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*In this number :
Mergers and acquisitions*

MERGERS AND ACQUISITIONS

Summary and main points in brief

Each year, the European Commission's Directorate-General for Economic and Financial Affairs provides information and analysis of mergers and acquisitions (M&A). The present issue of Supplement A is the second in the series dealing with the subject; the first one was published in February 1994. The subject of mergers and acquisitions was dealt with in greater depth in European Economy No 57, "Competition and Integration", also published in 1994.

Part A of this issue gives an overview of the evolution of mergers from 1986 to 1994. Part B focuses on 1994 while Part C summarises the largest deals carried out in that year. Lastly, Part D reports on Commission control of mergers with a Community dimension. The first box describes the sources of information and presents the conventions used. A second box gives a brief account of merger activity in the countries applying for accession in 1994. The statistical data required for this issue have been drawn from the AMDATA data base.

1. **Between 1986 and 1994, there was a wave of cross-border mergers and acquisitions targeting an enterprise of the European Union, with the peak recorded in 1990.** The number of operations increased sharply up to and including 1989 and reached a high point of almost 2000 in 1990. In 1991 the number fell and stabilised thereafter at around 1350 operations a year. **The trend in terms of value is comparable, but the peak was reached one year earlier. The total value of acquisitions in 1989 was more than ECU 50 billion.** But this is a low estimate, as information on the bid value of each operation is not always available. The year 1994 saw a recovery in merger and acquisition (M&A) activity which was stronger in terms of value than in terms of the number of operations.
2. **The most dynamic components of the merger wave were "Community" operations** (involving only companies based in the European Union but from different Member States) and **"international" operations** (involving at least one non-European Union company). The level reached in 1990 was four and a half times higher than in 1986-88. International operations where a European enterprise was targeted remained at a very high level after 1990, and increased markedly in 1994, showing the European markets' continued attractiveness for non-Community enterprises. By contrast, the number of international deals where the bidder was a European enterprise remained stable. **National operations doubled between 1987 and 1989 and diminished slightly thereafter.** Even so, the number of such operations remained very high, at over 3000, for the rest of the period.
3. **Cross-border mergers in industry increased earlier and more strongly than in services. However, after the decline in all operations from 1991, merger activity in services started to pick up as early as 1992, but not until 1994 in industry.** Since 1986, the year in which the number of mergers in industry matched that in services, the merger wave has affected sectors differently. In industry it peaked at over 1000 transactions in 1990, and then declined until 1993, to rise a little in 1994 to 700 transactions. In services the peak was over 750 operations in 1990, followed by a decrease in 1991 and then a slight increase to some 600 operations in 1994.
4. **There is a North-South divide in mergers and acquisitions.** Activity in the United Kingdom, Ireland and the Netherlands is well above the share of their national economies in the European Union, and they are net purchasers. On the other hand, firms in Spain, Portugal, Italy and Greece are far less active in comparison with the relative size of their economies. Firms in these southern countries are targets more often than bidders. **Community firms' interest in applicant country enterprises grew moderately over the period 1986-94.**
5. **The United States was the most active third country in 1994, followed by Switzerland and Sweden, as both purchaser and target.** Coming next in the ranking, several non-Community countries (Canada, Japan, Australia and Hong Kong) are among the ten leading purchaser countries and two East European countries (the Czech Republic and Poland) are among the ten leading target countries.
6. **The largest operations in Europe were mainly in banking and insurance, and in chemicals and pharmaceuticals.** In chemicals and pharmaceuticals, the largest deals were mainly acquisitions of non-European firms by Community enterprises. **In the United States, the largest deals took place in the media/telecommunications and health care sectors, in response to regulatory and technological changes.**
7. **The Merger Regulation came into force on 21 September 1990. Between that date and the end of 1994, 288 operations were notified.** This figure represents only a small proportion of the total number of mergers and acquisitions which took place during this period, because the scope of the Regulation is limited. **A total of 231 mergers were cleared in Phase 1** (within one month of the date of notification). In 20 cases, the Commission considered that the operation raised serious doubts as to its compatibility with the common market and initiated the second, more thorough phase, of the examination. **On completion of Phase 2, two mergers were prohibited and ten operations were authorised subject to the respect of undertakings** aimed at resolving competition problems. Five operations were approved with no conditions attached.
8. **German, French and British firms were most frequently involved in notified operations, followed by American firms. Because of the narrow scope of the Regulation, the sectoral distribution of mergers examined by the Commission does not reflect that of merger activity in general.** In some sectors, the ECU 5 billion threshold is not reached even when the largest enterprises merge. **More than two-thirds of cases concerned industry, in particular the chemicals, food and motor vehicle industries.** In the service sector, insurance and other financial services came first and second, followed by wholesale distribution and retail distribution.

PART A - TRENDS SINCE 1986

Box 1 : SOURCES OF STATISTICAL INFORMATION AND CONVENTIONS

A variety of information sources are available to monitor mergers and acquisitions activity. The press plays a key role, together with other sources such as company reports, official publications on the formation of companies, etc. Data base providers have established a network of experts in several countries and devote considerable effort to collecting and cross-referencing information. These providers include KPMG and AMDATA.

There are certain differences between bases. Clearly, each provider endeavours to collect and present information which is as full as possible, but the very nature of the information makes this somewhat arbitrary. Whereas major operations affecting publicly listed companies are often officially published and widely reported in the press, the large number of purchases of smaller or unlisted companies are more difficult to detect. In addition, subjective assessments are often inevitable, e.g. as regards the date and sectoral classification of a merger and acquisition operation. Providers must also make choices in defining the scope of their base: KPMG considers only cross-border operations but covers the three main types of operation: outright acquisitions, minority participations and joint ventures, whereas AMDATA mainly considers acquisitions, but includes purely domestic operations. Minimum thresholds are set for covering an operation. This can be a limit on turnover, transaction value, or percentage of shares transferred.

Despite these differences, trends fortunately remain the same, and most of the commercial bases can be used to analyse merger and acquisition activities.

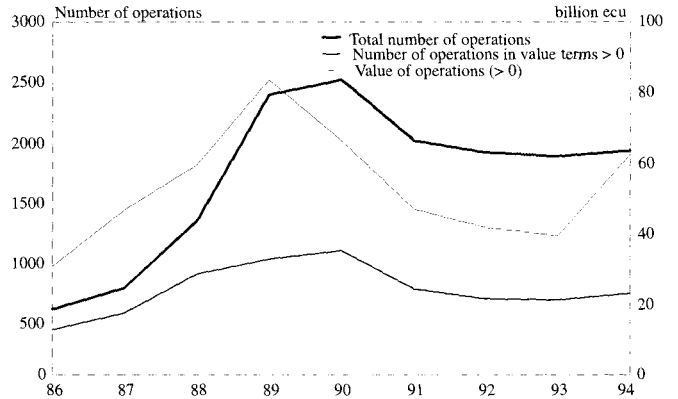
Nevertheless, choices had to be made when drafting this Supplement A. Conventions were also established: they are listed below in italics, and apply throughout this issue, chiefly for parts A and B, unless otherwise indicated.

We use AMDATA.

This base is very comprehensive. The main domestic and cross-border transactions can be analysed over a decade or so. But building up a mergers and acquisitions data base is a tricky task, particularly because of the confidentiality surrounding a good many negotiations. Confidentiality is lifted for operations which have been completed, at least as regards the fact of the operation itself.

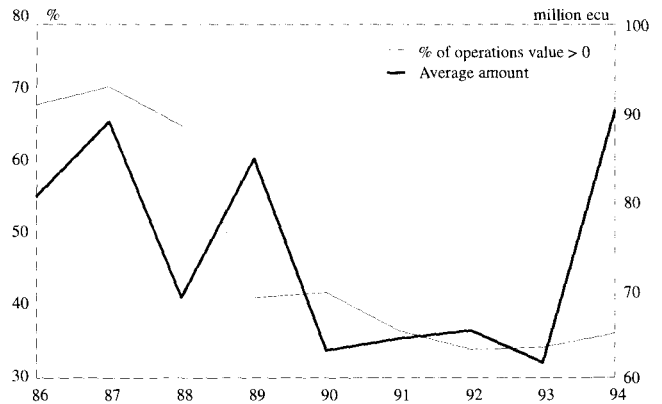
However, as in all bases, some information is missing, the most important of which seems to be the value of transactions. Graph 1 - left-hand axis - shows the evolution of the number of cross-border operations involving a Community enterprise. The upper curve represents the total number of transactions, whether the value of the operation is known or not. The second curve represents the transactions for which a value has been introduced into the base. It will be seen that the trend of the curves is similar, but it is more pronounced of course when smaller bids are included.

GRAPH 1 : Number and value of M&A operations involving a Community enterprise



Source : AMDATA.

GRAPH 2 : Average value of M&A operations involving a Community enterprise and percentage of operations where value is known



Source : AMDATA.

Graph 1 - right-hand axis - also illustrates the evolution of the total value of operations where the amount is available in the base. This is therefore a minimum estimate of the amounts actually devoted to mergers and acquisitions.

