3.5 EC Relations With Other Countries Under the Regulation

The provisions of the Merger Control Regulation relating to EC relations with other countries are a further potential area of concern for Canadian interests. Article 24 of the Regulation requires that the EC Commission report, by September 1991, and periodically thereafter, regarding the treatment of Community enterprises under the merger laws of other countries. Should the Commission conclude that the laws of another country do not reciprocate the treatment of non-EC countries under the Merger Control Regulation or discriminate against EC companies, it can request a mandate from the Council of European Communities to negotiate with the relevant non-member countries to obtain comparable treatment for Community companies.

Commissioner Brittan has stated that Article 24 is not intended as a "reciprocity clause" in that it might lead to less favourable treatment of concentrations involving companies from countries whose merger policy is considered to discriminate against EC businesses.[45] Nevertheless, the provision could place pressure on Canada and other countries to alter aspects of their merger policy that the Commission may view as favouring these countries' enterprises over EC-based companies. It is not expected that this will lead to significant pressure on Canada to alter the merger provisions added to the Competition Act in 1986. While complaints might arise from time to time regarding the handling of specific mergers, the relevant provisions of the Competition Act do not provide specifically for discriminatory treatment of foreign companies. Pressure may be exerted on Canada, however, to alter aspects of any merger review process followed by provincial or federal governments that are believed to discriminate against EC companies.