

Procedure file

Basic information		
CNS - Consultation procedure Decision	2008/0004(CNS)	Procedure completed
EC/Korea agreement: cooperation on anti-competitive activities		
Subject 2.60 Competition 6.20.01 Agreements and relations in the context of the World Trade Organization (WTO) 6.20.02 Export/import control, trade defence, trade barriers 6.20.03 Bilateral economic and trade agreements and relations		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	INTA International Trade		26/03/2008
		PSE MARTIN David	
	Committee for opinion	Rapporteur for opinion	Appointed
	ECON Economic and Monetary Affairs		22/04/2008
		PPE-DE HÖKMARK Gunnar	
Council of the European Union	Council configuration	Meeting	Date
	Education, Youth, Culture and Sport	2923	16/02/2009
European Commission	Commission DG	Commissioner	
	Competition	KROES Neelie	

Key events			
11/01/2008	Legislative proposal published	SEC(2007)1731	Summary
05/11/2008	Vote in committee		Summary
18/11/2008	Committee report tabled for plenary, 1st reading/single reading	A6-0452/2008	
20/11/2008	Committee referral announced in Parliament		
04/12/2008	Results of vote in Parliament		
04/12/2008	Decision by Parliament	T6-0572/2008	Summary
16/02/2009	Act adopted by Council after consultation of Parliament		
16/02/2009	End of procedure in Parliament		

Technical information	
Procedure reference	2008/0004(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	International agreement
Legislative instrument	Decision
Legal basis	EC Treaty (after Amsterdam) EC 308; EC Treaty (after Amsterdam) EC 083
Stage reached in procedure	Procedure completed
Committee dossier	INTA/6/59955

Documentation gateway					
Legislative proposal		SEC(2007)1731	11/01/2008	EC	Summary
Committee draft report		PE409.787	17/09/2008	EP	
Committee opinion	ECON	PE411.953	08/10/2008	EP	
Amendments tabled in committee		PE414.209	16/10/2008	EP	
Committee report tabled for plenary, 1st reading/single reading		A6-0452/2008	18/11/2008	EP	
Text adopted by Parliament, 1st reading/single reading		T6-0572/2008	04/12/2008	EP	Summary
Commission response to text adopted in plenary		SP(2009)402	29/01/2009	EC	

Additional information	
European Commission	EUR-Lex

Final act
Decision 2009/586 OJ L 202 04.08.2009, p. 0035 Summary

EC/Korea agreement: cooperation on anti-competitive activities

PURPOSE: to conclude an Agreement between the Republic of Korea and the European Community concerning co-operating on anti-competitive activities.

PROPOSED ACT: Council Decision.

BACKGROUND: both the Republic of Korea and the European Community recognise that the world's economies are becoming increasingly interrelated. Both share the view that the sound and effective enforcement of competition law is a matter of importance to the efficient operation of their respective markets, as well as to the economic welfare of consumers.

CONTENT: bearing the above in mind, the purpose of this proposal is to conclude an Agreement between the Republic of Korea and the European Community concerning cooperating on anti-competitive activities. The stated purpose of the Agreement is to contribute to the effective enforcement of competition laws of each party by promoting cooperation and coordination between the competition authorities of both Parties and to avoid, or at least lessen, the possibility of conflicts between the Parties in all matters pertaining to the application of competition.

In summary, the main provisions being proposed are:

Notification: The competition authority of each Party will notify the competition authority of the other Party, on enforcement activities that may affect the other Party. This may include, for example, enforcement activities involving a national of the other Party and/or activities involving a company based in either country.

Enforcement cooperation: The competition authority of each Party will offer assistance to the competition authority of the other Party, to the extent that it is consistent with the laws and regulation of the Party concerned. Thus, the authorities should: inform the other authority of all enforcement activities involving anti-competitive activities; provide the other authority with any significant information within its possession and that comes to its attention about anti-competitive activities; and provide the other Party, upon request, with information within its possession that is relevant to the enforcement activities of the competition authority of the other Party.

