


Procedure file

Basic information		
CNS - Consultation procedure Decision	1994/0236(CNS)	Procedure completed
EC/United States agreement: application of competition rules		
Subject 2.60 Competition 6.40.11 Relations with industrialised countries		
Geographical area United States		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	RELA External Economic Relations	FE MALERBA Franco E.	04/11/1994
	Former committee responsible		
	RELA External Economic Relations	FE MALERBA Franco E.	04/11/1994
Council of the European Union	Former committee for opinion		
	ECON Economic and Monetary Affairs, Industrial Policy	PSE METTEN Alman	19/12/1994
	JURI Legal Affairs, Citizens' Rights	PSE VERDE I ALDEA Josep	02/12/1994
	Council configuration	Meeting	Date
	General Affairs	1844	10/04/1995

Key events			
12/10/1994	Legislative proposal published	COM(1994)0430	Summary
12/12/1994	Committee referral announced in Parliament		
16/01/1995	Vote in committee		
16/01/1995	Committee report tabled for plenary, 1st reading/single reading	A4-0004/1995	
20/01/1995	Debate in Parliament		
20/01/1995	Decision by Parliament	T4-0028/1995	Summary

20/02/1995	Formal reconsultation of Parliament		
22/02/1995	Amended legislative proposal for reconsultation published	N4-0052/1995	Summary
14/03/1995	Vote in committee		
14/03/1995	Committee report tabled for plenary, reconsultation	A4-0044/1995	
17/03/1995	Debate in Parliament		
17/03/1995	Decision by Parliament	T4-0130/1995	Summary
10/04/1995	Act adopted by Council after consultation of Parliament		
10/04/1995	End of procedure in Parliament		
27/04/1995	Final act published in Official Journal		

Technical information

Procedure reference	1994/0236(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	International agreement
Legislative instrument	Decision
Legal basis	ECSC Treaty C 065; ECSC Treaty C 066; EC before Amsterdam E 087; Rules of Procedure EP 163; EC before Amsterdam E 235; EC before Amsterdam E 228-p3-a1
Stage reached in procedure	Procedure completed
Committee dossier	RELA/4/06273; RELA/4/06426

Documentation gateway

Legislative proposal		COM(1994)0430	12/10/1994	EC	Summary
Committee report tabled for plenary, 1st reading/single reading		A4-0004/1995 OJ C 043 20.02.1995, p. 0017	16/01/1995	EP	
Text adopted by Parliament, 1st reading/single reading		T4-0028/1995 OJ C 043 20.02.1995, p. 0119-0126	20/01/1995	EP	Summary
Amended legislative proposal for reconsultation		N4-0052/1995	22/02/1995	CSL	Summary
Committee final report tabled for plenary, reconsultation		A4-0044/1995 OJ C 089 10.04.1995, p. 0051	14/03/1995	EP	
Text adopted by Parliament after reconsultation		T4-0130/1995 OJ C 089 10.04.1995, p. 0193-0233	17/03/1995	EP	Summary
Follow-up document		COM(1999)0439	13/09/1999	EC	
Follow-up document		COM(2000)0618	04/10/2000	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](#)

Final act

[Decision 1995/145](#)
[OJ L 095 27.04.1995, p. 0045](#) Summary

EC/United States agreement: application of competition rules

This proposal for a decision sought to conclude an agreement between the European Communities and the USA regarding the application of their competition laws. The aim of this agreement was not to create a framework for conflict resolution between the parties but to avoid these conflicts from arising by establishing a system of cooperation and information between the competent authorities (namely the EC Commission, the US Department of Justice and the Federal Trade Commission - FTC). The agreement contained a definition of its scope (Articles 85, 86, 89 and 90 of the EC Treaty, the Regulation on the control of concentrations between undertakings and Articles 65 and 66 of the ECSC Treaty, for the Communities; Sherman Act, Clayton Act, Willson Tariff Act and part of the FTC Act, for the Americans) and provided for the obligation of notification of the other's competition authorities if "important interests" of that party were affected. Notification should be made far enough in advance to enable the other party's views to be taken into account. Each party should render assistance to the other party to the extent compatible with the assisting party's laws and important interests, and within its available resources, but they should also work together when applying their rules in accordance with the specific situation. The agreement also stated that each party should take account of the other's important interests when applying its competition rules. Furthermore, information should only be disclosed on the condition that the exchange was not incompatible with the confidentiality rules of each of the parties. ?

EC/United States agreement: application of competition rules

Parliament approved the proposal for a decision without amendment. ?

