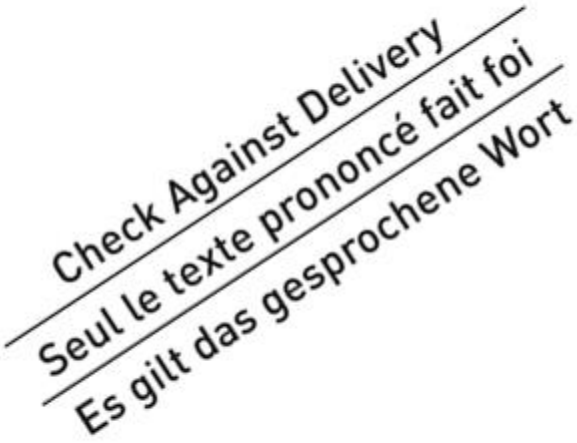
EUROPEAN COMMISSION

Alexander Italianer
Director-General for Competition, European Commission

European competition policy and Japan



KEIDANREN (Japan Business Federation)
Tokyo, 22 November 2013

Competition

Ladies and gentlemen,

I am honoured to speak here at Keidanren today. It is important for us not just to speak to government officials, politicians and competition authorities, but also to the Japanese business world. Talking to you helps us understand and improve business relationships between the EU and Japan.

Our meeting takes place to the background of the summit between the EU and Japan held in Tokyo on November 19. With the start of negotiations on a Free Trade Agreement, this twenty-first summit meeting presents a significant step forward in Japanese - European relations.

Today I would like to discuss several topics in the field of competition that may be of interest to you. First, I would like to look at the Free Trade Agreement. But I don't only want to talk about our trade relationship. I also want to discuss our relationship with the Japan Fair Trade Commission (JFTC), and several cases we have worked on together. I will explain our fining policy, and leniency and compliance programmes, and briefly touch upon one or two slightly sensitive topics. I will then explain our approach to mergers. I will end my talk by looking at some interesting new developments in competition law.

But first, let me go back in time, to the beginning of Japanese-European relationships.

The relationship between the Japanese and one of the first European traders to reach them, the Dutch, began with *Love*.
Let me explain.

In April of the year 1600, a Dutch ship ran aground on the Japanese coast. The name of the vessel was *De Liefde*, which, translated, means 'love'. On their two-year journey the sailors suffered starvation, diseases, extreme heat and cold. Out of a crew of 111, only 23 sailors survived.

The Portuguese, who already traded with Japan, were not happy with the new arrivals. They accused the Dutch of being pirates. That was probably not completely untrue. The Dutch, English, Portuguese and Spanish fought each other at sea, and captured each other's ships and cargoes by force of arms.

From 1641 the Tokugawa Shogunate opted for isolation. The Dutch were the only Westerners the Shogun allowed to trade with Japan, from the island of Deshima in the port of Nagasaki. Trade flourished, and it was

beneficial to both parties. The Dutch bought Japanese copper, porcelain and silver, and the Japanese purchased silk, cotton, books and new inventions such as the telescope and the hot air balloon.

If a Dutch captain had fallen asleep in 1600 and woken up again in 2013, he would have struggled to make sense of the world. Travel time to Japan is no longer two years but twelve hours. It is now Japanese technology that amazes Europeans. He would have found Japan no longer isolated, but an open economy, the third largest economy in the world.

Born in an age of permanent warfare, he would perhaps most of all have been astonished that the Dutch and the Portuguese are no longer sinking each other's ships, but are both working together as members of the European Union, and that we are discussing a Free Trade Agreement with Japan.

Free Trade Agreement

So let me start by briefly discussing the Free Trade Agreement, because I think this will be now foremost on everyone's mind. These negotiations include some matters in the field of competition which are of interest. My visit is taking place to the background of on-going negotiations for the Free Trade Agreement between Europe and Japan, which started in the spring of 2013. There will be a chapter about competition in that agreement, as both sides agree on the need to have comprehensive competition laws, and the need to effectively enforce them. In addition, the European Union would like to see the inclusion of subsidy clauses in the agreement.

But more about that shortly.