Coordination of enforcement activities: Both Parties agree to pursue enforcement activities on related matters. For example, they will consider the coordination of their activities. They agree to take account of: the effect of coordination on the ability of the authorities to achieve their objectives; the ability of the authority to obtain information; the need to avoid conflicting obligations and unnecessary burdens; and the opportunity to make more efficient use of their resources through coordination.

Conflict avoidance (Negative Comity): Both Parties agree to consider the important interests of the other Party throughout all phases of their enforcement activities ? including decisions to begin activities; the scope of enforcement activities and the nature of sanctions or other relief sought in each case.

Positive Comity: Should the authority of one Party consider that anti-competitive activities carried out in the territory of the other Party adversely affects important interests of the former Party, it may request that an enforcement activity be initiated.

Confidentiality: Neither Party is required to divulge information to the other Party if it is prohibited by the laws and regulations of the Party processing the information or if it would be incompatible with its important interests.

Meetings: The two authorities will meet at least once a year: to exchange information on matters of common economic interest and to discuss policy issues of mutual interest.

Existing law: Nothing in the Agreement will require a Party to take any action that is not consistent with its existing laws or future laws or enquire any change in the laws of the Parties.

EC/Korea agreement: cooperation on anti-competitive activities

The Committee on International Trade adopted a report drafted by David MARTIN (PES, UK) adding two recitals, in the framework of the consultation procedure, to the proposal for a Council decision on concluding the Agreement between the Government of the Republic of Korea and the European Community concerning cooperation on anti-competitive activities.

These are as follows:

- as mutual recognition of competition law between the European Community and South Korea is the most efficient way to tackle anti-competitive behaviour, the use of trade defence instruments (TDIs) between the two parties should be minimised;
- this Agreement should be considered in the context of the overall framework of existing agreements between the European Community and the Republic of Korea and those currently under negotiation, in particular the negotiations concerning a potential free trade agreement.

EC/Korea agreement: cooperation on anti-competitive activities

The European Parliament adopted, by 536 votes to 10 with 39 abstentions, under the consultation procedure, a legislative resolution amending the proposal for a Council decision on concluding the Agreement between the Government of the Republic of Korea and the European Community concerning cooperation on anti-competitive activities.

The report had been tabled for consideration in plenary by David MARTIN (PES, UK) on behalf of the Committee on International Trade.

Parliament added two new recitals as follows :

- as mutual recognition of competition law between the European Community and South Korea is the most efficient way to tackle anti-competitive behaviour, the use of trade defence instruments (TDIs) between the two parties should be minimised;
- this Agreement should be considered in the context of the overall framework of existing agreements between the European Community and the Republic of Korea and those currently under negotiation, in particular the negotiations concerning a potential free trade agreement.

EC/Korea agreement: cooperation on anti-competitive activities

PURPOSE: to conclude an Agreement between the Republic of Korea and the European Community concerning co-operating on anti-competitive activities.

LEGISLATIVE ACT: Council Decision 2009/586/EC relating to the conclusion of the Agreement between the European Community and the Government of the Republic of Korea concerning cooperation on anti-competitive activities.

CONTENT: given the increasingly pronounced international dimension to competition problems, international cooperation in this field should be strengthened, bearing in mind that the sound and effective enforcement of competition laws is a matter of importance to the efficient operation of the markets and to international trade.

At the same time, elaboration of the principles of positive comity in international law and implementation of those principles in the enforcement of the competition laws of the Community and South Korea are likely to increase the effectiveness in their application. To this end, the Commission has negotiated an Agreement with the Government of the Republic of Korea regarding the application of the competition rules of the Community and South Korea.

Given that the Agreement includes mergers and acquisitions which are covered by Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (the EC Merger Regulation), which in turn is based essentially on Article 308, this Decision should also be based on that Article.

By adopting this Decision, the Council approves the Agreement between the European Community and the Government of the Republic of Korea concerning cooperation on anti-competitive activities. The text of the Agreement is attached to the Decision.

ENTRY INTO FORCE: the Agreement shall enter into force on the date when the Parties exchange written notifications that their respective legal requirements for the entry into force of this agreement have been fulfilled.