Graph 2 shows that for the years 1986-89 the data base gives the value for some 70% of the operations recorded. This percentage falls to between 34% and 40% for the rest of the period reviewed. This makes for a sharp break in continuity which limits the relevance of the analysis for the period in question. Nevertheless, the operations whose value is not known are thought to be the smaller ones. For, unlike large operations, they have not been widely reported in the press, and this has prevented their value from being estimated. In addition, if the size of these operations was not very great compared with the size of operations for which the bid value is known, then the standard deviation of the value distribution curve would be small, and the real aggregated amounts would be only slightly higher than the AMDATA aggregated amounts. Graph 2 also shows us the average

Box 1 (continued)

value of operations covered by the data base. It will be seen that the average value of operations rose significantly in 1994, exceeding the values recorded in 1987 and 1989, the top values for the first segment of the series.

We consider only operations resulting in the change of control of an enterprise.

A majority holding enables an enterprise to acquire majority voting rights in another enterprise. We include both mergers and acquisitions in this type of operation. Also, mergers are not considered as a separate category, although they consist of two equal partners getting together

and make the distinction between purchaser and target enterprise devoid of meaning. We therefore equate acquisition of control of an enterprise with mergers and acquisitions (M&A). These are clearly identified in AMDATA.

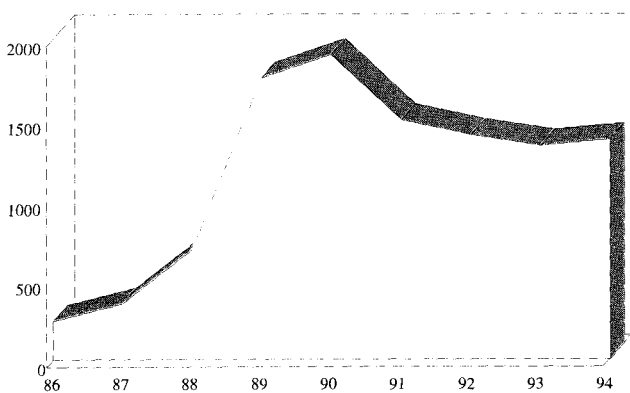
We consider the target's main activity.

Companies, and not only large conglomerates, are often too diversified to be classified in a single sector. We use the classification by main sector as proposed by the data base. In general, as the target is smaller than the bidder, its main activity is usually better defined, and that activity is probably the one which interests the bidder. That is therefore the sector in which the effects of an M&A will be the greatest.

1. Number of cross-border operations

The Internal Market Programme has altered profoundly the economic environment in the European Union. In analysing the evolution of mergers and acquisitions at least two salient effects can be identified. First, Community enterprises have become more attractive to non-Community enterprises, which can now gain access to a much larger market than before by means of an M&A operation. Second, the elimination of barriers to trade has led Community enterprises to re-examine their strategies. Looking at the target enterprises we can analyse these two effects of mergers and acquisitions.

GRAPH 3 : Number of cross-border M&A operations targeting a Community enterprise



Source : AMDATA.

Between 1986 and 1994 a wave of mergers and acquisitions swept across the European Union. Graph 3 shows the number of cross-border deals in which a Community enterprise is targeted. After increasing appreciably in 1987 and 1988, the number of operations virtually trebled in 1989 and reached a peak in 1990 with almost 2000 deals. The number of deals then fell by about 400 in 1991 and tended to stabilise in 1992 and 1993. The curve starts to climb again in 1994: with almost 1400 deals the number last year is well above the previous historic level.

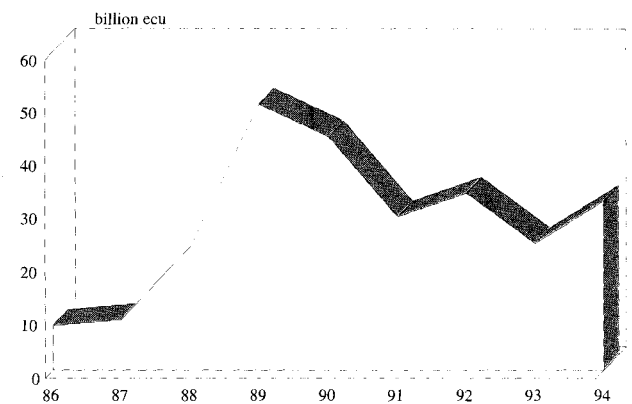
The recovery in 1994 reflects the better financial health of enterprises, following the upturn in economic activity.

Each wave has a cause of its own. To explain the recent wave of mergers and acquisitions in Europe we can point to the implementation of the internal market programme. This encouraged non-European enterprises to gain a foothold in Europe, so as to have access to the huge market represented by the European Union. Community enterprises also had to become stronger in order to cope with this new competitive pressure.

2. Value of cross-border operations

While the number of deals reflects the level of M&A activity, their aggregated value indicates the efforts which enterprises have put into their external growth. Graph 4 shows the evolution of the aggregated values for all cross-border deals where a Community enterprise is targeted, and where the bid value is known. This is a minimum estimate, since for a good many transactions the value is not disclosed.

GRAPH 4 : Value of cross-border M&A operations targeting a Community enterprise



Source : AMDATA.

The curve of values, just like the curve of the number of operations, rises strongly between 1986 and 1989, but reaches a peak in 1989, indicating that over ECU 50 billion was devoted to external growth that year. Many very large deals were completed that year, e. g. in the pharmaceutical products sector the acquisition of Beecham (UK) by SmithKline (US) for ECU 6.9 billion. In the motor vehicle sector, Jaguar (UK) was acquired by the Ford Motor Company (US) for ECU 2.2 billion. The largest deal in 1990, by comparison, was worth ECU 1.9 billion.

In 1990 and 1991 the curve of transaction values declines, the fall being sharper than that of the number of transactions. Thereafter the profile of the curve is less stable, always influenced by a few large deals. In 1992, for example, Reed International (UK) and Elsevier NV (Netherlands) concluded a merger worth ECU 3.8 billion. In the same year, Nestlé (Switzerland) bought Sources Perrier SA (France) for ECU 2.2 billion.

Then, in 1994, transaction values again start to climb back to the ECU 30 billion level. This rise is also greater than that in the number of deals. Again, this can be explained by a few large mergers and acquisitions, notably BMW's purchase of Rover for over ECU 2 billion and Commercial Union's purchase of the Compagnie Financière du Groupe Victoire for ECU 1.9 billion.

3. Geographical spread

Looking at mergers and acquisitions, the relative roles of strategies for cross-border expansion and for growth on the domestic market become clear from an analysis of the geographical scope of the deals. Also, international deals are more sensitive to fluctuations in the economy than domestic ones. The convention is to make a distinction between national, Community and international operations.

National operations are those where the firms involved are from one and the same Member State. Although their main impact may be at domestic level, spill-over effects to other Member States are increasingly likely, especially in the context of Community integration. One important spill-over effect could be to bar foreign competition from access to domestic markets or to defer access ("national champion" strategies). This runs counter to the effects hoped for from the single market. But national concentration may also represent consolidation to prepare for the penetration of new, non-domestic markets.

Community operations are cross-border, but involve only companies based in the European Union. By definition, the effects of such operations go beyond the borders of a Member State, and are therefore particularly important from a Community perspective.

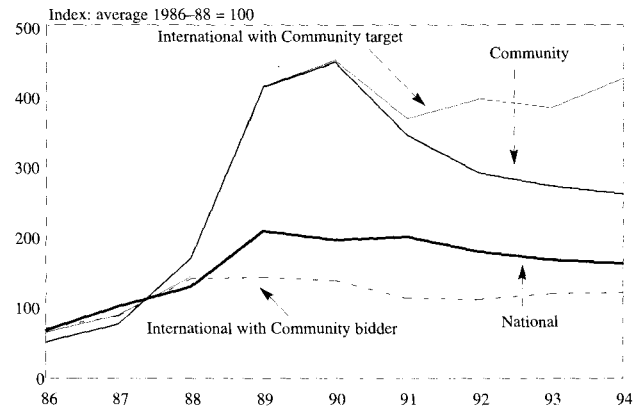
Lastly, international operations are those which involve at least one non-Community enterprise. If this type of operation, with the target a Community enterprise, is taken together with Community and national transactions, we combine all the operations with a Community enterprise as the target. These three categories do not overlap.

In addition to these three types of operation, we show international operations in which the bidder is a European Union enterprise. Graph 5 tracks the evolution of the four types of operation. It is presented as an index, the base being the average from 1986 to 1988.

Cross-border transactions are the most active component of the M&A wave targeting a Community enterprise. The growth of Community and international transactions was very marked up to 1989, and the curve rises further in 1990, reaching a peak in that year. Thereafter, the number of

Community transactions fell steadily until 1994. International transactions, on the other hand, after falling in 1991, increased again to return to their 1990 level. So it is the increase in international transactions which caused the rise observed in 1994 in the curve for the total number of operations. Europe therefore remains particularly attractive for non-European investors.

GRAPH 5 : Evolution of the number of national, Community and international M&A operations



Source : AMDATA.

National operations increased relatively sharply from 1986 to 1990, then fell steadily, but slightly until 1994. They are therefore out of phase with cross-border operations. It is tempting to explain this phenomenon, once again, by the single market. It is quite possible that when firms seek to restructure they begin with their domestic markets before considering a cross-border expansion.

The curve for cross-border operations is less stable than that for national operations. The reason is that such operations are larger and hence involve greater financial risks. On top of this, results are inevitably more uncertain because of the cross-border nature of the transactions, so that cross-border M&A activity naturally reacts more favourably to a general improvement in the economic situation in the target countries, to the stability of exchange rates and to similar factors.

The changes in the number of international operations where the bidder is a Community enterprise are less marked. After increasing slightly until 1988, the number of transactions remained remarkably stable. This situation contrasts with the buoyancy of transactions where a Community enterprise is targeted and thus implicitly indicates again the importance of the factor that is the single market.

