

Recommendation 2. Competition Policy and U.S. Anti-trust

Any modification of existing competition policy should be non-discriminatory with respect to ownership of investments (i.e., provide national treatment). One Canadian objective is to modify U.S. anti-trust policy which encourages technology consortia that discriminate in favour of joint venture production facilities located in the U.S.. Moreover, U.S. legislation reducing potential anti-trust penalties with regards to certain consortia, but which requires every person who controls any part of such a joint-venture to be a U.S. citizen or a foreign person from a country whose domestic laws accord at least the same level of anti-trust treatment, should be repealed.

5.4.2 The European Union and the Treaty of Rome

The Treaty of Rome attempts to control competition in the European Union by disciplining anti-competitive trade practices. In effect, competition law within the EU has replaced anti-dumping law and is also used to discipline state subsidies as well as anti-competitive corporate behaviour.¹⁸⁸ The Treaty of Rome is concerned with eliminating and preventing barriers, direct and indirect, to trade within the EU and, through the European Commission, controls the regulation of foreign trade. However, the Treaty also makes reference to developing "national champions"¹⁸⁹ and encourages activities that "contribute to the improvement of the production or distribution of goods or to the promotion of technical or economic progress."¹⁹⁰ In practice, the principal goal of the Treaty is to enhance the integration of European economies, rather than the promotion of competition *per se*.¹⁹¹

European competition law is considered somewhat lax in its approach to horizontal cross-border mergers, which are seen as market integrating forces, and

¹⁸⁸ Moreover, in its recent negotiations with EFTA and East European nations, the EU has insisted that member states adopt a legal regime compatible with EU laws.

¹⁸⁹ Treaty of Rome, Article 85.

¹⁹⁰ Treaty of Rome, Article 85 (3).

¹⁹¹ The creation of European Economic Area in 1994 and the Maastricht Accords (ratified in October 1993) are an extension of the goals of the Treaty of Rome.