



Panel dissolves Japanese-German car alliance

Lacey Yong • Wednesday, 2 September 2015 (4 days ago)

An ICC tribunal has ordered German car maker Volkswagen to sell its multibillion-dollar stake in Suzuki Motor Corporation, freeing the Japanese company from a troubled alliance that led to a four-year arbitration.



Suzuki and Volkswagen agreed on the partnership in 2009 (Credit: XiXinXing/Thinkstock)

In an award received on 29 August, a tribunal seated in London and chaired by New Zealand's **David AR Williams QC** ordered Volkswagen to sell the shares to Suzuki or to a third party designated by the Japanese company. The 20 per cent stake is reportedly worth around US\$3.8 billion.

The tribunal, which included Hong Kong based arbitrator **Michael J Moser** and **Klaus Sachs** of Germany, also partly upheld claims by Volkswagen that Suzuki had breached their partnership agreement, but postponed a ruling on damages.

Volkswagen is represented by a team from Wilmer Cutler Pickering Hale and Dorr, led by partners **Gary Born** and **John Pierce** in London.

While Suzuki's counsel has not been officially confirmed, *GAR* understands that the Japanese company is using Hogan Lovells in London. Suzuki originally instructed Debevoise & Plimpton for the case in 2011 but replaced the firm two years later. Nagashima Ohno & Tsunematsu in Tokyo provided co-counsel.

Hogan Lovells and Debevoise declined to comment on their involvement.

The dispute arose from a 2009 deal in which Volkswagen and Suzuki agreed to co-manufacture eco-friendly cars in a bid to increase their presence in the emerging automotive market in Asia.

Under their partnership agreement, Volkswagen purchased a 19.9 per cent stake in Suzuki for US\$1.9 billion, giving it access to the Indian market where Suzuki is currently the leading automaker. In exchange, Volkswagen promised to share its fuel-efficient technology with Suzuki.

But the partnership soon ran into trouble. Suzuki alleged that Volkswagen was withholding its technology, while the German company accused its partner of breaching the deal by buying diesel engines from Italy's Fiat. Suzuki issued a

notice of termination of their framework agreement in November 2011, and filed a request for ICC arbitration later that month.

According to disclosures by both sides on the weekend, the tribunal found that Suzuki had validly terminated the agreement in 2011 by giving reasonable notice; and ordered Volkswagen to divest the shares to Suzuki or a third party designated by Suzuki, using a method “reasonably determined” by Suzuki.

But Volkswagen says the tribunal rejected Suzuki’s arguments that the German company had breached its contractual obligations, and partly upheld its claims against Suzuki. The German company says Suzuki breached the agreement by breaking off a “cooperation project” at the end of 2010 and by failing to give Volkswagen last-call rights for the delivery of diesel engines. It says the tribunal confirmed its right to claim for damages against Suzuki, which have yet to be assessed.

The *Financial Times* reported at the weekend that Osamu Suzuki, the 85-year old chairman of Suzuki, says the company intends to purchase Volkswagen’s shares at a “reasonable price.” The paper says the stake is now worth US\$3.8 billion.

The chairman also expressed relief that the dispute over the shares had now been resolved. “It used to feel like a small bone was stuck in the back of my throat. It is so refreshing now,” he said.

Volkswagen said in its own release, “We welcome the fact that there is now clarity.”

In June, Osamu Suzuki announced that his eldest son would take over his role as president and chief operating officer of the company. He indicated that he would remain as CEO and chairman.

Suzuki Motor Corporation v Volkswagen Aktiengesellschaft

Tribunal

- **David AR Williams QC** (New Zealand) (chair)
- **Michael J Moser** (Austria) (appointed by Suzuki)
- **Klaus Sachs** (Germany) (appointed by Volkswagen)

Counsel to Suzuki

- Hogan Lovells in London (from 2013)
- Debevoise & Plimpton (until 2013)

Partners **Lord Goldsmith QC**, **Sophie Lamb** and **Karolos Seeger** in London

- Nagashima Ohno & Tsunematsu

Minoru Ota, **Hisaya Kimura** and **Hiroyuki Ishizuka** in Tokyo

Counsel to Volkswagen

- Wilmer Cutler Pickering Hale and Dorr

Partners **Gary Born** and **John Pierce** in London*

* **Wendy Miles** is also thought to have worked on the case before her move to Boies Schiller & Flexner in

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