

Brussels, 7 October 2009

## **Antitrust: Commission fines producers of power transformers €67.6 million for market sharing cartel**

*The European Commission has imposed fines totalling € 67 644 000 on seven companies – ABB, AREVA T&D, ALSTOM, Fuji Electrics, Hitachi and Toshiba - for violating the EC Treaty's ban on cartels and restrictive business practices (Article 81). Siemens also participated but was not fined because it revealed the existence of the cartel in question to the Commission. Between 1999 and 2003, Japanese and European producers of power transformers operated an oral market sharing agreement, referred to as a "Gentlemen's Agreement", where they agreed that the Japanese members would not sell power transformers in Europe and that the European members would not sell power transformers in Japan. The power transformers in question are used to modify the voltage in electricity transmission networks. The fine for ABB was increased by 50% because it had previously taken part in a similar infringement.*

European Commissioner for Competition Neelie Kroes said: "Customers and tax payers all over Europe suffered from this cartel for a number of years. The Commission has now put an end to this rip-off by the self-appointed "Gentlemen". The Commission will not hesitate to increase fines for repeat offenders until they have learned the lesson that cartels do not pay".

The Commission's investigation started with surprise inspections in February 2007 (see [MEMO/07/53](#)).

Power transformers are major electrical components that reduce or increase the voltage in an electrical circuit. The transmission of electrical current through electricity grids requires a high level of tension to reduce energy losses. Power transformers are used by electricity suppliers in their electricity grids for the transmission and distribution of electric power to the customer. Through the "Gentlemen's Agreement", the cartelists therefore not only harmed their direct customers but also European electricity consumers.

At the time of the infringement, the parties' combined annual sales in the European Economic Area (EEA) were estimated to be worth around €100 million.

### **The cartel**

From June 1999 to May 2003, ABB, AREVA T&D, ALSTOM, Fuji Electrics, Hitachi, Toshiba and Siemens operated a cartel at the level of the EEA and Japan whereby they agreed to share between themselves the markets for power transformers. For this purpose, they met one to two times per year, both in Asia and Europe, usually in high class hotels in such places as Malaga, Singapore, Barcelona, Lisbon, Tokyo, Vienna and Zurich, to reaffirm their agreement. The cartelists went to great lengths to try to hide their illegal behaviour. They concluded the market sharing agreement orally and used code names for their companies to avoid detection.

## Fines

In setting the fines, the Commission took into account the amount of sales of the companies involved as well as the very serious nature of the infringement and the geographic scope of the cartel. The Commission increased the fines for ABB by 50% because it had already been fined by the Commission for a previous cartel (ABB - Pre-Insulated Pipes - see [IP/98/917](#)). Siemens received full immunity from fines because it was the first company to come forward with information about the cartel under the Commission's 2002 Leniency Notice.

The Commission also took into account the cooperation of Fuji, Hitachi and AREVA in the investigation. Fuji was granted a reduction of 40% under the Leniency Notice and the fine for AREVA and Hitachi was reduced by 18% for their cooperation outside the Leniency Notice.

The fines in this case are based on the 2006 Fines Guidelines (see [IP/06/857 MEMO/06/256](#)), in force at the time the Statement of Objections was notified.

The fines imposed are as follows:

	Reduction (%)*	Reduction (€)	Fine** (€)
Siemens (Germany)	100	33 360 000	0
ABB (Switzerland)	0	0	33 750 000
ALSTOM SA AREVA T&D SA (France)	0 18	0 2 970 000	16 500 000***
Fuji Electrics (Japan)	40	1 156 000	1 734 000
Hitachi (Japan)	18	450 000	2 460 000
Toshiba (Japan)	0	0	13 200 000

(\*) Reduction (in %) granted under the Leniency Notice or for cooperation outside the Leniency Notice

(\*\*) Legal entities within the undertaking may be held jointly and severally liable for the payment of the fine

(\*\*\*) Of which AREVA is jointly and severally liable for € 13 530 000.

## Action for damages

Any person or firm affected by anti-competitive behaviour as described in this case may bring the matter before the courts of the Member States and seek damages. The case law of the Court and Council Regulation 1/2003 both confirm that in cases before national courts, a Commission decision is binding proof that the behaviour took place and was illegal. Even though the Commission has fined the companies concerned, damages may be awarded without these being reduced on account of the Commission fine. A White Paper on antitrust damages actions has been published (see [IP/08/515](#) and [MEMO/08/216](#)). More information, including a citizens' summary of the White Paper, is available at:

<http://ec.europa.eu/comm/competition/antitrust/actionsdamages/documents.html>

For more information on the Commission's action against cartels, see

[MEMO/09/438](#).