EU/Canada Agreement: application of their competition laws

2016/0195(NLE) - 27/06/2016 - Preparatory document

PURPOSE: to conclude the Agreement between the European Union and the Government of Canada regarding the application of their competition law.

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 existing Cooperation Agreement with Canada dates from June 1999 and at that time the exchange of evidence between the parties was not regarded as needed. In the meantime, the bilateral cooperation between the European Commission and the Canadian Competition Bureau has become more frequent and deeper as concerns substance. The absence of the possibility to exchange information with the Canadian competition authority is regarded as a major impediment to effective cooperation.

The proposal derives from a Council mandate of 9 October 2008 in which the Commission was authorised to start negotiations to update the existing Cooperation Agreement between the EU and Canada in competition matters. The purpose is to include provisions which allow the competition authorities of both sides to exchange evidence that they have collected in the course of their respective investigations.

Many worldwide or transatlantic cartels include Canada and via Canada the Commission will get a good opportunity to have access to additional information concerning these cartels.

CONTENT: the Commission calls on the Council to approve, on behalf of the Union, **the Agreement between the European Union and the Government of Canada regarding the application of their competition law**.

The proposed changes to the existing agreement will allow the European Commission and the Canadian Competition Bureau to **exchange evidence which both sides have obtained in their investigations**.

The Parties left the text of the existing agreement in principle unchanged and only added the necessary provisions defining the framework for the **discussion, transmission and use of legally protected information**. The changes also reflect the developments in European data protection law since the entry into force of the agreement.

More specifically, the proposed Agreement:

defines the notion of "information obtained by investigative process" which will be subject to the newly agreed exchange mechanism;

- lays down the circumstances and conditions for the exchange of information;
- sets out confidentiality obligations and the conditions under which the information transmitted can be used by the receiving party: the draft Agreement stipulates that: (i) the information can only be used for the purposes specified in the request and for the purpose of applying the competition rules by the receiving authority; (ii) no information transmitted under the Agreement shall be used to impose custodial sanctions on individuals;
-

regulates the communication of documents between the Commission and the national competition authorities of the Member States and between the Commission and the EFTA Surveillance Authority.

Taking account of the number of changes, it is provided that the proposed Agreement shall supersede the existing 1999 Agreement.