Our captain, woken up after 400 years, would also be amazed by the volume of Japanese – European trade. Together, the EU and Japan account for over a third of world GDP. For Japan, the EU is the country's third trading partner, after China and the US. Despite weak economic growth, exports from the EU to Japan have increased in absolute terms, from €42 billion in 2008 to €55 billion in 2012.

We should, however, not overly congratulate ourselves. Japan is the EU's seventh largest export destination worldwide. But in 2003 Japan was still Europe's third largest export destination. And Japanese exports to Europe are decreasing, from €76 billion in 2008 to €63 billion in 2012.

The Free Trade Agreement that the EU is currently negotiating with Japan can once again bring the two economies closer to each other. In March this year, a very ambitious agenda for negotiations was launched.

On the 19th of November, the twenty-first EU-Japan summit took place. Japanese Prime Minister Shinzo Abe met with President of the European Commission Jose Manuel Barroso, President Herman Van Rompuy and Trade Commissioner De Gucht. They discussed Japanese-European political and economic relations in general, and the Free Trade Agreement in particular.

Though no longer measured in terms of silk or telescopes, but in machinery and technological and agricultural sectors, our sailor would have found that one thing has remained the same in 400 years: trade is for mutual benefit.

According to an impact assessment, an ambitious Free Trade Agreement will lead to growth in both Japan and Europe. The EU economy could grow by as much as 0.8 per cent of GDP, and the Japanese by 0.7 per cent. EU exports would increase by 32.7 per cent, and Japanese exports by 23.5 per cent. Indeed, Europe's overall exports would increase by 2.8 per cent, and Japanese global exports by 7.3 per cent.

The Free Trade Agreement would also bring social benefits, with wages rising by as much as 1.8 per cent in the EU and 0.8 per cent in Japan, and it could create as many as 400,000 jobs.

Competition and the Free Trade Agreement

To reap these benefits, there must first be a deal. During his visit in March the Commissioner for Trade, Mr Karel De Gucht, presented the EU's overall point of view in the negotiations. I will not repeat what he said there. Instead, I will limit myself to the field of competition policy.

As said, in the context of the Free Trade Agreement with Japan, the EU is pressing for the inclusion of subsidy provisions in order to limit state aid. The EU does the same in all Free Trade Agreements it negotiates.

With 28 Member States, state aid control is an essential tool for preserving the integrity of the EU's principle asset in the global economy, namely the single market. If all countries would support their industries without restraint, that would seriously damage the single market.
We have always resisted pressures to relax state aid rules in response to the challenges presented by globalisation. Our approach is best summarised by the slogan 'No protectionism at home, but activism abroad'. This is why we negotiate the inclusion of greater discipline on state aid in Free Trade Agreements with important trading partners.

The Commission systematically tries to introduce rules on transparency of

subsidies on goods and services in free trade agreements. The EU is very transparent in publishing comprehensive information on state aid granted by Member States and by the European Union. We encourage our trading partners to do the same. If we are all transparent in what we do, this will make it easier for everyone to discuss international subsidies, or take trade defence actions against dumping and other distortive measures. The EU therefore has a strong interest in improving transparency on subsidies.

Subsidy provisions can be found in free trade agreements between the EU and several countries. Ukraine has promised to align its own policies with EU rules. South Korea and Singapore have provided a list of prohibited subsidies and have promised greater transparency. Free trade agreements with Central America and Columbia and Peru also provide for greater transparency on state aid. Other important negotiations are under way with India, Canada, Russia, the South American customs union Mercosur, as well as with a number of smaller trading partners.

Relationship with the JFTC

Now I have sketched a bit of the background to our visit, let me discuss our relationship with the Japan Fair Trade Commission, the JFTC. Every year, we have a bilateral meeting with the JFTC. This is in fact our 30th bilateral meeting.

Competition law in Japan has a long history. The Antimonopoly Act dates back to 1947, which makes it one of the oldest competition laws in the world. Throughout its history, the JFTC has grown in importance, reflecting a global trend.

DG competition appreciates the very active and constructive role played by the JFTC in the international competition network (ICN). Former JFTC Chairman Takeshima had a truly global vision and realised fully that the world's competition law enforcers must find ways to adapt to and react to the globalisation of the world's markets. It was for this reason he took the initiative to create the ICN Cooperative Framework for Merger Review. We are convinced that current Chairman Sugimoto will carry on and build upon Mr Takeshima's international vision.

