EC/Korea agreement: cooperation on anti-competitive activities

2008/0004(CNS) - 11/01/2008 - Legislative proposal

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.