Table 1 gives a breakdown by country of Community operations (cross-border mergers and acquisitions involving only European Union enterprises) over the period 1986-94. The target company countries are in columns and the bidder company countries are in rows. The first part of the table provides a breakdown of bidder countries for each target country. Each column therefore adds up to 100%. Conversely, the second part gives a breakdown of target countries for each bidder country. Here, each line adds up to 100%.

TABLE 1: Breakdown by country of Community operations, 1986 to 1994

Target Bidder	Breakdown of bidder countries by target country												
	B	DK	D	GR	E	F	IRL	I	L	NL	P	UK	EUR12
B		0.68	3.86	3.13	1.76	8.22	1.05	2.18	25.00	6.22	0.90	2.84	3.95
DK	1.88		3.55	3.13	1.90	2.64	1.05	0.99	2.08	3.67	5.41	9.22	3.53
D	8.54	31.29		9.38	10.98	20.16	4.21	17.82	20.83	17.86	8.11	15.59	12.43
GR	0.00	0.00	0.00		0.15	0.10	0.00	0.20	0.00	0.00	0.00	0.11	0.07
E	2.71	0.00	1.00	3.13		2.45	0.00	2.18	0.00	0.00	26.13	1.25	1.75
F	32.92	14.97	27.45	25.00	36.60		14.74	39.60	27.08	12.12	28.83	28.56	23.18
IRL	1.67	0.68	0.93	0.00	1.32	1.17		0.79	0.00	4.94	0.00	23.32	4.74
I	2.92	2.72	4.78	15.63	8.49	11.35	0.00		6.25	1.91	4.50	3.41	5.15
L	2.08	0.00	1.39	0.00	0.88	2.15	2.11	2.18		0.96	0.90	1.37	1.47
NL	18.96	14.97	16.50	9.38	7.47	7.05	7.37	5.15	4.17		1.80	10.47	9.76
P	0.00	0.00	0.00	0.00	0.88	0.29	0.00	0.20	0.00	0.00		0.23	0.20
UK	25.00	28.57	35.54	21.88	25.92	39.73	68.42	23.76	14.58	47.21	16.22		29.41
EUR12	100	100	100	100	100	100	100	100	100	100	100	100	100

Target Bidder	Breakdown of target countries by bidder country												
	B	DK	D	GR	E	F	IRL	I	L	NL	P	UK	EUR12
B		0.42	20.92	0.42	5.02	35.15	0.42	4.60	5.02	16.32	0.42	10.46	100
DK	4.21		21.50	0.47	6.07	12.62	0.47	2.34	0.47	10.75	2.80	37.85	100
D	5.44	6.11		0.40	9.96	27.36	0.53	11.95	1.33	14.87	1.20	18.19	100
GR	0.00	0.00	0.00		25.00	25.00	0.00	25.00	0.00	0.00	0.00	25.00	100
E	12.26	0.00	12.26	0.94		23.58	0.00	10.38	0.00	0.00	27.36	10.38	100
F	11.25	1.57	25.36	0.57	17.81		1.00	14.25	0.93	5.41	2.28	17.88	100
IRL	2.79	0.35	4.18	0.00	3.14	4.18		1.39	0.00	10.80	0.00	71.43	100
I	4.49	1.28	19.87	1.60	18.59	37.18	0.00		0.96	3.85	1.60	9.62	100
L	11.24	0.00	20.22	0.00	6.74	24.72	2.25	12.36		6.74	1.12	13.48	100
NL	15.40	3.72	36.21	0.51	8.63	12.18	1.18	4.40	0.34		0.34	15.57	100
P	0.00	0.00	0.00	0.00	50.00	25.00	0.00	8.33	0.00	0.00		16.67	100
UK	6.74	2.36	25.88	0.39	9.94	22.80	3.65	6.74	0.39	16.62	1.01		100
EUR12	7.93	2.43	21.42	0.53	11.28	16.88	1.57	8.34	0.79	10.35	1.83	14.51	100

Source: AMDATA.

British companies are very active in mergers and acquisitions, more so as bidders than as targets. This is a general feature of Anglo-Saxon countries, which have a long tradition of M&A activities.

German companies on the other hand are rarely bidders. Traditionally they have a preference for internal growth, i. e. green-field investment. In addition, family firms are an important part of the German economic structure and tend to be more oriented towards the domestic market.

The Mediterranean countries also have a negative balance on cross-border mergers and acquisitions. In the case of the three least developed countries, Greece, Portugal and Spain, this can be explained by their firms' shortage of resources. Another reason lies in the high growth rates of these countries, particularly Spain. Their domestic markets have provided interesting opportunities for both internal growth and take-over activity. Italy is a slightly different case, since it has few large companies, and they are often state-owned. These two factors have a deterrent effect on potential bidders.

In Benelux, M&A activity has been relatively high. The integration of these countries into a wider area of economic activity is developing rapidly.

Proximity and traditional economic links are particularly important for mergers and acquisitions. For example, 33%

of acquisitions targeting a Belgian enterprise were launched from France, and 19% from the Netherlands. Belgium, France and Germany together account for almost three-quarters of the purchases made in Luxembourg. M&A flows are equally substantial between the United Kingdom and Ireland: 68% of acquisitions in Ireland were made by United Kingdom enterprises and 23% of deals in the United Kingdom were made by Irish enterprises. Given Ireland's economic weight, these figures are very impressive. Part of the explanation could be that rates of company taxation in Ireland are relatively low, which is attractive to multinationals. A large number of transactions also take place, for example, between French and Italian companies.

Throughout the period, German companies were most often the target of European operations; this was the case in almost 1300 operations. This high number is partly due to the structure of the industrial base, made up of a large number of small, very often family-owned, firms. But most importantly, this was the period of German unification during which a wealth of privatisations was carried out by the Treuhandanstalt. British companies were the most active purchasers, accounting for 36% of the operations. French companies come next (27%), followed by Dutch enterprises (16%). So, as expected, on the one hand, neighbouring countries and, on the other hand, the United Kingdom are the main purchaser countries.

Box 2: MERGERS IN AUSTRIA, FINLAND, SWEDEN AND NORWAY

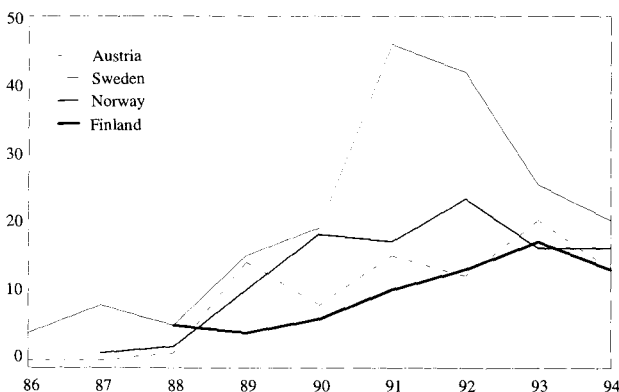
The prospect of accession to the European Union boosted the attractiveness of the Nordic and Austrian markets. First, Community companies became increasingly more interested over the period 1986-94. But above all the demand from non-Community companies strengthened.

Each of these markets is limited in size and is moreover wide open to foreign trade. In Sweden, for example, many companies employ over 75% of their staff in an exporting activity. These companies have also restructured dramatically after the recession of the early 1990s. After the devaluation of the krona, their exports became very competitive. They now have cash available and are ready to make large acquisitions abroad.

The proximity of the CIS distinguishes Finland from its Nordic neighbours. Companies are often purchased in Finland to provide a launching pad for the Russian and Baltic markets. This explains why the number of acquisitions in Finland is as high as in Sweden, despite the difference in size between the two countries.

Graph 6 illustrates cross-border mergers and acquisitions where the target is an enterprise of an applicant country and the bidder is a Community enterprise. Growth is steady from 1986 to 1994, except in Sweden where a peak can be seen in 1991 and 1992. Denmark sharply increased the number of its acquisitions in Sweden between 1991 and 1993, as did Germany in 1991 and 1992. The United Kingdom was another large purchaser in Sweden, but its activity remained more constant over time.

GRAPH 6 : Number of M&A operations in applicant countries where a Community enterprise is bidder

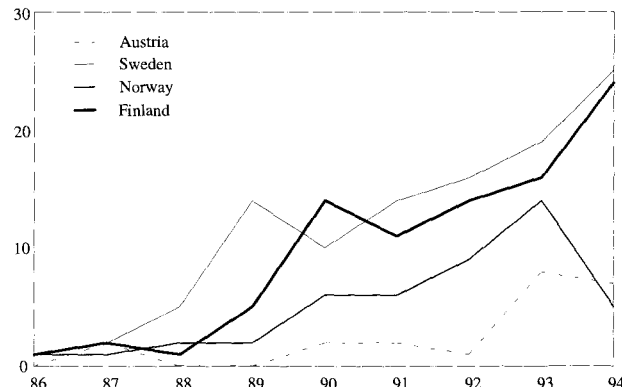


Source : AMDATA.

Graph 7 illustrates the number of acquisitions of applicant country enterprises by non-Community enterprises. Growth is steady until 1993. Then, acquisitions still increase sharply in Sweden and Finland and remain steady in Austria. In the case of Sweden, this increase occurred even though a large proportion of enterprises were already foreign-owned at the beginning of 1994 (21.4% of listed shares).