As one of the leading competition enforcers in Asia, the JFTC is one of our most important partners. Though we have been working together much longer informally, the EU and Japan signed the formal *Agreement Concerning Cooperation on Anti-competitive Activities* in 2003. We agreed to help each other in enforcement activities, to inform each other of decisions we take in cases, and to meet once a year to exchange information and ideas.

We are working together on an increasing number of cases. We cooperate not only in merger cases, but increasingly also in anti-trust cases. We have co-ordinated inspections and exchanged information. The contact between the case teams has been, and is, very good.

Car parts cartels

Looking back at the origins of European-Japanese trading relations four centuries ago, there are good reasons for this cooperation.

In the seventeenth century Dutch trade with Japan was conducted through a company established in 1602, the United East India Company, known by the abbreviation VOC. It is often described as the world's first multinational, the world's first joint stock company, and the world's first limited liability corporation.

It has also has been described as the worlds 'first government-backed trading cartel.'

Exactly 400 years ago, in 1613, the Dutch and English made market sharing agreements and fixed prices in the spice trade.

Needless to say, to operate in today's European market, the VOC would have had to change some of its business practices.

The VOC went bankrupt in 1791, but international cartels still exist. Not in the spice trade, perhaps, so let me discuss cartels in a more modern product: car parts.

In recent years, we have cooperated intensively with the JFTC in a series of investigations into cartels in the automobile industry. I would like to discuss these cartels in a bit more detail, as both European and Japanese companies were involved: as recipients of our fines, but also as victims of the cartels.

We have investigated and are investigating several producers for the fixing of prices of car parts, such as seat belts, ball bearings and air conditioning. These investigations are sometimes described in the press as the largest anti-trust case in history.

Let me begin by asking a question of principle. Why investigate price fixing of just a part of a car? Take ball and roller bearings, which have a number of applications in cars. They are used to make the wheels roll, but also are also applied in gear boxes, transmissions, water pumps and air conditioning systems. These are small items. Why do we need to crack

down so rigorously on something so tiny?

These bearing items may be small, but they are essential components of a car. Wheel bearings, for example, help a car run smoothly, reduce friction with the road, and absorb shocks during sudden braking and crashes. They are an essential piece of equipment, every bit as important as the brakes, steering wheel, seats, doors and windows.

Bearings form just one out of a hundred car components we are currently investigating for possible price fixing. Increasing the price of car parts also increases the price of the entire product. If not just ball bearings, but also seat belts, air bags, engine cooling systems and air conditioning and dozens of other components are artificially expensive, then this will significantly affect the price of a finished car.

We have a joint interest in rooting out these cartels, which are devastating for both Japanese and European car manufacturers and consumers. These car parts cartels are damaging to producers of cars, who pay too much for the components they need. They are also very harmful to consumers, who pay too much for their vehicles.

The investigation into these cartels is a recent success story of international cooperation between DG Competition in Europe, the Department of Justice in the United States and the JFTC in Japan, as well as Canadian, Australian and other authorities.

Our investigations started in February 2010 with simultaneous inspections into wire harness cartels. The wire harness is the central nervous system of a car. It is used to conduct electricity. You use it every time you start the car, open the window or switch on the air conditioning. Through our investigations into the wire harness cartel we uncovered an abundance of cartels.

For example: the Commission started inspections in June 2011 into cartels in occupant safety systems, which include seat belts, steering wheels and airbags. We started investigations into ball bearings in November 2011, and in May 2012 we began looking into price fixing in thermal systems such as engine cooling and air conditioning.
Our wire harness decision of July 2013 forms the first concrete result in this enormous inquiry. The Commission concluded that five companies had been active in one or more of five different cartels.

Several of these companies had fixed prices in their supplies to Honda and Toyota. We also found several single bids that were rigged, for instance for the supply of a wire harness to Nissan.

The Commission fined the cartelists a total of € 141 million.

Fining policy

This brings me to a question we often get in Japan about the level of our fines. It's easy to see where the question comes from. In the Wire Harness Cartel, the Commission fined a company €125 million, whereas the JFTC fined the same company €75 million. Why this difference? In part because the JFTC is obliged by its statutes to base its fines only on turnover in the last three years. The Commission looks at the entire duration of the cartel. This means fines in Europe are generally higher for long lasting cartels.

