

II. THE RELATIONSHIP OF EC COMPETITION POLICY TO THE EUROPE 1992 INITIATIVE

The nature and role of competition policy in the EC has traditionally been somewhat different than in Canada. In both jurisdictions competition policy establishes rules on competition between private companies. Unlike the situation in Canada, however, EC competition policy also includes rules on the granting of government aid to business. These rules reflect the need for Community policy to deal with the separate industrial, regional, research and development and other policies of the independent Member States that make up the Community. The nature of EC competition policy also differs to some extent from Canada's due to the prominence given to competition policy in the EEC Treaty itself. This has provided competition policy advocates in the EC with a particularly strong basis of support from which to promote the pro-competitive development of Community policy in other areas. Each of these dimensions of EC competition policy has an important relationship with the Europe 1992 initiative.

1. The Community Rules on Competition Between Companies

The primary influence of competition policy on the European Community has traditionally been through the application of Articles 85 and 86 of the EEC Treaty, containing rules of competition for private enterprises. Article 85(1) of the Treaty prohibits agreements or other arrangements between enterprises that may affect trade between Member States and distort competition within the common market. Exceptions to the general prohibition of such practices are permitted under Article 85(3) if the undesired effects of a trade restrictive agreement or practice are counterbalanced by economic efficiency and consumer welfare benefits. Article 86 of the EEC Treaty provides that any "abuse by one or more undertakings of a dominant position within the common market or in a substantial part of it shall be prohibited as incompatible with the common market insofar as it may affect trade between Member States." Practices that may come under this provision include the use by dominant firms of discriminatory or predatory pricing, refusals to supply, unfair trading conditions, output restrictions and other potentially anti-competitive or trade restrictive practices.