The United States is well in the lead as purchaser country, with 125 acquisitions over the period 1986-94, i. e. almost half of transactions. Most of these operations took place in the Nordic countries (only 8 in Austria). Switzerland and Japan come next, with 54 and 18 operations respectively. Canada and Russia are other prominent purchaser countries.

GRAPH 7 : Number of M&A operations in applicant countries where a foreign, non-Community enterprise, is the bidder



Source : AMDATA.

Table 2 lists in decreasing order the ten most-targeted sectors over the period 1986 to 1994. In the service sector, purchasers were most often interested in business services, distribution and banking, with insurance absent from its usual position. Sanitary services on the other hand are not normally in the first ten target sectors.

TABLE 2 : Sectors most targeted by cross-border M&A operations* in the applicant states

Total for period 1986-94		
Sector	NACE	Number of operations
Business services	83	98
Wholesale distribution	61	75
Electrical engineering	34	72
Mechanical engineering	32	71
Chemical industry	25	46
Manufacture of paper and paper products	47	31
Manufacture of non-metallic mineral products	24	26
Banking and finance	81	25
Processing of rubber and plastics	48	24
Sanitary services	92	21

* Operations where the target is a company from an applicant state and where the bidder is not a company from an applicant state.

Source : AMDATA.

In industry, as is to be expected, we again find electrical engineering, mechanical engineering, the chemical industry, paper manufacture, non-metallic mineral products and rubber and plastic products. Only the food industry is absent.

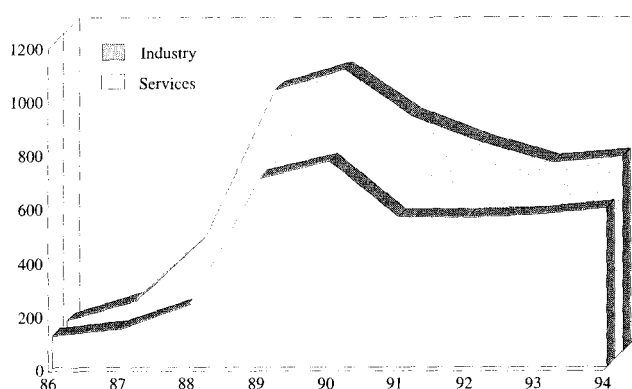
France comes second as target country, its companies being the target of European operations in over 1000 instances in the period 1986 to 1994. Again, the leading purchaser is the United Kingdom, represented in almost 40% of cases, followed, as one would expect, by the neighbouring countries: Germany (20%) and Italy (11%). However, Italian firms do not often bid for companies in other Member States.

As we have seen, British companies are the ones found most frequently – almost 1800 times – among the purchasers. Their favourite countries are Germany (26%), France (23%) and the Netherlands (17%). France also ranks particularly high among the purchasers, with French enterprises being counted over 1400 times. French purchasers have diversified their acquisitions, focusing in particular on Germany (in 25% of cases), Spain and the United Kingdom (18%), Italy (14%), and lastly Belgium (11%).

4. Sectoral aspects

As we have seen above (see point 1: methodological considerations), the sectoral analysis of mergers and acquisitions is complicated by the arbitrary nature of company classification. The solution we have adopted is to take the main activity of enterprises and to apply a sectoral breakdown which is not too disaggregated. Graph 8 shows the pattern of cross-border merger and acquisition operations in industry (NACE sectors 2-4) and in services (NACE sectors 6-9)

GRAPH 8 : Number of cross-border M&A operations in industry and in services targeting a Community enterprise



Source : AMDATA.

In both groups, the number of mergers increased sharply until 1989, and reached a peak in 1990. Nevertheless, the merger wave emerged in industry earlier and more strongly than in services. A fall in 1991 was shared by the two groups. But the upturn in mergers and acquisitions activity took place as early as 1992 in services, whereas it was necessary to wait until 1994 for industry.

This pattern reflects the fact that the liberalisation of services in the internal market programme was confronted with particular difficulties. Most activities (banking, insurance, financial services, transport) required specific libera-

lisation measures which had to be adopted sector by sector and some of which will only come into effect in the second half of the 1990s. Furthermore, some services are supplied by state monopolies, which may restrict the dynamic of cross-border mergers. However, as it became clear that the objective of liberalisation would be effectively pursued also in these sectors, service sector mergers became increasingly numerous. European integration in the service sector is likely to proceed by means of mergers and acquisitions, since it is generally easier to buy a network in a foreign country than to build a new one.

PART B – MERGERS AND ACQUISITIONS IN 1994.

1. Overview

The tendency for the total number of cross-border M & A operations to decline, which had been observed since 1990, was reversed in 1994 (see Graph 3). The increase in the total transaction value – up by 33% – was even sharper. In order to appreciate the significance of this figure, we have to remember the saw-tooth behaviour of the value curve since 1991 (see Graph 4), extremely dependent on a few large operations. Even so, the total value of transactions increased by over 10% between 1991 and 1994.

From a geographical point of view, international acquisitions (those carried out on Union territory by non-Community enterprises) underpinned the rise in the total number of mergers and acquisitions (see Graph 5) whereas Community (cross-border within the Union) and national operations went on declining slightly. The reversal of trend in 1994 took place in industry, but was nevertheless underpinned by a slight growth in services since 1991 (see Graph 8).

2. Country analysis

Table 3 gives a breakdown of GDP by EU country, and compares it with the breakdown of the number of cross-border operations, by target enterprise country and by purchaser country.

TABLE 3 : Breakdown by Member State of cross-border M&A operations and GDP

	1991-1993			1994		
	Target	Bidder	GDP	Target	Bidder	GDP*
B	5.5	3.4	3.2	4.0	2.9	3.4
DK	3.8	5.9	2.1	5.3	4.7	2.2
D	29.8	17.3	26.3	29.5	18.4	27.7
GR	0.6	0.1	1.4	0.3	0.1	1.4
E	9.2	1.6	8.1	9.0	0.9	7.3
F	14.6	22.5	19.4	15.2	18.3	20.0
IRL	1.0	3.0	0.7	0.9	4.7	0.8
I	7.0	6.2	17.3	7.6	2.7	15.5
L	0.6	1.5	0.2	1.0	1.6	0.2
NL	8.3	10.1	4.7	7.2	11.5	5.0
P	1.2	0.1	1.2	0.5	0.3	1.2
UK	18.5	28.4	15.4	19.4	34.0	15.4
EUR12	100.0	100.0	100.0	100.0	100.0	100.0

* Estimates.

Source : AMDATA and DG II.

In 1994 the **United Kingdom** was again the most active cross-border purchaser, with 394 operations, or 34% of all

operations carried out by Community enterprises. In the Community, British companies mainly purchased French, German and Dutch companies. As target, by contrast, although it increased slightly to 19.4%, the share of British company sales is close to the country's share in Community GDP.

Germany moved to second place among European purchasers with 18.4% of operations, but in absolute terms the country's share remains lower than its share in Community GDP. The reasons are known (large number of small family firms and preference for internal expansion). But a change is evident, since the share of purchaser German enterprises had been only 9.1% over the period from 1986 to 1990. As a target, however, Germany is in the lead. The *Treuhandanstalt*, the agency set up four years ago to manage the privatisations in East Germany, has a lot to do with this situation. It completed its activities at the end of 1994. Out of a total of approximately 14 000 state-owned companies, 60 have still to be sold, while 3 700 were liquidated.

The purchaser directly behind Germany is **France** with 18.3% of Community acquisitions. This share is slightly less than France's share in Community GDP. Despite a fairly low level of M&A activity last year, the French market revived especially as a result of cross-border transactions, with the domestic market remaining quiet. The United Kingdom is by far the largest purchaser of French enterprises, together with the United States.

Italy, whose share of GDP was 15.5% in 1994 is still fairly inactive in mergers and acquisitions. As a target, Italy accounts for 7.6% of European operations, but Italian companies seem less and less active as purchasers: 6.2% over the period 1991-93 compared with only 2.7% in 1994.

The proportion of Community economic activity represented by the **Mediterranean countries** generally is far greater than their share of merger and acquisition activities. The proportion of Spanish companies as purchasers has moreover declined in 1994, from 1.6% over the period 1991-93 to 0.9%. Moreover the Portuguese Government has launched a large privatisation programme. There will now be no limit to foreign participation in the privatisations; the Government will, however, retain control in certain strategic areas. But this is not yet reflected in the figures for mergers and acquisitions.

By contrast, the proportion represented by the **Northern countries** in merger and acquisition activity is greater than their share in economic activity. This is particularly so for Denmark and Ireland (4.7% of acquisition value).

3. Relations with third countries

As we have seen, in 1994, it is non-Community enterprises which sustained the growth of the number of cross-border acquisitions in the European Union. In general, the Union's main trading partners are well represented as both bidders and as targets in M&A operations. Table 4 ranks in decreasing order the ten countries whose enterprises have made most acquisitions on Union territory and the ten

countries whose enterprises have been most targeted by Community enterprises.