But it is always tricky to compare the fines of different authorities, because a number of elements relevant for the setting of fines can differ, such as the exact scope of the case, the impact in each jurisdiction and the geographic reach. Still, if we compare the fines of the US Department of Justice to those of the European Commission in recent and similar international cartel cases, we can see that the fines imposed by the DOJ were generally higher.

Let me explain how we set our fines. We look at the turnover of the affected product. So if several companies fix the price of wire harnesses, we look at the turnover for wire harnesses in the relevant jurisdiction. We take two things into account: (1) how serious was the infringement and (2) how long did it last? Our fine is typically set at between fifteen to twenty per cent of the value of cartelised goods sold during the entire cartel duration. As I said, in contrast to Japan, there is no limit to the duration taken into account. We could in theory go back sixty years, when competition rules first entered into force. In practice, under the current Fining Guidelines, the longest duration we have ever taken into account was nearly thirty-five years (*Animal Feed Phosphates)*. In several other cartel cases we established cartels lasting up to twenty years (*International Removal Services, Marine Hoses, Pre-Stressing Steel*).
We can increase fines for aggravating circumstances (for instance, for repeat offenders). Or we can reduce them in case of mitigating circumstances (e.g. in case of limited participation). Fines therefore reflect the individual involvement of each company in the infringement. Our fines are intended to act as a deterrent, to prevent companies from engaging in a cartel.

It is not our goal to bankrupt companies. If a fine would put a company out of business, it can, under certain very strict conditions, apply for a reduction in the fine.

Similarly, it is not our goal to make it impossible for companies to do business. According to our guidelines, fines may never exceed ten per cent of the total worldwide turnover of a company. We do not always hand out this maximum fine. Under the 2006 guidelines, we gave around twelve per cent of companies a fine this size. Fifty per cent of fines amounted to less than one per cent of turnover.

Our fines are not excessive. They are well thought out, calculated according to a carefully defined methodology, they are proportionate and fair.

Leniency

What is important about fines is not their size, but whether they act as a deterrent. It is difficult to measure something that is not happening. How do you measure a cartel that is not being formed? Although complex economic calculations about customer benefits are sometimes performed, the deterrent effect of fines can also be inferred from the behaviour of companies. This is what I'd like to look at now, as it gives me the opportunity to discuss two important policies we have: our leniency programme and our approach to compliance.

First, our leniency programme. In exchange for cooperation that allows the Commission to detect, terminate and sanction cartels, participants in a cartel can apply for leniency in the hope to avoid paying fines, or to receive a reduction in a fine.

The first company to provide the Commission with information allowing the detection of a cartel can get immunity from fines. Other companies cooperating with the Commission can get a reduction of their fine of up to fifty per cent, depending of the timing and value of their submissions. The JFTC also introduced a leniency programme, in 2005. Although different in details, it operates on similar principles.

Our leniency programme is, I can say, very successful. Nowadays, the majority of our cases are based on leniency applications. The very fact that companies apply for leniency and terminate their participation in cartels of course shows that our fines have a deterrent effect.

Japanese companies have also applied successfully to our leniency programme. A total of four Japanese companies have been granted full immunity from fines in as many Commission decisions, most recently in the wire harness case I discussed earlier. Nearly two-thirds of Japanese companies that we have sanctioned, have received either immunity or a reduction in fines.

Compliance
Besides leniency, the popularity of compliance programmes also shows that fines have a deterrent effect. More and more businesses are running compliance programmes as a strategy to avoid breaking the law and being fined. These programmes aim at increasing awareness among staff of possible dangers, by providing information and training.
Operating a compliance programme in itself is not enough. The programme needs to be effective. We help companies to achieve this in several ways. We provide information on EU rules and engage in dialogue with businesses. We have also published a brochure on compliance aimed at small and medium businesses in particular.

We do not pretend that here is a single model for a successful compliance policy or that we have all the answers. We encourage businesses themselves to share best practices. These best practices can be found in the 'compliance corner' on our website with useful examples from both business organisations and national competition authorities.
Although we do not have exact figures, we know that compliance programmes are becoming increasingly popular in Europe.

