations. It obtained a preliminary ruling from the tax authorities that it is able to deduct VAT.

Meetings

The management board, supervisory board, legal counsel and funders of the foundation regularly consulted each other via email, phone and have held (digital) meetings. The conversations and messages focused on the foundation's (legal and operational) strategy, the governance, the financial affairs of the foundation, and the general course of affairs around the truck cartel case.

¹ On 12 May 2021, the Amsterdam District Court rendered an interim judgment (see ECLI:NL:RBAMS:2021:2391).

Information and communication

Website and registration platform

The foundation has developed an international platform where participants can simply register and upload the necessary data.

The claim platform is assessable for participants through the website of the Foundation: www.truckclaim.org. The claim platform provides a structured and safe way to information that is needed to fully register with the foundation. The participants on their end will be able to monitor the registration process from their personal account.

News letters

The webpage is particularly focused on the international market and allows an easy registration for trucking companies.

During 2020, the foundation sent regular newsletters to its participants. These newsletters provide the participants with a general update on the courses of action of the foundation, particularly regarding the ongoing legal proceedings against the Truck Manufacturers for its participants before the Amsterdam Court in the Netherlands.

Annual Accounts 2020

A. Balance Sheet

	<u>31.12.2020</u>	<u>31.12.2019</u>
<u>FIXED ASSETS</u>		
Intangible fixed assets	--	--
Tangible fixed assets	--	--
<u>CURRENT ASSETS</u>		
Inventories	--	--
Receivables	€ 68,087	€ 242,011
Cash and bank balances	€ 83,844	€ 83,678
<u>CURRENT LIABILITIES</u>		
Creditors	€ 50,206	€ 153,822
Accrued liabilities	€ 15,799	€ 50,737
Current assets minus current liabilities	€ 85,926	€ 121,130
Assets minus current liabilities	€ 85,926	€ 121,130
<u>EQUITY</u>	€ 85,926	€ 121,130

B. Statement of Income and Expenses

	<u>2020</u>		<u>2019</u>	
<u>INCOME</u>				
Third Party Funding	€	0	€	0
Total	€	0	€	0
<u>EXPENSES</u>				
Legal & Notary	€	178,951		301,868
Management/Remuneration Fees	€	12,744	€	12,013
Other	€	94,343	€	141,054
Total	€	286,038	€	454,935
Operating Income	€	(286,038)	€	(454,935)
Non-operating Income	€	0	€	0
Net result	€	(286,038)	€	(454,935)

Notes to the Annual Accounts 2020

A. Notes to the Balance Sheet

BALANCE SHEET VALUATION POLICIES

General

Stichting Truck Claim is a Dutch non-profit foundation and represents the interests of European Trucking Companies that suffered damage as a result of the Truck Cartel.

Valuation of assets and liabilities and determination of the result take place under the historical cost convention.

Unless mentioned otherwise at the relevant principle for the specific balance sheet item, assets and liabilities are presented at face value.

Receivables

Upon initial recognition the receivables are recorded at the fair value and subsequently valued at the amortized cost. The fair value and amortized cost equal the face value. Provisions deemed necessary for doubtful accounts are deducted. These provisions are determined by individual assessment of the receivables.

Cash and cash equivalents

Cash and cash equivalents are valued at nominal value and, insofar as not stated otherwise, are at the free disposal of the company.

Current liabilities

Current liabilities concern debts with a term of less than one year. Upon initial recognition the current liabilities are recorded at the fair value and subsequently valued at the amortized cost.

Equity

The equity is the actual funding up to 31 December 2020 minus the expenses made up to and including 31 December 2020. Additional funding is guaranteed by the additional funding acquired in April 2019.

B. Notes to the Statement of Income and Expenses

PRINCIPLES FOR THE DETERMINATION OF INCOME AND EXPENSES

General

The foundation is founded 1 December 2016 and this fourth financial year comprises of twelve months up to 31 December 2020.

Income

Net income represents amounts invoiced for services rendered during the financial year reported on, net of discounts and value added taxes.

Expenses

Expenses are attributed to the financial year to which they relate.

Willemstad, 12 October 2021,

Management Board

Supervisory Board

w.g.

w.g.

Cornelis den Ouden

Arie van der Steen