TABLE 4: Ranking of ten leading third countries by number of M&A operations

Third country as bidder	1986-1990			1991-1993			1994	Third country as target	1986-1990			1991-1993			1994
	(Average)			(Average)					(Average)			(Average)			
USA	118	245	336	USA	342	181	207	USA	342	181	207	USA	342	181	207
Switzerland	65	99	87	Switzerland	15	30	31	Switzerland	15	30	31	Switzerland	15	30	31
Sweden	68	61	41	Sweden	11	38	21	Sweden	11	38	21	Sweden	11	38	21
Canada	10	18	32	Czech Republic*	0	17	21	Czech Republic*	0	17	21	Czech Republic*	0	17	21
Japan	24	48	27	Canada	28	22	18	Canada	28	22	18	Canada	28	22	18
Finland	29	27	21	Norway	7	20	17	Norway	7	20	17	Norway	7	20	17
Austria	5	25	21	Australia	35	17	16	Australia	35	17	16	Australia	35	17	16
Norway	11	12	20	Poland	1	14	15	Poland	1	14	15	Poland	1	14	15
Australia	16	15	13	Finland	4	14	14	Finland	4	14	14	Finland	4	14	14
Hong Kong	3	12	7	Austria	6	17	14	Austria	6	17	14	Austria	6	17	14

* (86-93: Czechoslovakia)

Source: AMDATA.

The United States has been the most active third-country purchaser since 1986. But as announced by American merchant banks, American acquisitions in Europe increased sharply in 1994, rising to 336, compared with an average of 245 over the period 1991-1993. The main reason is that activity is picking up again in Europe. The United Kingdom continues to be attractive for the United States, owing to both the scale of stock exchange listings as a proportion of GDP, and the transparency of ownership. The same language and historic links are also factors. But the United States has begun investing in France and Italy. Community enterprises have also found American enterprises attractive. The United States is again first in the ranking of target third countries, with 207 operations in 1994.

The EFTA countries maintained their position as favourite partners of the European Union. Switzerland remains in second place, with Swiss companies being purchasers in 87 operations and targets in 31 operations. There was a fall in the number of operations involving Swedish, Finnish and Austrian enterprises as purchasers, but these countries still remain among the leading ten partners. Finland is again in remarkable sixth position as purchaser.

Other non-Community countries have also been active, with Canada, Japan, Australia and Hong Kong again among the ten leading purchaser countries. But if we consider the ranking of target enterprises, the interest in East European countries is clear: the Czech Republic and Poland are among the ten leading countries.

4. Sectoral breakdown

Table 5 shows the relative importance of each sector defined according to the NACE one-digit classification. In industry, most take-overs have been in the metal manufacture, mechanical engineering and vehicles sector 252z(NACE 3), which strengthened its position in 1994. In services, distribution, hotels and catering (NACE 6) was the most strongly targeted sector.

TABLE 5 : Breakdown by sector of cross-border M&A operations where the target is a Community enterprise

	NACE 1	1986-1990	1991-1993	1994
Agriculture/forestry/fishing	0	0.5	0.7	0.7
Energy and water	1	1.5	1.5	1.3
Metals/mineral products/chemicals	2	13.4	13.3	12.5
Metal goods/mechanical engineering/motor vehicles	3	20.7	22.7	22.8
Other manufacturing industries	4	22.0	19.6	17.8
Construction	5	1.8	2.2	1.6
Distribution/hotels/catering	6	16.3	15.9	15.5
Transport and communication	7	4.1	4.4	4.0
Banking/insurance/business services	8	17.8	16.8	19.3
Other Services	9	1.9	2.8	4.5
		100.0	100.0	100.0

Source : AMDATA.

Since the level of sectoral disaggregation is fairly low, few changes over time are discernible, except perhaps in other manufacturing industries (NACE 4), where operations have diminished. But the banking, insurance and business services sector (NACE 8) is again gaining in interest for investors. This is an indication that restructuring in the service sector is not yet over.

Table 6 gives a more detailed breakdown. This shows the twenty sectors – on the basis of the 2-digit NACE classification – most targeted in 1994, and the averages for 1986 to 1990 and 1991 to 1993.

TABLE 6 : Most targeted sectors in cross-border M&A operations where the target is a Community enterprise

	NACE 2	1986-1990	1991-1993	1994
		(Average)		
Business services	83	96	130	172
Wholesale distribution	61	88	144	151
Mechanical engineering	32	68	117	113
Chemical industry	25	67	105	104
Manufacture of paper and paper products	47	59	62	84
Electrical engineering	34	61	93	79
Sugar and sugar by-products	42	39	46	44
Manufacture of metal articles	31	22	36	40
Banking and finance	81	36	53	39
Manufacture of motor vehicles and parts	35	21	25	31
Manufacture of non-metallic mineral products	24	37	49	31
Food industry	41	40	52	31
Processing of rubber and plastics	48	34	40	29
Instrument engineering	37	14	23	25
Sanitary services	92	6	12	24
Hotels and catering	66	23	26	24
Insurance	82	23	28	24
Recreational and cultural services	97	9	14	22
Construction	50	18	30	22
Production and preliminary processing of metals	22	19	21	20

Source : AMDATA.

The first two service sectors are on the increase. The sharpest increase is recorded in business services, which is also the sector most targeted in 1994. Distribution also attracted more investors, but the increase there was smaller. Sanitary and recreational services also showed a signifi-

cant increase and are likewise among the twenty sectors most targeted by cross-border operations.

Activity in the banking and finance sector on the other hand is falling although there has been a wave of acquisitions in this sector on the Italian market. Approximately 1000 banks share the Italian market, 70% of which are in competition on local markets. However, most of these operations are not shown here since they were mainly domestic operations and the table is confined to cross-border operations. The food industry is also down.

In industry, the sectors on the increase are paper, motor vehicles, metal articles and instrument engineering.

PART C – LARGER DEALS IN 1994¹

This section gives an account of the highest-value operations involving European or American enterprises. Table 7 lists, in decreasing order of value, the 20 largest transactions involving European Union enterprises.

As in previous years, merger activity was intense in the service sector.

Taking the banking sector first, in Spain Banco Santander purchased a 60% stake in Banco Español de Crédito (Banesto). After the Bank of Spain had stepped in and begun a major restructuring, a merger became the only practical solution. The deal creates Spain's largest bank which also figures among the top financial European institutions.

In Italy IRI, the state holding company, sold its 54% stake in Banca Commerciale Italiana in Italy's third major privatisation of its banking sector. Demand for shares in BCI was so high that the offer closed three days early. Over one million persons wished to purchase. The shares were sold at a discount of 5.3% on the average price of shares prior to the offer.

1994 was marked by a wave in the insurance sector, which will probably continue. Three of the largest transactions took place in this sector. In France, the Compagnie Financière du Groupe Victoire, a subsidiary of the Compagnie de Suez, took a 5% holding in the Société Centrale de l'Union des Assurances de Paris. This operation, though a purely financial one, is the largest in terms of value in 1994 (more than ECU 4 billion). Victoire was then acquired by Commercial Union, a British insurance company. The Dutch insurance company Aegon purchased the pensions business of Mutual Life Insurance Company of New York.

In the telecommunications sector, we find only a single operation in the European Union top 20. This is the acquisition of a minority (35%) stake in Empresa Nacional de Telecomunicaciones del Perú, the Peruvian telecommunications company, by Telefónica de España, the Spanish telecommunications group, for ECU 1.75 billion.

¹ Unlike the conventions used for Parts A and B of this Supplement, all operations in AMDATA are considered here. Target and purchaser nationality are given equal weight and purely domestic operations are included; all types of transaction (acquisitions, minority holdings, etc.) are covered.

TABLE 7: Main operations in 1994 where a Community enterprise is target or bidder

Name of target	Name of bidder	Amount (million ECU)	Stake acquired	Initial stake	Final stake
SOCIETE CENTRALE DE L'UNION DES ASSURANCES DE PARIS SA (F)	COMPAGNIE DE SUEZ SA (F)	4.268	5.0	0.0	5.0
NOBEL INDUSTRIER AB (Sweden)	AKZO NV (NL)	2.666	100.0	0.0	100.0
BAYERNWERK AG (D)	VIAG AG (D)	*2.500	58.3	39.0	97.3
MUTUAL LIFE INSURANCE COMPANY OF NEW YORK (US)	AEGON NV (NL)	2.409	100.0	0.0	100.0
STERLING WINTHROP INC (US)	SMITHKLINE BEECHAM PLC (UK)	2.380	100.0	0.0	100.0
ROVER GROUP HOLDINGS PLC	BAYERISCHE MOTOREN WERKE AG (D)	2.007	80.0	0.0	80.0
ROYAL DUTCH / SHELL GROUP (NL) (POLYOLEFIN ASSETS)	MONTEDISON SPA (I) (HIMONT & MOPLEFAN POLYOLEFIN OPS)	1.938	100.0	0.0	100.0
COMPAGNIE FINANCIERE DU GROUPE VICTOIRE (F)	COMMERCIAL UNION PLC (UK)	1.906	100.0	0.0	100.0
BANCO ESPANOL DE CREDITO SA (E)	BANCO SANTANDER SA (E)	1.789	60.2	0.0	60.2
EMPRESA NACIONAL DE TELECOMUNICACIONES DEL PERU (PERU)	TELEFONICA DE ESPANA SA (E)	1.754	35.0	0.0	35.0
BANCA COMMERCIALE ITALIANA SPA (I)	MARKET PURCHASE (I)	1.524	54.0	0.0	54.0
JACQUES ROBER SA (F)	ARNAULT ET ASSOCIES SA (F)	1.512	45.0	55.0	100.0
STERLING WINTHROP PRODUCTS INC (US) (PRESCRIPTION DRUGS BUS)	ENTREPRISE DE RECHERCHES ET D'ACTIVITES PETROLIERES SA (F)	1.425	100.0	0.0	100.0
MATRA-HACHETTE SA (F)	LAGARDERE GROUP SCA (F)	1.368	62.4	37.6	100.0
MEAD DATA CENTRAL INC (US)	REED ELSEVIER (UK / NL)	1.210	100.0	0.0	100.0
MOET HENNESSY SA (F)	GUINNESS PLC (UK)	1.196	34.0	0.0	34.0
CANADIAN IMPERIAL BANK OF COMMERCE (UK HOME MORTGAGE BOOK)	ABBEEY NATIONAL PLC (UK)	1.182	100.0	0.0	100.0
SMITHKLINE BEECHAM ANIMAL HEALTH LTD (UK)	PFIZER INC (US)	1.178	100.0	0.0	100.0
LAUSITZER BRAUNKOEHLE AG (D)	RWE AG / VEBA AG / VIAG AG (D)	1.086	100.0	0.0	100.0
L&F HOUSEHOLD (US)	RECKITT & COLMAN PLC (UK)	1.055	100.0	0.0	100.0

Source: AMDATA.

