

EU/Switzerland Agreement: cooperation on the application of their competition laws

2012/0127(NLE) - 09/04/2013 - Legislative proposal

PURPOSE: conclude an Agreement between the European Union and the Swiss Confederation concerning cooperation on the application of their competition laws.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: the EU has concluded bilateral cooperation agreements in order to structure and facilitate the cooperation between the Commission and foreign competition authorities. These agreements contain various instruments of cooperation in the area of competition policy but **expressly exclude the exchange of protected or confidential information.**

The EU and Switzerland are two very important economic partners, whose economies are deeply integrated. As a result, many anti-competitive practices have cross border effects on trade between the EU and Switzerland. Many cases dealt with by the Commission concern practices which involve Swiss firms and/or affect the Swiss market. Similarly, there is clear evidence showing that certain anti-competitive practices taking place in Switzerland, and especially cartels, also affect the EU markets.

Consequently, on 26 November 2011, the Council authorised the Commission to negotiate this agreement with Switzerland to deal with this issue. In accordance with a Council Decision, the Agreement between the EU and Switzerland on the application of their competition laws was signed, subject to its conclusion.

It is now necessary to approve this Agreement on behalf of the European Union.

LEGAL BASIS: Articles 103 and 352, in conjunction with Article 218(6)(a)(v) of the treaty on the Functioning of the European Union (TFEU).

CONTENT: with this proposed Council Decision, the Agreement between the European Union and the Swiss Confederation concerning cooperation on the application of their competition laws is hereby approved on behalf of the Union.

The purpose of this Agreement is to contribute to the effective enforcement of the competition laws of each Party through cooperation and coordination, including the exchange of information, between the competition authorities of the Parties and to avoid or lessen the possibility of conflicts between the Parties in all matters concerning the application of the competition laws of each Party. In order to achieve the purpose of this Agreement, the competition authorities of the Parties may share views and exchange information related to the application of their respective competition laws. The competition authorities of the Parties may discuss any information, including information obtained by investigative process, as necessary to carry out the cooperation and coordination provided for under this Agreement.

In addition, the Agreement formalises the terms “positive and negative comity” in order to prevent conflict between competition authorities (in particular when penalties or corrective measures are being taken in the case of non-compliance of competition laws).

For details on the main provisions of the Agreement, please also refer to the summary of the Commission's initial legislative proposal dated 01/06/2012.