The Merger Control Regulation generally applies to concentrations having a "Community dimension" as defined by the following thresholds:

(i) the aggregate world-wide turnover of the relevant parties must be more than 5 billion ECU (about $8 billion Cdn.);

(ii) the aggregate Community-wide turnover of each of at least two of the merging undertakings is more than 250 million ECU (about $400 million Cdn.); and

(iii) each of the relevant parties must achieve no more than two thirds of its Community-wide turnover within one Member State.[16]

Each of these criteria must be met in order for a concentration to have a Community dimension.

Due to the high size thresholds that must be surpassed in order for concentrations to have a Community dimension, it is expected that the Regulation will automatically apply to only about 60 transactions per year. Article 1(3) of the Regulation requires, however, that a review of the thresholds take place by December 21, 1993. This review may lead to a substantial reduction of their levels. For instance, the EC Commission is advocating that the thresholds be lowered to 2 billion ECU ($3.2 billion Cdn.) world-wide turnover and 100 million ECU ($160 million Cdn.) Community-wide turnover.[17]

2.2 The Allocation of Jurisdiction Under the Regulation

The Regulation provides that the EC Commission, subject to review by the Court of Justice, is normally to have responsibility for the review of concentrations that have a Community dimension or are referred to the Commission by a Member State.[18] There are, however, some significant exceptions. National authorities are permitted under the Regulation to intervene to protect legitimate interests, such as public security, that are considered to be compatible with the general principles of the Community.[19] In addition, in cases where a distinct market exists within a Member State that would be affected by a concentration, the Commission can return