* Estimate based on M&A International, 25 April 1994, p. 16.

In Germany, Viag AG has decided that it now has four core businesses: energy, chemicals, packaging and logistics. It is expected to concentrate on these activities and it is also a bidder in the two of the top 20 transactions which took place in the energy and water distribution sector. First, a Munich-based industrial group with 100 000 employees was created through a share swap between Bayernwerk AG, a supplier of electricity, gas and water, and Viag AG. The Land of Bavaria exchanged the 58% it held in Bayernwerk AG for a 25% stake in Viag AG. Second, Viag AG, with RWE AG and VEBA AG, participated in the purchase of Lausitzer Braunkohle AG, a brown coal mining company which had been privatized by the Treuhandanstalt.

The chemical industry – NACE 25 – saw 5 operations in the top 20. The merger of the Swedish Nobel Industrier AB and the Dutch Akzo NV produced the world's biggest paint and varnish group (75 000 employees). Also Royal Dutch Shell and Montedison merged their polyolefin activities to form the world's largest polypropylene manufacturer.

In the pharmaceuticals sector, when the American Eastman Kodak Company decided to break up and sell its subsidiary Sterling Winthrop, it received the most attractive offers from European companies. Sanofi SA, a subsidiary of Entreprise de Recherche et d'Activités Pétrolières SA, bought the prescription drug business; and SmithKline Beecham purchased the non-prescription drug operations and sold its animal health care business to Pfizer Inc. Eastman Kodak also sold L&F Household, the household disinfectant and cleaner manufacturer, to Reckitt & Colman PLC.

In manufacturing industry, the biggest operation within the European Union was BMW's purchase of 80% of Rover, with the remaining 20% still in the hands of Honda. The commercial reason most often cited by BMW was enlargement of the range. Until this acquisition, the German group catered only for a target public of potential purchasers of luxury vehicles. British Aerospace sold its holding in Rover for four times the purchase price five years earlier. This acquisition may have an effect on the behaviour of Japanese investors, with decision-makers losing confidence in the efficiency of acquiring minority stakes in Europe. Acquisitions of a controlling interest should not be under threat, since Japan still requires market access.

In the European Union top 20, two transactions were related to restructuring of the alliance between LVMH (Louis Vuitton Moët Hennessy) and Guinness. First, Arnault acquired 45% in Jacques Rober on behalf of Christian Dior. Second, Guinness sold its 24% stake in LVMH to the Arnault Group and acquired a 34% direct stake in Moët Hennessy, which had previously taken over LVMH's wine and spirits business. LVMH cut its Guinness holding from 24% to 20%. The restructuring allows the UK group to focus on wines and spirits and shift away from Moët Vuitton's luxury goods operations.

Lastly, the publishing sector saw two transactions among the top 20 European transactions: in France, Lagardère Group took control of Hachette and Reed Elsevier acquired Mead Data Central, the US electronic publishing company.

Mergers and acquisitions activity was also particularly intense in the United States. Table 8 lists the 10 largest transactions involving American enterprises.

TABLE 8 : Main operations in 1994 where a United States enterprise is target or bidder

Name of Target	Name of Bidder	Amount (million ECU)	Stake acquired	Initial stake	Final stake
MCCAW CELLULAR COMMUNICATIONS INC (US)	AMERICAN TELEPHONE AND TELEGRAPH COMPANY (US)	10.840	100	0	100
PARAMOUNT COMMUNICATIONS INC (US)	VIACOM INC (US)	8.422	100	0	100
AMERICAN CYANAMID COMPANY (US)	AMERICAN HOME PRODUCTS CORPORATION (US)	8.005	100	0	100
BLOCKBUSTER ENTERTAINMENT CORPORATION (US)	VIACOM INC (US)	6.883	100	0	100
HCA-HOSPITAL CORPORATION OF AMERICA (US)	COLUMBIA HEALTHCARE CORPORATION (US)	6.244	100	0	100
US WEST INC (US) (US CELLULAR TELEPHONE BUSINESS)	AIRTOUCH COMMUNICATIONS (US) (US CELLULAR TELEPHONE)	5.601	100	0	100
MACY & CO. R H (US)	FEDERATED DEPARTMENT STORES INC (US)	3.670	-	-	-
SOCIETY CORPORATION (US)	KEYCORP (US)	3.317	100	0	100
PCS HEALTH SYSTEMS INC (US)	ELI LILLY & COMPANY (US)	3.290	100	0	100
GERBER PRODUCTS COMPANY (US)	SANDOZ AG (SWITZERLAND)	3.142	100	0	100

Source : AMDATA.

These transactions generally involve very high amounts. The top six American transactions were moreover the top six in the World ranking. For comparison, in 1994 the largest transaction in terms of value concerning an enterprise of the European Union (UAP/SUEZ) only came eighth in the World ranking. The largest transaction involving a Japanese enterprise (the merger between Mitsubishi Petrochemical/Mitsubishi Kasei) was seventeenth.

The top 10 Americans reflect the importance of domestic M&A activity. Nine out of the ten operations listed are purely domestic, with an American enterprise as target and as purchaser.

From the sectoral point of view, only three transactions were in industry. First, in the pharmaceutical products sector, American Home Products Corporation made a hostile bid to acquire American Cyanamid Company. Then, in this same sector, the pharmaceutical products group Eli Lilly & Company improved its vertical integration by acquiring the pharmaceuticals distributor PCS Health Systems Inc. Finally, Sandoz AG (Switzerland) bought Gerber Product Company, the leading US baby food maker which has 70% of the US baby food market.

Services therefore loom large in the top 10. In the health sector, first of all, the purchase of HCA-Hospital Corporation of America by Columbia Health care Corporation creates a giant in hospital care which will have annual revenue exceeding USD 10 billion. The new structure will own and operate 190 hospitals with more than 42 000 beds in 26 states.

The cellular telephone market is particularly well represented with, first, the acquisition of Mccaw Cellular Communications Inc. by American Telephone and Telegraph Company, and second, with the merger of US West Inc. and Airtouch Communications.

Also, the American broadcasting and cable television company Viacom Inc. acted as purchaser twice. First, in an agreed operation, it merged with Blockbuster Entertainment Corporation, the world's largest video retailer. And second, it launched and won a hostile take-over bid for Paramount Communications, film producer and distributor.

In the banking sector, Keycorp of Albany and Society Corporation of Cleveland merged in a stock swap which will create the tenth largest US bank.

One transaction was recorded in distribution with the acquisition of Macy & Co by Federated Department Stores.

PART D - COMMUNITY CONTROL OF MERGERS

1. Overview

The Merger Regulation² came into force on 21 September 1990. Between that date and the end of 1994, a total of 288 operations were notified to the Commission (see Table 9). Of these, 25 were found to fall outside the scope of the Regulation and 12 were later withdrawn.

On average 68 operations were notified per year, although 1994 saw a sharp rise in the number of notifications to 95. The number of mergers notified represents less than 4% of the total number recorded in the AMDATA data base for the period 1991-94. This small proportion results from the narrow delimitation of the scope of the Merger Regulation, which *inter alia* excludes mergers where the combined world-wide turnover of the parties is less than ECU 5 billion and requires that at least two of the parties should each have a Community-wide turnover of ECU 250 million or more.

Acquisitions of majority share holdings and mergers accounted for 49% of all notifications, but a remarkably high proportion (46%) related to the formation of joint ventures.

The Merger Regulation provides for examination of mergers in two phases: in the first of these, the Commission may decide either that the merger does not raise serious doubts as to its effect on the conditions of competition (Article 6(1)(b)) or that there are serious doubts necessitating the more detailed analysis of Phase 2 (Article 6(1)(c)). A total of 231 mergers were cleared in Phase 1, although in ten cases the Commission only gave its approval after the

² Council Regulation (EEC) No 4964/89 of 21 December 1989; OJ No L 395, 30.12.1989 (corrected version: OJ L 257, 21.9.1990).

parties had committed themselves to measures designed to eliminate potential harm to the conditions of competition (see Table 10).

TABLE 9 : Notifications under the Merger Regulation

	1990	1991	1992	1993	1994	Total
Cases notified	12	63	60	58	95	288
Notifications withdrawn	0	0	3	3	6	12
Cases on which final decisions were taken	6	60	59	56	88	269

Source: MTF, DG IV.