One important note, though: We do not reduce fines for companies that operate a compliance programme and get caught breaking antitrust rules. The best reward for a compliance programme is the absence of an infringement. Companies have a duty to respect the law and comply with competition rules.

Indeed, a compliance programme is a worthwhile investment. First of all, it may help avoid businesses from participating in a cartel altogether. And secondly, it may limit damage even if it does not prevent it. A compliance programme could help a company detect a cartel early on, and so make it possible to apply for immunity. This, we feel, is a very strong incentive to employ a compliance programme.

Jurisdiction and equal treatment
Before I continue, let me again take a short pause and share a thought about the past with you.

In the Tokyo National Museum, there is a very old wooden statue of the philosopher Erasmus. The European Union's Erasmus Mundo exchange programme, which enables Japanese students to visit Europe, is named after him. The Japanese government has designated this statue an Important Cultural Object.

The statue in Tokyo was taken from the stern of the ship *De Liefde.* It was an unlucky ship. Four-fifths of those who sailed her died of scurvy,

storm, starvation and war.

According to sailors it brings bad luck to change a ship's name. The original name of *De Liefde* was – Erasmus.
So, if any of you deal in shipping, be careful about changing a ship's name…

I have discussed the mutual benefits we derive from trade, the Free Trade Agreement and the possible inclusion of a subsidy provision. I have explained how pleased we are with our cooperation with the JFTC. I have discussed our recent decision in the car parts cartel, and several topics I hope that are interesting to you, such as our fining policy, our leniency programme, and our approach to compliance.

But among friends we should also be able to discuss more sensitive questions.

That's why I would like to now frankly discuss two questions we sometimes get from Japanese businesses, or, more usually, from their lawyers. The first is whether Japanese companies are treated equally to European companies. The second concerns the extent to which the EU has jurisdiction over Japanese companies.

The principle of equal treatment is of chief importance to cartel proceedings – it is part of the general principles and fundamental rights under EU competition law that help in establishing procedural safeguards and ensure due process.

In protecting competition in the European Union we take no account of the fact whether the companies are European or not. The only thing that matters is whether the company was involved in a cartel that affected Europe. We can and will scrutinise any company that is involved in a cartel affecting European markets.

Since 1999, when the first decision fining a Japanese company was adopted, Japanese companies have been fined in 26 out of 82 Commission decisions. The total amount of fines imposed in these decisions on Japanese companies is €1.6 billion, which represents nine per cent of the total fines imposed by the Commission on cartel participants since 1999.

Considering that we are Japan's third trading partner, I think that the figure of nine per cent shows a certain proportionality.

We are just as tough on European companies that break the rules. In

December 2012 we handed out fines totalling € 1.47 billion against a cartel that had fixed prices of TV and computer monitor tubes, known also as cathode ray tubes (CRT). A European company, Philips, received the largest fine: €705 million. Three Japanese companies received smaller fines: Toshiba (€114 million), Panasonic (€252 million) and their joint venture MTPD (€94 million). The fines for the latter were also counted in the parent companies fines as they are jointly liable for those.
Now let's look at the matter of jurisdiction. First of all, all competition authorities have to deal with international cartels – so does the JFTC.

The issue of jurisdiction surfaced in the Gas Insulated Switchgear case in 2007. The companies in question had agreed not to compete in each other's market. The Japanese companies had agreed to stay out of Europe, and the European companies had agreed to stay out of Japan. More specifically up for debate was the method by which the fine was calculated. Normally, when the Commission calculates fines, it looks at sales made in the area covered by the cartel. But that is not possible in cases where companies decide to stay out of each other's home markets.

The Commission has developed a method to calculate fines in these cases. It distributes aggregated sales of cartelised products in the European Economic Area among all cartel members according to their market share of the cartelised sales in the larger geographic area, including the non-European ones. This reflects the weight that each participant has in the cartel.

In its judgment of 2011, the General Court confirmed that the EU did have had jurisdiction in this case. It was a market sharing cartel that damaged the interests of European consumers and businesses by affecting competition in Europe. It also approved the fining method.
So I hope to have made clear that the European Commission treats Japanese companies as fairly as it does European companies, knowing that both of them can be either victims or culprits in cartel cases.

