

20. November 2007

Re: OECD Guidelines for Multinational Enterprises
Germanwatch e.V.'s complaint against Volkswagen AG on suspicion of violation of the OECD
Guidelines for Multinational Enterprises
Your letter of 7 May 2007 / Our acknowledgement of receipt of 7 May 2007

Dear Mr. Milke,

Thank you for your letter of May 7, 2007, in which you submitted to the National Contact Point a request for a complaint against Volkswagen AG for possible violations of Chapter II, III, V and VII of the OECD Guidelines for Multinational Enterprises.

According to your statement, in many cases Volkswagen AG has failed to implement or has insufficiently implemented the OECD Guidelines. Applying our proven preliminary testing procedure we have carefully examined whether the questions raised merit closer consideration within the OECD Guidelines' conflict resolution proceedings. After thorough examination – together with statements from the Volkswagen AG and other national ministries – we herewith inform you that we shall not accept your request as a complaint.

The German government is very committed to the protection and improvement of our climate and makes great efforts to assume a leading position internationally in regard to climate protection. Let me therefore assure you that we are equally interested in climate protection.

The OECD Guidelines for Multinational Enterprises are, as a component of the OECD Declaration and Decisions on International Investment and Multinational Enterprises, *suggestions* for enterprises which invest in foreign countries. The OECD Guidelines mirror the common moral values of the governments of its 30 member states and the 10 non-member states. Their goal is to support the positive contribution multinational enterprises can make to economic, social and ecological progress, particularly in developing countries and in emerging markets.

The OECD guidelines are neither a substitute for national laws and regulations nor should they be understood as overriding them. They consist of supplementary principles and behavioral codes and thus support responsible business practice, particularly in foreign markets. Though the guidelines, the highest standard possible should be attained also in those countries in which national laws and regulations are perhaps insufficient. The OECD Guidelines are purposely broadly formulated since they are cross-sectoral *guidelines*. The interpretation of these guidelines, and thus the definition of 'responsible business practice' must therefore take place with an eye to generally accepted and established norms and standards; in this case for the automobile industry.

The cases you have brought to our attention are therefore not violations of the OECD Guidelines. In the following, we would like to elucidate the reasons with the aid of some examples:

- For example, you claim that the environmental management system implemented by Volkswagen AG is a violation of the OECD Guidelines because, in your opinion, no life cycle assessment was undertaken.

In our view, the following applies to this: commentary 30 on the OECD Guidelines for Multinational Enterprises mentions the ISO Standard on Environmental Management Systems. This must refer to ISO 14001, currently internationally the most-used standard for environmental management systems. The references made by the OECD Guidelines to the establishment of environmental management systems are formulated to reflect the ISO 14001 requirements for environmental management systems. ISO 14001 explicitly does not require that a life cycle assessment be implemented. Thus it is not possible to extrapolate a violation of the OECD Guidelines in this case. Since the OECD Guidelines do not explicitly call for Volkswagen AG to undertake life cycle assessments, failure to do so cannot be interpreted as a violation of OECD Guidelines' obligations regarding the disclosure of information.

- You further censure a possible violation of Chapter II.11 of the OECD Guidelines. You understand Volkswagen AG's "lobbying activities" on the issues of climate protection policies and legislation as improper involvement in the political activities of foreign countries.

We do not share your interpretation of the term "improper involvement" in Chapter II.11. One could call involvement 'improper' as meant by the guidelines when dishonest means or criminally liable behavior (e.g. corruption, libel) are involved. Enterprises openly involved in politics by engaging in ordinary lobbying activities do not violate the OECD Guidelines.

- You further criticize Volkswagen AG's development and provision of high fuel consumption automobiles which, in the meaning of Chapter V.6, have an undue environmental impact and inefficient energy consumption.

As long as the models you have cited are identical in construction to models sold in Germany, – as explained above – no violation of the OECD Guidelines can be derived.

- On the question of the sizeable variation in fuel consumption which you described for models of almost identical construction, we asked Volkswagen AG for supplementary information. According to Volkswagen AG's statement, the data you have used is possibly insufficiently researched or misquoted. You state that some of the automobiles produced in, for example, Brazil consume much more fuel than a comparable model produced in Germany; i.e. Fox 1.0 8V with a consumption of 15.5 liters of regular-grade gasoline in Brazil as compared to the Fox 1.4 16V with a consumption of 6.7 liters of super in Germany. This is incorrect in relation to the absolute fuel consumption and also fails to take into consideration the fact that there is a major difference in the composition of fuel in Germany and in Brazil. The fuels sold for automobiles in Brazil, E22 (78% gasoline, 22% ethyl alcohol) and E100 (93% ethanol and 7% water) cannot be compared directly to German fuels, since the fuel value of the Brazilian fuel is much lower. Taking this into account for the above example, the Fox 1.0 8V in Brazil consumes only 6.6 liters (E22 fuel).

Sincerely yours,

Braun

cc: Volkswagen AG