Basic information

1994/0236(CNS) CNS - Consultation procedure Decision	Procedure completed
EC/United States agreement: application of competition rules **Subject** 2.60 Competition 6.40.11 Relations with industrialised countries **Geographical area** United States	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
RELA External Economic Relations	MALERBA Franco E. (FE)	04/11/1994

Former committee responsible	Former rapporteur	Appointed
RELA External Economic Relations	MALERBA Franco E. (FE)	04/11/1994

Former committee for opinion	Former rapporteur for opinion	Appointed
ECON Economic and Monetary Affairs, Industrial Policy	METTEN Alman (PSE)	19/12/1994
JURI Legal Affairs, Citizens' Rights	VERDE I ALDEA Josep (PSE)	02/12/1994

Council of the European Union

Council configuration	Meetings	Date
General Affairs	1844	1995-04-10

Key events

Date	Event	Reference	Summary
12/10/1994	Legislative proposal published	COM(1994)0430	Summary

12/12/1994	Committee referral announced in Parliament		
16/01/1995	Vote in committee		
16/01/1995	Committee report tabled for plenary, 1st reading/single reading	A4-0004/1995	
20/01/1995	Debate in Parliament		
20/02/1995	Formal reconsultation of Parliament		
22/02/1995	Amended legislative proposal for reconsultation published	N4-0052/1995	Summary
14/03/1995	Vote in committee		
14/03/1995	Committee report tabled for plenary, reconsultation	A4-0044/1995	
17/03/1995	Debate in Parliament		
10/04/1995	Act adopted by Council after consultation of Parliament		
10/04/1995	End of procedure in Parliament		
27/04/1995	Final act published in Official Journal		

Technical information

Procedure reference	1994/0236(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	International agreement
Legislative instrument	Decision
Legal basis	Rules of Procedure EP 170 EC Treaty (before Amsterdam) E 087 EC Treaty (before Amsterdam) E 228-p3-a1 EC Treaty (before Amsterdam) E 235 ECSC Treaty C 066 ECSC Treaty C 065
Stage reached in procedure	Procedure completed
Committee dossier	RELA/4/06426 RELA/4/06273

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A4-0004/1995 OJ C 043 20.02.1995, p. 0017	16/01/1995	
Text adopted by Parliament, 1st reading/single reading		T4-0028/1995 OJ C 043 20.02.1995, p. 0119-0126	20/01/1995	Summary
Committee final report tabled for plenary, reconsultation		A4-0044/1995 OJ C 089 10.04.1995, p. 0051	14/03/1995	
Text adopted by Parliament after reconsultation		T4-0130/1995 OJ C 089 10.04.1995, p. 0193-0233	17/03/1995	Summary

Council of the EU

Document type	Reference	Date	Summary
Amended legislative proposal for reconsultation	N4-0052/1995	22/02/1995	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(1994)0430	12/10/1994	Summary
Follow-up document	COM(1999)0439	13/09/1999	
Follow-up document	COM(2000)0618	04/10/2000	Summary
Follow-up document	COM(2002)0045	29/01/2002	Summary
Follow-up document	COM(2002)0505	17/09/2002	Summary
Follow-up document	COM(2003)0500	13/08/2003	Summary

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Decision 1995/0145
OJ L 095 27.04.1995, p. 0045 Summary

EC/United States agreement: application of competition rules

1994/0236(CNS) - 20/01/1995 - Text adopted by Parliament, 1st reading/single reading

Parliament approved the proposal for a decision without amendment.

EC/United States agreement: application of competition rules

1994/0236(CNS) - 13/08/2003

PURPOSE : to present the report from the Commission to the Council and the European Parliament on the application of the agreements between the European Communities and the Government of the United States of America regarding the application of their competition laws 1 January 2002 to 31 December 2002. CONTENT : the report states that during 2002, the Commission continued its close cooperation with the Antitrust Division of the US Department of Justice (DoJ) and the US Federal Trade Commission (FTC). Contact between Commission officials and their counterparts at the two US agencies was frequent and intense. These contacts range from detailed case-related discussions to more general, sometimes theoretical, competition