EC/United States agreement: application of competition rules

Following an exchange of interpretative letters between the EC and the United States, which was annexed to their agreement on the application of their competition laws, the Council forwarded to Parliament a new draft decision which included this exchange of letters, in order that Parliament might express a new opinion on the entire text (agreement plus interpretative letters). In view of the obligation to take measures in conjunction with Court judgment C.327/91 of 09.08.1994, annulling the act by which the Commission concluded the agreement, the latter should be concluded by the Council as soon as possible. This is why the Council (in application of Article 228 (3) (1) and Article 235 of the Treaty) called on Parliament to give its new opinion before 17 March 1995. The exchange of letters seeks: - on the one part to correct the names of the contracting parties (errors due to the fact that the Agreement had previously been concluded between the Commission and the USA, and not between the Council plus the ECSC and the USA, as recommended in Court judgment C.327/91); - on the other part to specify the confidentiality of the information being entrusted to one or other of the Parties. ?

EC/United States agreement: application of competition rules

Parliament approved the Commission proposal subject to two amendments, which sought to amend the legal basis proposed by removing all references to Article 235 of the Treaty. ?

EC/United States agreement: application of competition rules

The Council and the Commission adopted a decision concerning the conclusion of an agreement between the European Communities and the Government of the United States of America regarding the application of their competition laws (agreement previously concluded between the Commission and the USA but annulled by the Court's judgment C-327/91 of 9 August 1994 with a view to involving the Council in its conclusion and not only the Commission). Objective: the agreement does not aim to establish a framework for conflict resolution between the parties; rather it aims to avoid conflicts by establishing a system of cooperation and information exchange between the competent authorities (namely the Commission of the European Communities, the US Department of Justice and the Federal Trade Commission). Scope: the agreement concerns the application of: . for the European Communities, Articles 85, 86, 89 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; . for the United States of America, the Sherman Act, the Clayton Act, the Wilson Tariff Act and part of the FTC Act. Notification and exchange of information: the agreement stipulates that each party shall notify the other's competition authorities if "important interests" of that party are affected. Notification must be made far enough in advance to enable the other party's views to be taken into account. Each party will render assistance to the other party to the extent compatible with the assisting party's laws and important interests, and within its available resources. In coordinating their activities, they must take account of the specific situation. The agreement also states that each party must take account of the other's important interests

when applying its competition rules. Confidentiality: the agreement includes an exchange of interpretative letters concerning inter alia the confidentiality of the information provided. Information may only be disclosed on the condition that the exchange is not incompatible with the confidentiality rules of each of the parties. Entry into force: the agreement shall apply with effect from 23 September 1991. ?

EC/United States agreement: application of competition rules

This Report from the Commission to the Council and the European Parliament concerns the application of the Agreement between the European Communities and the Government of the United States of America (US) regarding the application of their competition laws between 1 January 1999 to 31 December 1999. On 23.09.1991, the Commission concluded an Agreement with the Government of the US regarding the application of their competition laws (the "1991 Agreement"), the aim of which is to promote cooperation between the competition authorities. By a joint decision of the Council and the Commission on 10.04.1995, the Agreement was approved and declared applicable. On 04.06.1998 another agreement, which strengthens the positive comity provisions of the 1991 Agreement, entered into force (the "1998 Agreement") after having been approved by a joint decision of the Council of 29.05.1998. During 1999, the Commission cooperated with the Antitrust Division of the US Department of Justice (DoJ) and the US Federal Trade Commission (FTC) in a substantial number of cases. Beyond the specific case-related benefits arising out of this intensive cooperation for both the competition authorities and private parties involved (in terms of a more rapid and coherent management of cases on both sides of the Atlantic), the close daily contact between case teams in the Commission (DG Competition) and the US DoJ and FTC is conducive to mutual confidence building, accrued knowledge of the substantive and procedural rules in each other's jurisdiction, substantial convergence in competition analysis, and movements towards "best practices" in both substantive and procedural matters. With regard to merger cases, since the adoption of the Merger Regulation, there has - nearly every year - been a steep rise in the number of operations notified to the Commission. Substantive cooperation in merger cases tends to focus on three areas: the definition of markets, the assessment of the likely competitive effects of the proposed operation on that/those market/s, and the appropriateness of any remedies proposed by the parties to meet any competition concerns identified by the authorities. EU/US cooperation has been characterised by a marked progressive convergence in the thinking of the agencies on both sides of the Atlantic with regard to all three areas. With regard to cartel cases, cooperation between the EU and US has improved markedly over the past year. Notwithstanding this cooperation, it has nonetheless to be acknowledged that effective cooperation in combatting cartels is seriously hampered by the agencies' inability to exchange confidential information. Furthermore, the Commission adopted on March 31, 1999 a text setting forth administrative arrangements between the competition authorities of the Commission and of the US concerning mutual attendance at certain stages of the procedures in individual cases involving the application of their respective competition rules. Also, a new EU/US Working Group was created in October 1999 whose purpose is to enhance transatlantic cooperation in the control of "global" mergers. In conclusion, the EU and US authorities have strengthened their contacts with respect to combatting global cartels during 1999, and have concluded administrative arrangements allowing for the possibility of attending key meetings with the parties in individual cases of mutual concern. The Commission, DoJ and FTC also continue to maintain an ongoing dialogue on general competition policy/enforcement issues of common concern. ?