The Phase 2 procedure was applied in 20 cases. In five the Commission decided on closer examination that there were no serious competition problems, while in ten cases the competition problems were resolved by the imposition of special conditions. Two mergers (Aérospatiale-Alenia/de Havilland and MSG Media Service) were forbidden. One merger was abandoned during the procedure and two cases had not been decided at the end of 1994.

TABLE 10 : Decisions taken in Phase 1 by 31 December 1994

Type of decision	Number of cases
Article 6.1a (outside scope of regulation)	25 ¹
Article 6.1b (no serious doubts)	231
of which, cases which were cleared after remedies were offered	(10)
Article 6.1c (opening of Phase 2)	20
Article 9 (cases referred to national authorities)	3 ²
Total	277

- 1 Some notifications concerned more than one operation, only one of which was found to fall outside the Regulation's scope.
- 2 Two of these referrals concerned only part of the notified operation.

Source: MTF, DG IV.

TABLE 11 : Decisions taken in Phase 2 by 31 December 1994

Type of decision	Number of cases
Article 8(2) (clearance) with conditions and obligations	10
Article 8(2) (clearance) without conditions	5
Article 8(3) (prohibition)	2
Total	17

Source: MTF, DG IV.

2. Geographical aspects

Table 12 shows that German firms were most frequently involved in transactions notified under the Merger Regulation (21% of the total number of enterprises concerned), followed by French and UK companies (18% and 15% respectively). A comparison with the AMDATA records shows that this ranking does not reflect the relative levels of total M&A activity, where the UK leads and France is in third place, well behind Germany. This disparity is in part attributable to the fact that in the UK there is more intense M&A activity by smaller firms which do not reach the thresholds for application of the Regulation. The proportion of Italian firms (8%) was much smaller than might be expected given the country's economic importance, but

somewhat higher than that country's share in total M&A activity. Outside the European Union, the most frequently occurring nationalities were USA (10%) and Sweden (5%).

TABLE 12 : Nationality of the enterprises concerned

Firms based in:	Number of enterprises and %			
	Deals notified under the Regulation up to 31 December 1994		Deals recorded in AMDATA 1991-1994 ¹	
Belgium	26	(3,8%)	1005	(2,4%)
Denmark	4	(0,6%)	1683	(4,0%)
Germany	145	(21,1%)	10023	(24,0%)
Greece	0	(0%)	57	(0,1%)
Spain	31	(4,5%)	1332	(3,2%)
France	126	(18,3%)	6186	(14,8%)
Ireland	2	(0,3%)	436	(1,0%)
Italy	52	(7,6%)	2381	(5,7%)
Luxembourg	1	(0,1%)	115	(0,3%)
Netherlands	29	(4,2%)	2401	(5,7%)
Portugal	4	(0,6%)	100	(0,2%)
United Kingdom	105	(15,3%)	11120	(26,6%)
Austria	1	(0,1%)	159	(0,4%)
Finland	3	(0,4%)	160	(0,4%)
Sweden	33	(4,8%)	359	(0,9%)
USA	69	(10,0%)	1819	(4,3%)
Japan	8	(1,2%)	205	(0,5%)
Switzerland	25	(3,6%)	506	(1,2%)
Norway	4	(0,6%)	132	(0,3%)
Other countries	20	(2,9%)	1663	(4,0%)
Total	688	(100%)	41842	(100%)

¹ Deals involving a firm from the European Union, as either bidder or target.

Source: MTF, DG IV, and AMDATA.

Table 13 shows that the overwhelming majority of cases falling under the Merger Regulation have a cross-border dimension as far as the nationality of the parties is concerned. Only 28% of the total notifications concerned mergers involving only firms based in the country, including countries outside the EU. However, even these mergers may have significant effects outside the national boundaries. This is obviously so as far as extra-Community firms are concerned, since the Regulation only applies to enterprises with a substantial turnover within the EU.

In most of the other cases concerning non-cross-border transactions, the firms concerned operate in more than one national market or in markets which extend beyond national boundaries. Indeed, in the vast majority of cases which it examined the Commission concluded either that there was no distinct national market for the relevant product or that the operation affected more than one national market.

TABLE 13 : Breakdown of notifications into national, Community and international operations (up to 31 December 1994)

	Number of notifications	Percentage of total
Community operations (cross-border deals involving EU firms only)	108	37
International operations (cross-border deals involving extra-EU firms)	101	35
National operations	80	28
Total	289	100

Source: MTF, DG IV.

3. Sectoral distribution of cases

The majority (200 or 69%) of cases dealt with under the Regulation were concerned with industrial activities. There were 114 notifications (40%) relating to service sectors. These figures include 29 cases where both industrial and service activities were concerned. Table 14 gives a detailed breakdown of the cases, showing the sectors most frequently concerned and other sectors where merger activity has been particularly intense in recent years.

TABLE 14 : Sectoral breakdown of cases notified up to 31 December 1994 and comparison with the number of deals recorded by AMDATA

Industry	Number of cases notified ¹	Number of deals recorded in AMDATA (1991-1994) ²
Industry	200	10498
<i>of which :</i>		
chemicals/man-made fibres	36	943
food and drinks	25	1477
motor vehicles	19	318
electrical engineering	14	1077
basic metals	14	257
mechanical engineering	13	1509
pulp and paper products	10	1324
Construction	3	558
Services	114	9378
<i>of which :</i>		
insurance	21	311
other financial services	15	902
wholesale distribution	13	1965
retail distribution	10	1103
business services	10	2169

¹ Some notifications concern more than one sector. The sum of industry and services is therefore greater than the total number of notifications (288).

² Deals involving a firm from the European Union, as either bidder or target.

Sources: MTF, DG IV, and AMDATA.

A comparison between the notified cases and the AMDATA records shows that industrial activities were more heavily represented among the notified cases than the overall distribution of M&A activity might lead one to expect. While more than two-thirds of notifications concerned industry, this branch of activity only accounts for about half of the total number of deals. Industrial sectors where firms tend to be very large (e. g. motor vehicles, basic metals and chemicals) are more strongly represented amongst the notified cases than in the AMDATA records, because of the high level of the notification thresholds.

As far as services are concerned, the comparison shows that the Merger Regulation covered a particularly small proportion of the total number of deals in the business services, wholesale and retail sectors. In the business services sector, few firms are sufficiently large to reach the thresholds for application of the Regulation. As far as wholesale and retail distribution is concerned, the main explanation for their "under-representation" amongst the notified cases is probably that until now relatively few firms in these sectors have expanded beyond their domestic markets. Mergers where all of the undertakings concerned realise

more than two-thirds of their Community-wide turnover within the same Member State are excluded from the scope of the Regulation. Deals in the insurance sector, on the other hand, fall much more frequently within the scope of the Regulation.

4. Some recent cases

European Economy n° 57 discusses the questions raised by cases dealt with by the Commission in the first two and a half years of implementation of the Merger Regulation. In order to update this information, this section contains brief descriptions of some significant cases which have been decided after Phase 2 proceedings since June 1993. Four cases were of particular interest: Kali und Salz/Mitteldeutsche Kali, Procter & Gamble/VP Schickedanz, Shell/Montecatini and MSG Media Service.

The Kali und Salz/Mitteldeutsche Kali case was the first instance of the successful use of the so-called "failing company defence" in Community merger control. Kali und Salz (K+S), a subsidiary of the chemicals firm BASF, formed a joint venture with the Treuhandanstalt, the institution charged with the management, restructuring and privatisation of publicly owned enterprises in Eastern Germany, to which Mitteldeutsche Kali (MdK), a producer of common salt and potash, was transferred. In the product market for common salt, the change in market structure raised no serious problems. In the German markets for potash products, however, the merger greatly strengthened the dominant position of K+S, since existing competition was insignificant and the barriers to new entry were high.

However, the merger was authorised because, had the sale not taken place, the Treuhandanstalt would have been obliged to close MdK, which was making heavy losses, since no alternative buyer could be found. If MdK had ceased trading, K+S would have taken its entire market share, because of the high barriers to entry. Consequently, prohibition of the merger would not have resulted in a more healthy market structure.

However, the Commission also considered the effects on European potash product markets outside Germany and found that after the merger K+S and the French supplier SCPA would control 60% of potash sales. There was a danger of collective dominance of these markets, particularly in view of the close links between these two firms. The Commission's authorisation of the merger was therefore made subject to the fulfilment of obligations to sever these links.

The Procter & Gamble/Schickedanz case raised some particularly difficult problems concerning the definition of relevant product and geographic markets. In this case, the American firm Procter & Gamble (P&G) proposed to take over the German company VP Schickedanz (VPS), a producer of household paper and sanitary protection products. The merger raised no problems in relation to household paper products since P&G was not present in the European markets for these products. However, the Commission considered that there was a danger that a dominant position

could be created in the markets for disposable diapers and sanitary towels. In the notification, P&G offered to remedy the problem in the diaper market by disposing of this activity to a third party. This was accepted by the Commission.

As far as sanitary towels were concerned, P&G argued that the relevant product market included all types of feminine hygiene products, i. e. tampons as well as sanitary towels, and that the relevant geographic market extended beyond national boundaries. If this definition of the relevant market were accepted, P&G's market share would be too small to permit dominance. After exhaustive study of the evidence concerning consumer attitudes and behaviour, the Commission concluded that the substitutability between sanitary towels and other forms of feminine hygiene products was insufficient to justify a wide definition of the relevant product market and that the geographic markets were national in character. Consequently, it found that the merger was likely to create a dominant position in Germany and Spain. The take-over was authorised only after P&G offered to sell VPS's main sanitary towel brand, Camelia, together with the associated production facilities and other assets, to a third party.

