

Procedure file

Basic information	
CNS - Consultation procedure Decision	1998/0198(CNS) Procedure completed
EC/Canada agreement: application of competition rules	
Subject 2.60 Competition 6.40.11 Relations with industrialised countries	
Geographical area Canada	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	RELA External Economic Relations		23/07/1998
		PSE MANN Erika	
	Committee for opinion	Rapporteur for opinion	Appointed
	JURI Legal Affairs, Citizens' Rights		23/06/1998
		V ULLMANN Wolfgang	
Council of the European Union	Council configuration	Meeting	Date
	Industry	2174	29/04/1999
	General Affairs	1825	23/01/1995

Key events			
04/06/1998	Legislative proposal published	COM(1998)0352	Summary
15/07/1998	Committee referral announced in Parliament		
19/01/1999	Vote in committee		Summary
19/01/1999	Committee report tabled for plenary, 1st reading/single reading	A4-0007/1999	
09/02/1999	Decision by Parliament	T4-0066/1999	Summary
29/04/1999	Act adopted by Council after consultation of Parliament		
29/04/1999	End of procedure in Parliament		
10/07/1999	Final act published in Official Journal		

Technical information

Procedure reference	1998/0198(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	International agreement
Legislative instrument	Decision
Legal basis	EC before Amsterdam E 087; EC before Amsterdam E 235; EC before Amsterdam E 228-p3-a1
Stage reached in procedure	Procedure completed
Committee dossier	RELA/4/10330

Documentation gateway

Legislative proposal		COM(1998)0352	04/06/1998	EC	Summary
Committee report tabled for plenary, 1st reading/single reading		A4-0007/1999 OJ C 128 07.05.1999, p. 0002	19/01/1999	EP	
Text adopted by Parliament, 1st reading/single reading		T4-0066/1999 OJ C 150 28.05.1999, p. 0015-0031	09/02/1999	EP	Summary
Follow-up document		COM(2000)0645	13/10/2000	EC	Summary
Follow-up document		COM(2002)0045	29/01/2002	EC	Summary
Follow-up document		COM(2002)0505	17/09/2002	EC	Summary
Follow-up document		COM(2003)0500	13/08/2003	EC	Summary

Additional information

European Commission	EUR-Lex
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Final act

Decision 1999/445 OJ L 175 10.07.1999, p. 0049 Summary

EC/Canada agreement: application of competition rules

OBJECTIVE: to conclude an agreement between the European Communities and Canada to promote cooperation in the application of their competition laws. **SUBSTANCE:** Like the agreement of 1991 (CNS94236) between the Communities and the USA, the draft agreement seeks not to establish a framework for resolving conflicts between the parties but rather to prevent conflicts from arising by establishing a cooperation and coordination system between the authorities responsible for competition (i.e. on behalf of the Community, the Commission, and on behalf of Canada, the Director of Investigation and Research appointed under the Competition Act). This cooperation is intended to improve the effectiveness of measures to prevent illicit agreements between undertakings and reduce the number of cases in which the competition authorities adopt antagonistic or incompatible decisions. The draft agreement concerns the application of: . Articles 85, 86 and 90 of the EC Treaty, Regulation (EEC) No 4064/89 on the control of concentrations between undertakings and Articles 65 and 66 of the ECSC Treaty; . Canada's Competition Act; . all implementing provisions adopted on the basis of these provisions on either side and other provisions to be adopted in future. In particular, it provides for notification of cases under examination which may affect significant interests of the other Party. Thanks to this notification procedure, each competition authority will be kept informed of the other authority's activities with a view to identifying cases of mutual interest. Once it has been established that a case raises important issues, the parties may apply the cooperation or coordination provisions laid down in the agreement. The parties may agree to coordinate their implementation measures and/or to assist each other in order to improve their prospects of putting an end to an anticompetitive practice, on condition that these measures are compatible with the legislation and the interests which the Parties consider important. The draft agreement also comprises provisions on active, passive or traditional comity, making it possible, inter alia, to ask one party or another to take implementing measures in appropriate cases. Very limited provisions are laid down on exchanges of information (the draft agreement stipulates that the existing law on this point is to remain unaltered). In this respect, the agreement contains provisions relating, in particular, to the confidentiality of information exchanged. It may be divulged only on condition that significant interests of the parties are safeguarded or the information is exchanged in accordance with legislation in force in one of the parties. However, the draft agreement encourages exchanges of information where the undertakings concerned by the competition situation consent to them. Whatever the case, the information exchanged must remain confidential. ?

EC/Canada agreement: application of competition rules

The Committee adopted the report by Erika MANN (PES, D) on the proposal for a Council and Commission Decision concluding the Agreement between the European Communities and the Government of Canada regarding the application of their competition laws. The draft agreement essentially covers the following areas: -notification of cases under investigation which may affect the important interests of the other Party; -co-ordination of enforcement activities, reducing therefore the scope for imposing conflicting requirements and increasing the effectiveness of measures dealing with anticompetitive behaviour; -positive and negative (or traditional) comity (positive comity provides that one Party may request the other Party to take action; negative comity provides that, in taking action, a Party will take into account the important interests of the other Party); -exchange of information; within the limits of existing legislation and regulations, the confidentiality of information exchanged under the agreement must be maintained by the Parties. The committee adopted two amendments, to the effect that the legal basis for the agreement should be Articles 87 and 228(3) of the EC Treaty (as proposed by the Commission) without Article 235 (which was, in the event, retained by Council).?

