

Stichting Truck Claim

Annual Report 2023

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Report of the Supervisory Board

Performance

During the financial year 2023, the supervisory board monitored the foundation's governance, financial policy, (legal and operational) strategy, and general affairs. The supervisory board has provided its findings to the management board and to the legal advisors of the foundation.

Composition and compliance

During the financial year 2023, the supervisory board of the foundation consisted of Mr Arie van der Steen. Given the scope and workload of its activities, the supervisory board currently has no need for additional members. The foundation will have its articles of association amended so that the supervisory board in its capacity consists of at least one member, with the option of appointing additional members if necessary.

Meetings

The supervisory board, the management board and the legal advisors of the foundation had various meetings and consulted each other via (conference) calls and email on multiple occasions during 2023. The meetings, conversations and messages focused on the general course of affairs, the foundation's financial position, operational strategy, organisational changes and the findings as mentioned in this annual report.

The supervisory board recognises the achievements of the foundation's management and legal advisors in 2023 and hereby expresses its appreciation to them.

Willemstad, 22 november 2024

w.g.

Aire van der Steen

Directors' Statement

Mission

Stichting Truck Claim (the 'foundation') 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 litigation 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 and Supervisory 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 2023, the management board consisted of Mr. Cornelis den Ouden. Given the scope and workload of its activities, the management board currently has no need for additional members. The foundation will have its articles of association amended so that the management board in its capacity consists of at least one member, with the option of appointing additional members if necessary.

The foundation's supervisory board advises and supervises the foundation's management board and the general course of affairs and business of the foundation. This includes, but is not limited to the supervision of the foundation's strategy, the foundation's financial affairs and the realization of the foundation's objectives. supervisory board members perform their duties independently.

In 2023, the supervisory board consisted of Mr. Arie van der Steen.

Case Background

On 19 July 2016, the European Commission (EC) found that MAN, Volvo/Renault, Daimler, Iveco, and DAF breached EU Antitrust rules. The five truck manufacturers (and subsidiaries) listed in the decision acknowledged their liability for the cartel and reached a settlement with the EC. MAN escaped a fine since they applied for leniency and revealed the existence of the cartel.

Scania chose not to cooperate with the EC during the investigation. On 27 September 2017, the European Commission adopted a decision holding Scania liable as well. Scania appealed to the General Court later the same year. On 2 February 2022, the General Court rendered a judgment that confirmed the EU Commission's findings against Scania, dismissed Scania's appeal entirely and upheld the amount of fines as set by the EU Commission. Scania appealed this decision as well. In its judgment of 1 February 2024, the European Court of Justice dismissed Scania's appeal in its entirety and upheld the Commission's fine of EUR 880.5 million for Scania's participation in the Truck 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, DAF and/or Scania between 17 January 1997 and 20 September 2010 (MAN) /18 January 2011 (others).

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 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 2023

The year 2023 has been the seventh financial year since the incorporation of the foundation on 1 December 2016.

Background Legal Proceedings in the Netherlands

On 18 December 2019, the foundation submitted a writ of summons with the Amsterdam Court on behalf of its participants.

Apart from the foundation's proceedings, there are several other cases ongoing in the Netherlands. The Amsterdam 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 foundation's proceedings for the participants are part of the "Second Batch".

Developments "Second Batch" during 2023

In the Second Batch, there are various developments to report:

- A court hearing took place on 7 June 2023. During the hearing, the court indicated that it considered asking so-called prejudicial questions to the Supreme Court about how the applicable law to the various claims of the claimants in the Second Batch should be determined.
- On 8 November 2023, the court referred the case to the Supreme Court. Together with the other claimants in the Second Batch, the foundation has filed various written submissions regarding its views on how the Supreme Court should answer these questions.
- In the meantime, the court has indicated that it will continue with the Second Batch proceedings while awaiting the judgment of the Supreme Court.

After the balance date, the following developments have occurred in the court proceedings:

- On 5 April 2024, the foundation received a favourable opinion of the Advocate-General in response to the preliminary questions that the court submitted to the Supreme Court about the interpretation of the applicable law to the claims. In brief, the Advocate-General shares our position that the claims of the affected companies must be assessed under Dutch law. Following the Advocate-General's opinion, the Supreme Court is expected to issue a ruling, likely within the timeframe of Q4 2024 / Q1 2025.
- On 24 July 2024, the court issued a judgment concluding that the calculation of damages/compensation should take place within the existing legal procedures, thereby eliminating the necessity for conducting separate proceedings for damage assessment.
- In order to advance the assessment of damages, the court has provided the foundation and other claimants the chance to submit further data/documents. The deadline for these submissions is 18 December 2024.

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.

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 2023, the foundation sent 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 2023

A. Balance Sheet

	<u>31.12.2023</u>	<u>31.12.2022</u>
<u>FIXED ASSETS</u>		
Intangible fixed assets	--	--
Tangible fixed assets	--	--
<u>CURRENT ASSETS</u>		
Inventories	--	--
Receivables	€ 96,584	€ 219,714
Cash and bank balances	€ 65,348	€ 58,384
<u>CURRENT LIABILITIES</u>		
Creditors	€ 74,443	€ 187,377
Accrued liabilities	€ 5,890	€ 13,654
Current assets minus current liabilities	€ 81,599	€ 77,067
Assets minus current liabilities	€ 81,599	€ 77,067
<u>EQUITY</u>	€ 81,599	€ 77,067

B. Statement of Income and Expenses

	<u>2023</u>		<u>2022</u>	
<u>INCOME</u>				
Third Party Funding	€	0	€	0
Total	€	0	€	0
<u>EXPENSES</u>				
Legal & Notary	€	140,745	€	187,596
Management/Remuneration Fees	€	12,605	€	13,633
Other	€	35,770	€	66,428
Total	€	189,120	€	267,657
Operating Income	€	(189,120)	€	(267,657)
Non-operating Income	€	0	€	0
Net result	€	(189,120)	€	(267,657)

Notes to the Annual Accounts 2023

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 2023 minus the expenses made up to and including 31 December 2023. Additional funding is guaranteed by the funding acquired in April 2019.

	2023	2022
Equity start of the year	€ 77,067	€ 85,401
Funding received	€ 193,652	€ 259,323
Result for the year	<u>€ (189,120)</u>	<u>€ (267,657)</u>
Equity end of the year	€ 81,599	€ 77,067

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 seventh financial year comprises of twelve months up to 31 December 2023.

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, 22 November 2024,

Management Board

Supervisory Board

w.g.

w.g.

Cornelis den Ouden

Arie van der Steen