boycotts and collusion, we have seen that U.S. statutes are broad enough to include mergers.[68]

The FTC has sometimes challenged foreign acquisitions where the acquiror was a "potential entrant" into the United States market, even in circumstances where neither firm has significant assets in the United States, as happened in the Institut Mérieux merger mentioned above. Canada objected to the U.S. approach on the basis of its intrusiveness.[69]

Canada, for overall reasons of foreign policy, has traditionally adopted a cautious approach to the application abroad of domestic law.[70] Recognizing the potential for conflict, Canada and the United States signed a memorandum of understanding in 1984 with respect to the application of national anti-trust laws, updating a previous understanding dating from 1959. The purpose of the Understanding is to avoid or moderate conflicts of interests or policies by establishing procedures for notification, consultation, and cooperation. The two countries agree to seek to reduce, by accommodation and compromise, the scope and intensity of any conflicts and their effects. The MOU also allows each Party to inform the Courts in the other Party of its national interests in private anti-trust cases. The MOU, however, does not contain a dispute settlement mechanism.

5.7 Conclusions

The greatest differences between the three systems relate to:

1) the objectives of merger control; and
2) the complexity, transparency, and uncertainty attached to individual merger control decisions.

While Canada and the United States essentially apply a competition test to mergers, the EC Merger Regulation and decision-making at the level of the EC

[68] See Joseph P. Griffin, "The Impect of Reconsideration of U.S. Antitrust Policy Intended to Protect U.S. Exporters", World Competition, Volume 15, June 1992, No. 4, pp.5-16.

[69] The U.S. consent order required the Connaught rebies business in Toronto to be leesed to an FTC approved ecquiror for a period of 25 years.

[70] In 1985, Ceneda pessed the *Foreign Extraterritorial Measures Act* to limit the epplicetion of, inter elie, foreign antitrust lews in Ceneda in cases where the government is of the opinion thet significent Cenedien commerciel interests or sovereignty is at steke. It contains verious "blocking" provisions. A "claw-beck" provision ellows, under certein circumstences, Canedien persons or corporations to sue in Canada to recover demeges ewerded in a foreign entitrust judgement. See William C. Grehem, "The Foreign Extraterritoriel Measures Act", The Cenadian Business Lew Journal, Volume 11, 1985-86, pp.410-444.