policy-related matters. Case related contacts usually take the form of regular telephone calls, e-mails, exchanges of documents, and other contacts between the case teams. High-level meetings and contacts also occur with reasonable frequency. The cooperation continues to be of considerable mutual benefit to both sides, in terms of enhancing the respective enforcement activity, avoiding unnecessary conflicts or inconsistencies between those enforcement activities, and in terms of better understanding each other's competition policy regimes. As far as merger cases are concerned, the report shows that in line with the overall economic climate the number of transnational mergers decreased in the year 2002. Nevertheless, the year 2002 saw a continued good cooperation in those transactions notified to both the Commission and the US antitrust agencies. Concerning non-merger cases, during the course of the year there was also frequent contacts in a number of non-merger cases. In the Microsoft case, the Commission and the US DoJ kept each other informed about the status of their respective investigations. Bilateral cooperation between the Commission and the US DoJ was particularly intensified in cartel cases: numerous contacts took place between officials of the Commission's cartel units and their counterparts at the DoJ. The exchanges of information on particular cases, within the limits of the existing provisions on confidentiality, were most frequent, but discussions also concerned policy issues. There were 15 Commission investigations for which effective co-operation took place. Most contacts were established via telephone and e-mail, but in some instances meetings were held. Many of the case related contacts took place as a result of simultaneous applications for immunity in the US and the EC. Furthermore, in a number of instances, co-ordinated enforcement actions took place in the US and the European Union, whereby the agencies tried to ensure that the time lapse between the start of the respective actions was as short as possible. Moreover, there were numerous high-level bilateral contacts between the Commission and the relevant US authorities during the course of 2002. On 23 July 2002 Commissioner Mario Monti met in Brussels the heads of the US and antitrust agencies, Assistant Attorney General Charles James, and Chairman Timothy Muris of the Federal Trade Commission for the annual bilateral EU/US meeting. As regards EU/US Working Groups, these continued. The activities of the existing EU/US Mergers Working Group were expanded and work intensified. DG COMP agreed with the US agencies that the Working Group should consist of a number of sub-groups. One sub-group has been dealing with procedural issues and two othersub-groups with substantive issues (one with conglomerate aspects of mergers, and another with the role of efficiencies in merger control analysis). The fruitful discussion on remedies also continued. Work in the sub-group dealing with efficiencies in merger control is still in progress. The objective of the sub-group on efficiencies is to discuss the consideration to be given to efficiencies in merger control analysis. Work in the sub-group commenced in August 2002, and was ongoing at the end of 2002. As regards best practices on EU/US cooperation in merger cases, these put in place a more structured basis for co-operation in reviews of individual merger cases. The best practices recognise that cooperation is most effective when the investigation timetables of the reviewing agencies run more or less in parallel. Merging companies will therefore be offered the possibility of meeting at an early stage with the agencies to discuss timing issues. Companies are also encouraged to permit the agencies to exchange information which they have submitted during the course of an investigation and, where appropriate, to allow joint EU/US interviews of the companies concerned. The practices moreover designate key points in the respective EU and US merger investigations when it may be appropriate for direct contacts to occur between senior officials on both sides. The report highlights that there was a total of 63 formal notifications made by the Commission during the period between 1 January 2002 and 31 December 2002. The Commission received a total of 44 formal notifications from the US authorities during the same period. Merger cases made up the majority of all notifications in both directions. There were 56 merger notifications made by the Commission and 27 by the US authorities. In conclusion, 2002 witnessed a further intensification of EU/US cooperation in all areas of competition law enforcement. The further increase of cooperation in 2002 with respect to the combating of global cartels is noteworthy, also the authorities on the two sides of the Atlantic are taking increasingly convergent approaches to the identification and implementation of remedies, and to post-merger remedy compliance monitoring. The Commission, DoJ and FTC also continued to maintain an ongoing dialogue on general competition policy/enforcement issues of common concern.

EC/United States agreement: application of competition rules

1994/0236(CNS) - 12/10/1994 - Legislative proposal

This proposal for a decision sought to conclude an agreement between the European Communities and the USA regarding the application of their competition laws. The aim of this agreement was not to create a framework for conflict resolution between the parties but to avoid these conflicts from arising by establishing a system of cooperation and information between the competent authorities (namely the EC Commission, the US Department of Justice and the Federal Trade Commission - FTC). The agreement contained a definition of its scope (Articles 85, 86, 89 and 90 of the EC Treaty, the Regulation on the control of concentrations between undertakings and Articles 65 and 66 of the ECSC Treaty, for the Communities; Sherman Act, Clayton Act, Willson Tariff Act and part of the FTC Act, for the Americans) and provided for the obligation of notification of the other's competition authorities if "important interests" of that party were affected. Notification should be made far enough in advance to enable the other party's views to be taken into account. Each party should render assistance to the other party to the extent compatible with the assisting party's laws and important interests, and within its available resources, but they should also work together when applying their rules in accordance with the specific situation. The agreement also stated that each party should take account of the other's important interests when applying its competition rules. Furthermore, information should only be disclosed on the condition that the exchange was not incompatible with the confidentiality rules of each of the parties.