EC/Canada agreement: application of competition rules

At its first reading under cooperation procedure, the European Parliament approved the proposal for a Council and Commission decision concluding the Agreement between the European Communities and the Government of Canada regarding the application of their competition laws, subject to amendments which delete the text's first recital (invoking Article 235 of the Treaty) and instead incorporate this reference into the first citation. The rapporteur was Erika Mann (PSE,DE).?

EC/Canada agreement: application of competition rules

PURPOSE : to conclude an Agreement between the European Communities and the Government of Canada to encourage cooperation in the application of their respective competition laws. **COMMUNITY MEASURE** : Council and Commission Decision 1999/445/EC, ECSC concerning the conclusion of the Agreement between the European Communities and the Government of Canada regarding the application of their competition laws. **CONTENT** : this Agreement does not aim to create a framework in which conflicts can be resolved between the parties but rather to avoid the possibility of these arising by establishing a system of cooperation and coordination between the authorities responsible for competition, as follows: - on the Community side, the Commission of the Communities, - on the Canadian side, the Competition Commissioner appointed under the Canadian Competition Law. This cooperation aims to reinforce the efficiency of measures to deal with illicit agreements between enterprises and to decrease the number of cases where the competition authorities issue antagonistic or incompatible decisions. The Agreement relates to the application of : - Articles 85, 86 and 90 of the EC Treaty, Regulation 4064/89/EEC on the control of merger operations, and Articles 65 and 66 of the ECSC Treaty; - the Competition Law, on the Canadian side; - all implementing measures adopted on the basis of these measures, as well as measures adopted in the future. It provides in particular for the notification of cases under examination which are likely to affect important interests of the other party. Thanks to this notification procedure, each competition authority will be kept informed of the activities of the other authority in order to gather together and list the cases of common interest. Once it has been established that a case raises important questions, the parties are able to activate the cooperation or coordination measures foreseen in the Agreement. The parties can come together to coordinate their implementation measures and/or to lend mutual assistance, in order to increase their chances of bringing an end to the anti-competitive behaviour, on condition that these measures are compatible with the legislation and the interests deemed important for each of the parties. The Agreement also covers the arrangements relating to the active, passive or traditional courtesy, allowing, among other things, the parties to ask one and other to take implementation measures in appropriate cases. Arrangements are foreseen relating to the exchange of information (the Agreement foresees that the existing law relating to this will remain unchanged) as well as on the confidentiality of information exchanged. Information can only be disclosed if the core interests of the parties are protected or if it is exchanged in accordance with the legislation in force in one or the other party's jurisdiction. The Agreement, however, encourages recourse to the exchange of information when the enterprises affected by the competitive situation consent to it. **ENTRY INTO FORCE** : the Agreement enters into force as soon as the parties sign it, i.e. 29/04/1999.?

EC/Canada agreement: application of competition rules

This report from the Commission concerns the Agreement between the European Communities and the Government of Canada regarding the application of their competition laws from 17.06.1999 to 31.12.1999. On 17 June 1999, the European Commission concluded an Agreement with the Government of Canada regarding the application of their competition laws, the aim of which was to promote cooperation between the competition authorities. By a joint decision of the Council and the Commission of 29 April 1999, the Agreement was approved. The period covered by this first report is relatively short and therefore in many instances it has not been possible to identify significant trends or draw definite conclusions. Many of the cases notified during the period under review are still open, particularly matters falling under Articles 81 and 82 of the Treaty and therefore, it is not possible to discuss them in detail or to mention them by name, save where they have already been the subject of a Commission statement or notice. At the same time, merger cases, which gave rise to notification and cooperation under the Agreement, are now mostly closed because of the strict deadlines applied under the Merger Regulation (1310/97/EC) and these can therefore be discussed in this report. In addition, the confidentiality surrounding Canadian procedures, and the obligation of confidentiality to which the European Communities are subject by virtue of Article X of the Agreement, has meant that even where the European Commission has completed its investigation and closed cases, references to specific cases which are still being pursued by the Canadian authorities, or are otherwise covered by confidentiality requirements, have had to be limited. Despite these limitations however, the Commission intends that this report will give some sense of the nature and degree of cooperation between the Commission and the Canadian Competition Bureau. Against this background, the main observations contained in the report are the following: - notifications by the Commission concerning merger cases are increasing more rapidly than for other non-merger antitrust cases; - to keep trace of notifications under the Agreement, the database of notifications was modified to record the details, in line with DG Competition's policy of computerising its work, wherever this brings efficiencies; - in general, the nature of cooperation depends on individual cases, and can relate to such matters as simple enquiries regarding the timing of procedures or to coordination of the proposed remedy in a case. In conclusion, the Commission concludes that the Agreement has had a

successful start. It was up and running only a fortnight after its signature and entry into force. Moreover, each of the cases on which cooperation has taken place have proven to be of important interest to at least one of the Parties.?

