Control of concentrations between undertakings (amend. regul. 4064/89/EEC)

1996/0224(CNS) - 30/06/1997 - Final act

OBJECTIVE: to amend Regulation (EEC) No 4064/89 on the control of concentrations between undertakings. COMMUNITY MEASURE: Council Regulation (EC) No 1310/97. CONTENT: the Council only adopted one final text, despite the fact that the European Commission submitted two separate proposals. It should also be noted that the new regulation does not incorporate a major amendment proposed by the Commission, namely the reduction in the thresholds of current worldwide and Community turnover to ECU 3 billion (from the present value of 5 billion) and ECU 150 million (from the current figure of 250 million). The turnover thresholds laid down in article 1 (2) of Regulation (EEC) No 4064/89 therefore remain unchanged. However, the new regulation makes provision for an additional system in the form of new thresholds expressed in terms of the total turnover of the companies in question worldwide, in the Community and in at least three Member States. Thus, for the purposes of the regulation, a merger which does not reach the thresholds laid down in article 1 (2) has a Community dimension if: a) the total worldwide turnover of all the companies concerned exceeds the sum of ECU 2.5 billion; b) the total turnover of all the companies concerned in each of at least three Member States exceeds ECU 100 million; c) the total turnover achieved individually by at least two of the companies concerned in each of at least three Member States included for the purpose of point b) exceeds ECU 25 million and d) the total Community turnover achieved individually by at least two of the companies concerned exceeds the sum of ECU 100 million unless each of the companies concerned achieves over two-thirds of its total Community turnover within one and the same Member State. The other amendments to the 1989 regulation deal mainly with: - cooperative joint ventures: these companies now come within the scope of the merger regulation; - the first phase of the inquiry: during the first stage, the Commission may accept undertakings by the parties to make the concentration compatible with the common market. The first stage is extended to 6 weeks if the companies in question give undertakings. DATE OF ENTRY INTO FORCE: 1 March 1998.