EC/United States agreement: application of competition rules

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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 cooperaton 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 postive 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 susbstantial 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 betwen 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 arrangementsallowing 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.