benefits may not ultimately be significant if, depending on the country in which the branch is located, branch assets are subsequently transferred to a subsidiary and a taxable gain is realized as a result of the transaction.

Even though a subsidiary's accounts can not be consolidated with those of its parent company, loss carry-forward rights will at least allow the subsidiary in most cases to offset early losses against later profits. At the end of 1990, moreover, the EC proposed that loss consolidation should be allowed in cases involving a parent company that owns at least 75 per cent of the voting shares of a subsidiary.

In addition, an important tax change adopted by the Community in 1990 substantially eliminates a fiscal advantage that branches previously had over subsidiaries in cases involving remittances of profits between two EC countries. Under the new rule, no member state can withhold amounts greater than 5 per cent of dividends paid by a subsidiary to a parent in another member state. A branch is generally not subject to withholding or to an equivalent tax, in relation to profits remitted to its head office in another Community country. This issue is discussed in greater detail in Section V-1 of this report.

Other factors favouring the subsidiary form of doing business in the Community include the fact that, as in Canada, a parent company is liable for its branch's liabilities up to the limit of the parent's authorized capital. A subsidiary's liability is limited to the value of its own assets, since it is legally recognized as an entity separate from its parent. In some cases, moreover, a foreign investor will find that incentives offered by an EC member state for the establishment of a new business operation are available only to companies that are incorporated in the particular country.

Finally, one of the main reasons a Canadian business usually establishes a Community presence is to send a message to prospective customers that it has a commitment to the local market. Incorporation will generally convey this message more vigorously than the establishment of a branch operation.

b) Branch Operation

In cases where a Canadian investor decides to establish a Community branch, presumably because registration and related procedures are simpler and the investor is not yet sure that its EC operations are likely to expand enough to warrant incorporation, the branch will generally have the same rights as a subsidiary to own assets, employ personnel and carry on business activities in the Community. A new set of rules were adopted by the EC in 1989, and will be implemented as of the beginning of 1992, that harmonize on a Community-wide basis the type of business information a parent company must disclose in any member state.

Previously, different disclosure requirements among various member states -- some countries required extensive filings; others only that annual financial statements be submitted -- created a patchwork quilt for investors. In contrast, under the provisions of the Eleventh Council Directive, a branch established in any member state must file specified information, including its address, a description of proposed activities, particulars of persons authorized to represent it in business dealings and the financial statements -- balance sheet and profit-loss account -- of its parent. These rules apply regardless of where the parent company is incorporated.

In addition, a branch of a Community-resident company must identify its parent and the country in which the parent is registered. The Community branch of a non-EC parent must also file copies of the parent's articles of incorporation or equivalent documents and particulars of its issued capital.

c) Subsidiary

In most instances, a Canadian company seeking to establish a Community business operation will do so through a locally incorporated subsidiary. The precise type of subsidiary used will depend on the national law of the country of incorporation. Regardless of where it incorporates a subsidiary, a Canadian parent company will be able to choose between two basic options: a public corporation, (that is, one that has the right to distribute its shares