EC/Canada agreement: application of competition rules

The European Commission presents a report on the application of the agreements between the European Communities and the Canada on competition throughout the year 2000. According to the report, the agreement has led to a much closer relationship between the Commission and the Canadian Competition Bureau, as well as to a greater understanding of each other's competition policy. An increasing number of cases are being examined by both competition authorities, and there is consequently a growing recognition of the importance, on the one hand, of avoiding conflicting decisions and, on the other, of co-ordinating enforcement activities to the extent that this is considered mutually beneficial by both parties.?

EC/Canada agreement: application of competition rules

The Commission presented a report relating to the application of the agreements between the European Communities and the Government of the United States of America and the Government of Canada regarding the application of their competition laws 1 January 2001 to 31 December 2001. 1) EU/United States Agreement : 2001 witnessed a further intensification of EU/US cooperation in all areas of competition law enforcement. 2001 saw a record number of merger transactions notified both to the Commission and the US authorities. There was a total of 84 formal notifications made by the Commission during the period between 1 January 2001 and 31 December 2001. The Commission received a total of 37 formal notifications from the US authorities during the same period. Merger cases made up the majority of all notifications in both directions. There were 71 merger notifications made by the Commission and 25 by the US authorities. The increase of cooperation in 2001 with respect to the combating of global cartels is noteworthy, also the authorities on the two sides of the Atlantic are taking increasingly convergent approaches to the identification and implementation of remedies, and to post-merger remedy compliance monitoring. The Commission, DoJ and FTC also continued to maintain an ongoing dialogue on general competition policy/enforcement issues of common concern. 2) EU/Canada Agreement : the Agreement has led to a closer relationship between the Commission and the Canadian Competition Bureau, as well as to a greater understanding of each other's competition policy. There was a total of 8 formal notifications made by the Commission during the period between 1 January 2001 and 31 December 2001. The Commission received 10 formal notifications from the Canadian Competition Bureau (CCB) in 2001. An increasing number of cases are being examined by both competition authorities, and there is consequently a growing recognition of the importance, on the one hand, of avoiding conflicting decisions and, on the other, of coordinating enforcement activities to the extent that this is considered mutually beneficial by both parties. The increase of cooperation in 2001 with respect to the combating of global cartels is also noteworthy. The Commission and the Canadian Competition Bureau also continued to maintain an ongoing dialogue on general competition policy/enforcement issues of common concern.?

EC/Canada agreement: application of competition rules

PURPOSE : to present the report from the Commission to the Council and the European Parliament on the application of the agreements between the European Communities and the Government of Canada regarding the application of their competition laws 1 January 2002 to 31 December 2002. CONTENT : the report highlights that an increasing number of cases is being examined by the competition authorities on both sides resulting in increased and enhanced cooperation. Contacts between the Commission and the Canadian Competition Bureau have been frequent and fruitful. Discussions have concerned both case related issues, and more general policy issues. Case related contacts usually take the form of telephone calls, e-mails, exchanges of documents, and other contacts between the case teams. Case related contacts comprised all areas of competition law enforcement. Particularly intensive contact took place in the Bayer/Aventis merger case, where there was also three-way communication including the US authorities. There was also some contact with respect to the Pfizer/Pharmacia merger case. Cooperation and coordination efforts in cartel cases continued as well. At the occasion of two bilateral meetings of the merger and cartel units from the respective authorities policy related issues specific to their areas of enforcement were discussed. Furthermore, for the first time in 2002 a staff exchange for a period of six months was organised and an official from the Commission and one from the Competition Bureau were seconded to the other agency. Each exchange officer took on the responsibilities of a regular case officer in the host jurisdiction involving the investigation and analysis of merger cases. There was a total of 5 formal notifications made by the Commission during the period between 1 January 2002 and 31 December 2002. The Commission received 9 formal notifications from the Canadian Competition Bureau (CCB) in 2002 with respect to 5 cases. As foreseen in the agreement, the Commission has informed the Member State or Member States, whose interests are affected, of the notifications sent to it by the Canadian Competition Bureau. Thus, when notifications are received from the Competition Bureau, they are forwarded immediately to the relevant sections in DG Competition and at the same time copies are sent to the Member States, if any, whose interests are affected. Equally, at the same time that DG Competition makes notifications to the Competition Bureau, copies are sent to the Member State(s) whose interests are affected. The report concludes by stating that the Cooperation Agreement has led to a closer relationship between the Commission and the Canadian Competition Bureau, as well as to a greater understanding of each other's competition policy. An increasing number of cases are being examined by both competition authorities, and there is consequently a growing recognition of the importance of coordinating enforcement activities to the extent that this is considered mutually beneficial by both parties and of the necessity of avoiding conflicting decisions. The Commission and the Canadian Competition Bureau also continued to maintain an ongoing dialogue on general competition policy/enforcement issues of common concern.?