

time and lost productivity. Excessive costs can discourage beneficial or competitive-neutral mergers.

- ii) Duplication of effort and problems of information gathering among competition authorities examining the same merger.

The potential for jurisdictional conflict or conflicting decisions is not hypothetical as a number of cases have demonstrated:

- 1) the proposed take-over of de Havilland by ATR in 1991 was blocked by the EC, although passed by Canada;
- 2) the U.S. Federal Trade Commission forced modifications to the acquisition of Connaught Biosciences by Institut Mérieux in 1991 even though the two companies had no assets in the United States; and
- 3) the proposed joint ventures between ABB and Westinghouse combining their electric power transmission and distribution businesses, on the one hand, and their electric power generation businesses on the other hand. In this case, the U.S. Department of Justice restructured the deals with the consent of the parties in February 1989. The Canadian Bureau of Competition Policy subsequently filed an application with the Competition Tribunal for its own consent order in April of the same year. As the Canadian consent order relied on competition from U.S.-based products, the potential existed for the U.S. remedy to interfere with the Canadian remedy.

5. Merger Control in Canada, the United States, and the EC

This section compares Canadian, U.S., and EC merger control law and enforcement practices.

5.1 Institutions and regulatory objectives

Canada

The Director of Investigation and Research, who is appointed by Order-in-Council, has the responsibility for enforcement of the mergers legislation with the support of the Bureau of Competition Policy. The Director may commence an inquiry on his own initiative or if directed to do so by the Minister of Consumer and Corporate Affairs or if an application by six Canadian residents is made pursuant to section 9 of the Competition Act. These persons are entitled, upon written request, to be