Mergers
From what I have said so far, you might get the impression that all we do is fight cartels. That's why I would like to briefly touch on two policy areas that may be relevant to Japanese companies doing business in Europe. The first is our approach to mergers, which I will discuss in some detail. The second is state aid.

Many Japanese companies are active globally, and some have been involved in the merger review process in Europe - the merger between Panasonic and Sanyo in 2009 is an example. Cooperating intensely with the JFTC during the investigation, we established that the merger would

give the new business significant market power in several types of batteries, which would be harmful to consumers and to competition. In order to remedy the situation, both parties made commitments to divest parts of the business that produced or sold these batteries.
Our approach to mergers can be summed up as follows: strict, but fair. We only rarely prohibit mergers, and only when there is really no other solution. For instance, if we establish certain competition concerns, but the company involved does not propose any viable remedies to solve the situation.

An example is the proposed merger between courier services UPS and TNT. This merger would have reduced the number of competitors in the European market for cross border express services from four to three. And one of these three companies was a weak player. So basically, there would have been only two serious competitors left. Secondly, it was clear that the merger would lead to severe price increases. We found that in fifteen Member States the merger would have been an impediment to competition. We blocked the merger because the companies did not present credible remedies that could take away our concerns. Our only option was to refuse the merger.

Still, this occurs rarely, and in most cases where we identify competition concerns, it is possible to find a workable solution, as in the Panasonic/Sanyo merger. But we carefully evaluate whether cases merit an intervention at all. Sometimes we even allow mergers that, if taken at face value, create dominant companies, but special circumstances show that the competition that existed before the merger would have disappeared anyway, irrespectively of the merger.

One example. In 2011 we disallowed the merger of two Greek airlines, Aegean and Olympic, because the company would have had a monopoly on Greek internal flights. But only two years later, in 2013 the Commission allowed a merger of the same companies. So, what had changed?

First of all, due to the Greek crisis, the number of passengers had dropped dramatically, and the number of routes on which the companies competed dropped from seventeen to seven. Secondly, it was clear that Olympic would go out of business. Olympic would have disappeared anyway. So we allowed the merger.

I've already said something about state aid in connection to the Free Trade Agreement, and would only like to add a few words more. The EU does permit state aid in some circumstances. Let me take research and development as an example. These are key elements in the EU's growth

strategy until 2020 – known as 'Europe 2020'.

At the central level, the EU will invest over €70 billion to promote research, development and innovation activities from 2014 to 2020. Member States are promoting research and innovation at their level, too. Any national funds would, of course, be subject to EU state aid rules.

Consequently, a Japanese company active in the EU and receiving such aid from an EU Member State is subject to the same state aid rules as its competitors on the same market. Broadly speaking, state aid for research, development and innovation is allowed where it addresses a market failure, is necessary, appropriate and proportionate, and has limited negative effects on competition and trade between Member States.

Large aid amounts must be authorised by the Commission prior to their implementation, but smaller aid is exempted from the notification obligation provided they comply with certain pre-defined conditions. We are currently modernising our state aid rules in order to make thus process more efficient.

New developments

And that brings me to my final topic. I would like to end my talk by discussing three recent developments, topics that are now very much on the agenda.

The first is our settlement procedure.

If an infringement has been determined, then companies can settle with the Commission. They can receive a ten per cent reduction in fine. This reduction is on top of any possible reduction of fines under the leniency programme. In return, they have to admit liability and the parental liability of mother companies, and accept a different exercise of their rights of defence.

The procedure is convenient both for the Commission and for the companies involved. For the Commission, the workload is reduced significantly. This means we can free resources for other tasks – such as investigating cartels – which increases our deterrence.

Because the companies admit liability, the likelihood of subsequent litigation in the European Courts is absent or very small.
The benefits are also clear for companies. In addition to a ten per cent reduction of fines, the increased speed of the procedure allows them put the infringement behind them more swiftly, so that they can minimise

reputational damage.

Settlements are the most recent big success story in the EU's fight against cartels. So far, the European Commission has adopted seven decisions using this alternative fast track procedure. In total, the amount of fines under the settlement procedure reached a total of € 1.2 billion, which represent twenty-two per cent of the total fines imposed by the European Commission in the period 2010-2013. The average duration of the last cases was a little over three years instead of a little more than five years under the standard procedure. So the objective of reducing the length of procedures has also been reached.
So, settlements are here to stay.