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.

EC/United States agreement: application of competition rules

1994/0236(CNS) - 04/10/2000 - Follow-up document

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.

EC/United States agreement: application of competition rules

1994/0236(CNS) - 17/09/2002

The Commission presented its report on the application of the agreement between the EC and the Government of the United States of America regarding the application of their competition laws (1 January 2001 to 31 December 2001). The report highlights that in 2001 a further intensification of EU/US cooperation in all areas of competition law enforcement was witnessed. 2001 saw a record number of merger transactions notified both to the Commission and the US authorities. There was a of 84 formal notifications made by the Commission during the period between January 2001 and 31 December 2001. During the same period, the Commission received a total of 37 formal notifications from the US authorities. The increase of cooperation in 2001 with respect to the combating of global cartels is noteworthy, also the authorities on the two sides of the Atlantic are taking increasingly convergent approaches to the identification and implementation of remedies, and to post-merger remedy compliance monitoring. The Commission, Department of Justice (DoJ) and Federal Trade Commission (FTC) also continued to maintain an ongoing dialogue on general competition policy/enforcement issues of common concern.

EC/United States agreement: application of competition rules

1994/0236(CNS) - 17/03/1995 - Text adopted by Parliament after reconsultation

Parliament approved the Commission proposal subject to two amendments, which sought to amend the legal basis proposed by removing all references to Article 235 of the Treaty.

EC/United States agreement: application of competition rules

1994/0236(CNS) - 29/01/2002

The European Commission has presented a report on the application of the agreements between the European Communities and the Government of the United States of America regarding the application of their competition laws (1 January 2000 to 31 December 2000). The report reveals that the year 2000 witnessed an intensification of EU/US co-operation in competition matters. In relation to the treatment of cross-border merger cases in

particular, this co-operation has been very close and fruitful; it has facilitated a growing convergence in the respective EU and US approaches toward the assessment of the likely anti-competitive effects engendered by such operations. The authorities on the two sides of the Atlantic are also taking increasingly convergent approaches to the identification and implementation of remedies, and to postmerger remedy compliance monitoring. Transatlantic co-operation during 2000 was particularly intensive with regard to the big "new economy" and multimedia merger cases, notably in the AOL/Time Warner, Time Warner/EMI and MCI WorldCom/Sprint merger cases. Having obtained waivers from the merging parties, assessment of much of the substance of the cases was carried out in close co-operation between the agencies. Co-operation between the Commission, on the one hand, and the Antitrust Division of the United States Department of Justice (DoJ) and the US Federal Trade Commission (FTC), on the other, further intensified during the course of the year 2000. Indeed, contact between Commission officials and their counterparts at the two US agencies is showing a marked increase in frequency. These contacts range from detailed case-related discussions to more general, sometimes theoretical, competition policy-related matters. In addition, during the course of the year, the EU and US authorities have moreover further strengthened their contacts with respect to the investigation of non-merger competition issues, and with respect to the combatting of global cartels in particular. The Commission, DoJ and FTC also continue to maintain an ongoing dialogue on general competition policy/enforcement issues of common concern.

EC/United States agreement: application of competition rules

1994/0236(CNS) - 22/02/1995 - Amended legislative proposal for reconsultation

Following an exchange of interpretative letters between the EC and the United States, which was annexed to their agreement on the application of their competition laws, the Council forwarded to Parliament a new draft decision which included this exchange of letters, in order that Parliament might express a new opinion on the entire text (agreement plus interpretative letters). In view of the obligation to take measures in conjunction with Court judgment C.327/91 of 09.08.1994, annulling the act by which the Commission concluded the agreement, the latter should be concluded by the Council as soon as possible. This is why the Council (in application of Article 228 (3) (1) and Article 235 of the Treaty) called on Parliament to give its new opinion before 17 March 1995. The exchange of letters seeks: - on the one part to correct the names of the contracting parties (errors due to the fact that the Agreement had previously been concluded between the Commission and the USA, and not between the Council plus the ECSC and the USA, as recommended in Court judgment C.327/91); - on the other part to specify the confidentiality of the information being entrusted to one or other of the Parties.