EC/United States agreement: application of competition rules

1994/0236(CNS) - 10/04/1995 - Final act

The Council and the Commission adopted a decision concerning the conclusion of an agreement between the European Communities and the Government of the United States of America regarding the application of their competition laws (agreement previously concluded between the Commission and the USA but annulled by the Court's judgment C-327/91 of 9 August 1994 with a view to involving the Council in its conclusion and not only the Commission). Objective: the agreement does not aim to establish a framework for conflict resolution between the parties; rather it aims to avoid conflicts by establishing a system of cooperation and information exchange between the competent authorities (namely the Commission of the European Communities, the US Department of Justice and the Federal Trade Commission). Scope: the agreement concerns the application of: . for the European Communities, Articles 85, 86, 89 and 90 of the EC Treaty, Regulation (EEC) No 4064/89 on the control of concentrations between undertakings and Articles 65 and 66 of the ECSC Treaty; . for the United States of America, the Sherman Act, the Clayton Act, the Wilson Tariff Act and part of the FTC Act. Notification and exchange of information: the agreement stipulates that each party shall notify the other's competition authorities if "important interests" of that party are affected. Notification must be made far enough in advance to enable the other party's views to be taken into account. Each party will render assistance to the other party to the extent compatible with the assisting party's laws and important interests, and within its available resources. In coordinating their activities, they must take account of the specific situation. The agreement also states that each party must take account of the other's important interests when applying its competition rules. Confidentiality: the agreement includes an exchange of interpretative letters concerning inter alia the confidentiality of the information provided. Information may only be disclosed on the condition that the exchange is not incompatible with the confidentiality rules of each of the parties. Entry into force: the agreement shall apply with effect from 23 September 1991.