EC/United States agreement: application of positive comity principles in the enforcement of their competition laws

1997/0178(CNS) - 29/05/1998 - Final act

OBJECTIVE: conclusion of an Agreement between the Communities and the USA to encourage the application of positive comity principles in the enforcement of their competition laws. COMMUNITY MEASURE: Decision 98/386/EC, ECSC of the Council and of the Commission concerning the conclusion of the Agreement between the European Communities and the Government of the USA on the application of positive comity principles in the enforcement of their competition laws. SUBSTANCE: The Agreement is linked to the 1991 Agreement on the application of competition laws between the USA and the Community. It defines more clearly the term 'positive comity' as used in the 1991 Agreement (Article V) and lays down details of its application. The Agreement constitutes an important development in the Commission's relations with the USA and represents a political commitment on the part of the USA to cooperate with the Commission rather than applying its antitrust legislation extraterritorially in the EU. More specifically, the Agreement defines the circumstances in which there are grounds for requesting the application of positive comity principles and how such requests should be dealt with. The 'positive comity' principle applies where one of the Parties considers that anticompetitive acts have been committed in the territory of the other Party which affect its interests. The Party may then request the application by the other Party's competition authority of appropriate measures. In this case, the requesting Party defers or suspends its own enforcement activities while the requested Party conducts an inquiry into the alleged anticompetitive activities. Provisions are laid down concerning the procedures for implementing the deferral or suspension measures. Information forwarded pursuant to the Agreement must be treated in confidence. ENTRY INTO FORCE: the Agreement enters into force on 04.06.1998, the date of its signature by the Parties.