

# Resolution on EU cooperation agreements on competition policy enforcement - the way forward

2013/2921(RSP) - 05/02/2014 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution tabled by the Committee on Economic and Monetary Affairs on EU cooperation agreements on competition policy enforcement - the way forward.

It welcomed **the proposed agreement between the EU and the Swiss Confederation concerning cooperation on the application of their competition laws** ('the agreement'), and hoped that the prosecution of international cartels and punishment for cross-border offences of a serious nature would be more effective under this agreement and would also reduce duplication of the work of the competition authorities in taking decisions on similar cases.

Parliament regarded the main new provision introduced by this kind of 'second-generation agreement', i.e. **the possibility of exchanging confidential information between the Commission and the Swiss Competition Commission**, as a positive step. This agreement could be considered a model for future bilateral cooperation agreements in the area of competition enforcement where there was a **high degree of similarity between the parties** as regards their substantive competition rules, investigative powers and applicable sanctions. Members felt that **the EU should adopt a general framework establishing a minimum common and consistent basis for any future negotiations on competition enforcement cooperation**, leaving to the Commission, however, a margin for manoeuvre to allow for more ambitious achievements on a case-by-case basis.

Members regretted, however, that the agreement did not establish binding obligations as regards cooperation and leaves a broad margin for discretion, in particular by virtue of the reference to **'important interests'**, which could be invoked by either party as a justification for not complying with a request made by the other party. They called on the Commission and the Swiss authorities to cooperate sincerely and on EU national competition authorities and the Swiss Competition Commission to cooperate reciprocally.

Parliament underlined the need for the following:

- the establishment of safe mechanisms for the use and transmission of confidential information;
- the attractiveness of leniency programmes and settlement procedures, taking into account the general principle governing the exchange of confidential information enshrined in this agreement;
- protecting documents relating to leniency applications or settlement procedures, in particular from potential future disclosure in the context of civil or criminal proceedings;
- studying a coherent approach to appeals against final decisions in both jurisdictions;
- Member States and their national competition authorities to cooperate fully with the Commission in order to ensure the effective implementation of this agreement.

Parliament called on the Commission to:

- submit a **comprehensive institutional agreement** between Switzerland and the EU guaranteeing the uniform interpretation, monitoring and application of their bilateral agreements;

- actively promote competition enforcement cooperation at international level, mainly in multilateral fora such as the World Trade Organisation (WTO), the International Competition Network (ICN) and the Organisation for Economic Cooperation and Development (OECD);
- explore the possibility of opening **similar negotiations with the countries** with whom a first-generation agreement already exists, as well as with other important international actors and emerging economies such as China or India, in the case where a sufficient degree of similarity between the parties to the agreement as regards their substantive competition rules, investigative powers and applicable sanctions is present;
- regularly inform and **update Parliament on all the types of activities in which it engages in the field of international cooperation**, whether they be multilateral or bilateral initiatives of different kinds (formal agreements, MoUs, etc.), well in advance of the final outcome, with particular regard at present to the ongoing negotiations on the bilateral agreement with Canada.

Parliament asked that the latter types of activities be **included in the annual work programme** presented by the Commissioner for Competition to Parliament and that the commissioner regularly inform the chair of the responsible parliamentary committee by letter of the evolution of international cooperation on competition enforcement.