

companies in Japan. The JFTC rejected both. The paper merger was abandoned. But with the support of MITI, the steel companies pursued their plans. Although the JFTC objected, after intense pressure from business and MITI, it agreed. Thus, Nippon Steel came into being.⁸⁵

It was only once reconstruction was safely underway that a process of revitalization of the AML began. Exemptions were reduced drastically. From a thousand in 1963, exemptions declined to 528 in 1977. Also, the number of export cartels decreased under the Export and Import Transactions Law from a peak of 209 in 1969 to 53 by 1982. At present, there are only 11 export cartels involving major manufacturers. Ironically, many of these remaining export cartels responded to demands by other countries for voluntary export restraints against competitive imports from Japan.⁸⁶

● The hesitant return of *per se*

The most important development, however, was the amendment of 1977. The original *per se* structural control of monopolistic situations, purged in 1953, was revived in a different form that also considered not only shares, but also prices and profit rates. A reporting system was introduced whenever prices of a product went up simultaneously throughout the market. Within three months of such monitoring, the JFTC could order the major enterprises to explain why the prices had been raised.⁸⁷

The introduction of a cartel surcharge created a pay-as-you-group fee that tried to capture the gains of the anti-competitive relationship. This surcharge made the fines a percentage, which was raised from 2% to 6% in 1991, of sales during the cartel period. This was one area where the JFTC addressed the root of anticompetitive effects in communitarian competition.

5.4 The Japanization of competition policy

⁸⁵See Wilks, *op.cit.*, p. 9.

⁸⁶Iyori, *op.cit.*, p. 79.

⁸⁷See Mitsuo Matsushita, 1993, *op. cit.*, p. 83.