Private enforcement
Settlements have been possible since 2008. Let me now look at a very recent development: private damages actions. Companies that have been victims of cartels can file lawsuits against perpetrators, in the hope to recuperate the damages they have suffered. This 'private enforcement' is complementary to the public enforcement by competition authorities. This summer, on 11 June 2013, the Commission adopted a package of measures to strengthen private enforcement. This *Proposal for a Directive on Antitrust Damages Actions* has two complementary goals.
The first goal is to ensure that any natural or legal person who suffered harm as a result of a competition law infringement may effectively exercise his right to full compensation, to which he is entitled under EU law. This means that both consumers and producers who have fallen victim to a cartel can file suits.

The second goal is to optimise interplay between private enforcement and public enforcement. The proposal provides for a number of safeguards designed to ensure that facilitation of private damages actions does not jeopardise the ability of competition authorities to effectively enforce competition rules.

One of the key issues the proposal address is that of access to evidence. Victims of antitrust violations must be able to have access to evidence. At the same time, businesses need to be sure their sensitive data and business secrets are safe. If businesses believed their data and leniency statements describing cartel participation was freely accessible to anyone, that would be very damaging to our leniency programme. Our proposal balances the interests of both parties. It stipulates that national courts may order disclosure of evidence. On the other hand, it states that leniency statements may never be accessed for purposes of private enforcement. This safeguards the attractiveness of leniency programme.

There is broad support for the proposal. The Commission hopes it will be adopted before the parliament breaks up for elections in spring 2014.

Mergers

Besides designing rules for private damages actions, another new initiative is our simplification of merger procedures. The Commission wants to remove unnecessary burdens for businesses and aims to make EU rules as lean as possible. This is why we are making our merger review processes more business-friendly and efficient. This will also allow us to focus our resources on problematic mergers.

This simplification is achieved in three ways:

First, we intend to extend the simplified procedure that we use for mergers that have little or no impact on competition. This will allow us to treat around seventy per cent of mergers under the lighter procedure: an increase of ten per cent. The benefits to companies are clear, as the simple procedure reduces work and advisor fees by one third compared to the standard procedure.

Second, we propose to eliminate unnecessary information requirements for all cases. We have also identified categories of information for which companies can request waivers. We strongly encourage companies to make use of this possibility.

Finally, we aim to streamline our pre-notification process. Contacts with the Commission before notification are useful to identify the information we need to run an efficient investigation. Even so, we do hear complaints that this process is too burdensome. Our proposals to reduce information requirements should shorten it. We are considering ways to streamline it even further.

One element in our proposal should be of particular interest for Japanese companies. This concerns joint ventures that will mainly be active outside Europe and will have no impact on European markets. For these cases, companies will only need to describe the transaction and their business

activities, and give the turnover figures that we need to establish jurisdiction. This comes close to the 'minimal notification' proposed by the Japanese Business Council.

Almost all participants in our public consultation welcomed our proposals. Some participants, including the Japanese Business Council, made useful comments on the details of our proposals and we will address those in our final proposals. We aim to adopt our package by the end of this year.

Conclusion

I have discussed a lot of topics. I will not repeat them here, or summarise them, but instead end my talk like I started, by looking at the beginning of Japanese-European relations.

De Liefde sailed from Rotterdam in 1598 as part of a fleet. The ship had been renamed to make it fit with the Biblical names of the other ships: *Hope*, *Loyalty*, *Faith and Glad Tidings*.

None of other ships reached Japan. *Loyalty* was captured by the Portuguese. *Glad Tidings* by the Spanish. *Hope* sank in a storm, and *Faith* returned home half way.

The Japanese also made such adventurous journeys. In 1582 four Japanese boys sailed to Europe on a Portuguese ship. Their trip also took two years, but was a happier one. They travelled throughout Europe. Many years later they returned home to Japan, where they reported on the strange customs and habits of the faraway lands they had seen.

A lot of things have changed since those times. One thing that has not changed is the importance of trade, and the benefits it brings to all involved.

My message to you is that I hope you will continue to do business with Europe, and that your trade, indeed fair trade, will prosper.