The special interest of the Shell/Montecatini case lies in the fact that the Commission recognised the existence of a separate market for production technology. The case concerned the creation of a joint venture ("Sophia") by Shell Petroleum and Montedison Nederland, a subsidiary of the Italian Feruzzi group. The two companies had agreed to transfer their European production and marketing activities in the field of polyolefins to Sophia, but Shell was to retain its separate interests in joint ventures with Union Carbide in the United States and with BASF.

In Phase 1 the Commission concluded that the deal could lead to the creation of a dominant position in two markets: (i) the world-wide market for licences of the technology for polypropylene production and (ii) the West European market for polypropylene itself. Two technologies account for more than two-thirds of polypropylene production by manufacturers who do not possess their own technology: SPHERIPOL, owned by Montedison and to be transferred to Sophia, and UNIPOL, owned by the joint venture with Union Carbide, in which Shell was to retain its interest. As far as polypropylene itself is concerned, the parties account for about a third of West European production, while the individual shares of their competitors are much smaller. The danger of creation of a dominant position in this market was accentuated by the parties' strong position in the technology market. The Commission finally authorised the joint venture after the parties offered to make two modifications to their agreement. Firstly, Montedison's technology activities for polypropylene production, including SPHERIPOL, would not be transferred to Sophia

but remain under the exclusive control of Montedison, thus ensuring that customers would continue to have a choice between SPHERIPOL and UNIPOL. Secondly, to limit the effects of the merger on the market for polypropylene, Montedison would sell its interest in a joint venture with Petrofina.

The MSG Media Service case is of interest not only because it was the second instance of prohibition under the Merger Regulation but also because of the crucial role played by vertical links and because the Commission had to examine a potential rather than an existing market. The case concerned a proposal to establish a joint venture to supply administrative and technical services to the operators of digital pay-TV, a service to be introduced within one or two years. The parties were Bertelsmann AG, a company with activities in publishing and other media, the Kirch group, a supplier of films and television programmes with interests in commercial television companies, and Deutsche Bundespost Telekom, the public telecommunications company. It was proposed that MSG would offer the following services: supply of decoders, management of access to programmes, administration of relations with subscribers and with programme providers.

The Commission considered that each of the parties would have been capable of entering this new market individually. The merger would therefore have had the effect of eliminating potential competition in the German market from the outset. Telekom owned by far the most important cable network in Germany. Bertelsmann and Kirch had unrivalled resources as suppliers of films and television programmes. Hence, the combination of these three major players would have created a dominant position which would have severely limited or prevented the entry of competitors.

The Commission also found that MSG's dominance in the market for services would allow the new company to control or influence access by pay-TV suppliers to consumers in such a way as to enable Bertelsmann and Kirch, which already enjoyed a strong position, to dominate the market for the supply of pay-TV programmes also.

The Commission also considered the impact on the market for cable networks and found that MSG would have enabled Telekom to maintain its dominance in this market even after the projected liberalisation of telecommunications in 1998.

The parties offered certain remedies in an attempt to persuade the Commission to authorise the deal, but these were rejected as being inadequate, since they were behavioural rather than structural commitments. The Commission therefore prohibited the merger.

Principal economic policy measures – January/February 1995

Community (EUR-15)

None.

Belgium (B)

20.1 The government introduces for federal civil servants the right to opt for a four-day working week and early half-retirement. Both formulas entail a loss of salary but provide partial compensation. Through this measure, the government is giving a signal to the private sector. The plan, which will probably come into force on 1 April, will cost BFR 100 million a year.

Denmark (DK)

None.

Germany (D)

1.1. Major tax measures take effect:

- solidarity surcharge equal to 7.5% of tax due on personal income (above certain wage limits) and incorporated businesses;
- tax on personal assets: rise in the basic allowance and doubling of the tax rates for most assets;
- increase in the insurance tax from 12% to 15% of premiums;
- expiry of several tax benefits, e.g. the special Berlin allowances, the tax credits on investments in the former GDR, the reducing-balance method of depreciation for personal property used for commercial purposes, scrapping of mortgage-interest reliefs in respect of owner-occupied housing;
- full integration of the new Länder into the standard system of fiscal transfers between the Länder and the federal government;
- granting of DM 6.6 billion in financial aid to the new Länder;
- establishment of the "inherited burdens fund" for the repayment of debt related to the former GDR (Treuhand agency; housing debt of the GDR; debt stemming from monetary union). The fund will be financed exclusively from the federal budget. At the same time, having successfully accomplished its tasks, the Treuhand ceases operations on 1 January and is transformed into a group of much smaller companies.

26.1 Federal Government announces DM 3 billion programme to combat long-term unemployment over the period 1995-99.

Greece (GR)

2.1 Interest rates on three- and twelve-month Treasury bills are reduced by 25 basis points and three on six-month Treasury bills by 50 basis points.

9.2 The Bank of Greece announces its monetary policy for 1995; M3 growth is fixed at 7-9%, and the target for the depreciation of the drachma against the ecu is set at 3%.

Spain (E)

14.1 Spanish government approves a wide-ranging package of economic measures which includes the following:

- a) public expenditure cuts of PTAs 150 billion;
- b) Draft bill liberalising private insurance sector;
- c) measures to reduce costs of urban development sites;
- d) Decree law for reducing minimum distance between petrol stations.

28.1 Spanish government approves a package of economic measures consisting of:

- public spending curbs of PTA 400 billion to guard against possible overshooting, especially in the national health service, in foreign-aid commitments and in transfers to regional and local administrations;
- 448 measures aimed at combating tax evasion as well as fraud in property transactions, social security benefits and the national health service.

18.2 The government approves updated tax incentives to boost employment which are similar to those adopted in June 1994. In practical terms, firms which undertake investment in 1995 and increase their workforce during the following two years but which preserve these new jobs for at least two years will be able to depreciate those new assets freely.

France (F)

21.2 In order to achieve its target of reducing the central government deficit to FF 275.1 billion in 1995, the Prime Minister decides to freeze FF 20 billion of previously adopted budgetary outlays.

Ireland (IRL)

8.2 The Minister for Finance announces the government's budget for 1995. The principal features include a range of income tax and PRSI (social insurance) concessions designed to reduce the impact of direct taxation, particularly on the lower paid, and to reduce employers' social insurance contributions. The standard corporation tax rate is to be reduced from 40% to 38% and social security payments are to rise by 2½%, in line with expected inflation. The budget sets a general government deficit target of 2.5% of GDP in 1995 compared with a 1994 outturn of 2% of GDP. The key macroeconomic assumptions underlying the 1995 budget include projected GDP volume growth of 6¼%, employment growth of 2¼% and a fall of 16 000 in the number of unemployed, bringing the average annual rate to just under 14% in 1995 (national definition) compared with 14.8% in 1994.

Italy (I)

25.1 Prime Minister Lamberto Dini wins a confidence vote in the Italian parliament; his programme is centred on four main issues:

- regional electoral reform;
- pension system reform;
- additional fiscal package equivalent to 1% of GDP;
- equal access to the media for political parties.

22.2 The Bank of Italy raises the official discount interest rate by 75 basis points to 8.25%.

23.2 The government presents a supplementary fiscal package amounting to LIT 20.8 trillion, or 1.2% of GDP, and including LIT 15.6 trillion of additional revenue and LIT 5.2 trillion of expenditure cuts. The package is introduced by decree and requires parliamentary ratification within sixty days.

Luxembourg (L)

None.

Netherlands (NL)

None.

Austria (A)

None.

Portugal (P)

8.1 The government increases the minimum wage under the general arrangements by 5.5% (from ESC 49 300 to ESC 52 000), with effect from 1 January 1995; the minimum wage for domestic workers is raised by 6.3%.

Finland (FIN)

13.1 Parliament approves the state budget for 1995. Expenditure amounts to FM 195.8 billion (up by 1% from 1994) and revenue, excluding borrowing, to FM 136.0 billion (up by 9%). A 2% inflation adjustment is applied to the progressive income-tax scales; the so-called compulsory loan to be collected in connection with the withholding of taxes will remain the same as in 1994. As a result of EU membership, excise duties and the value-added tax system have been adopted.

10.2 The Bank of Finland raises the tender rate from 5.5% to 5.75%.

Sweden (S)

11.1 The draft budget is presented to Parliament. It relates to a fiscal year which has been extended to 18 months, from July 1995 to December 1996 (thereafter the fiscal year will coincide with the calendar year). In the draft the government proposes additional spending cuts totalling SKR 21.7 billion, which will take full effect by 1998; it also presents a programme for stimulating growth and employment which entails a temporary increase in budget costs of SKR 9.2 billion in the coming year.

2.2 The Finance Minister announces the government's intention to sell all of Nordbanken, valued at SKR 15 billion by analysts. The sale is scheduled for later this year but may take place in stages.

6.2 The government will propose a 0.25% fee for the banking sector on guaranteed deposits of up to ECU 20 000 per customer, corresponding to an annual payment of SKR 1 billion for the banking sector as a whole.

9.2 Sweden's central bank, Riksbank, increases the repo rate from 7.60% to 7.80% and adjusts the interest-rate corridor.

21.2 The Riksbank increases the repo rate from 7.80% to 7.83%.

28.2 The Riksbank increases the repo rate from 7.83% to 7.90%.

United Kingdom (UK)

2.2 The Bank of England raised the interest rate from 6¼% to 6¾%.

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