

Currently, governments may attempt to deal with this issue on a government-to-government basis and the principle of comity (respect for the laws and policies of the other government), rather than through litigation in national courts. In the 1980s, the U.S. Department of Justice announced a policy, later withdrawn, that its antitrust authority could sue American subsidiaries of foreign import cartelists where U.S. exporters are excluded from foreign markets by cartel activity. The exclusionary import cartel is often, but not always, the other side of the outbound cartel.

Most national governments have not of late displayed anxiety concerning export cartels. The German government, however, has been openly critical, stating: "...complete control over export cartels with purely national rules cannot be achieved, but rather here at least cooperative international measures to which a majority of nations are prepared to take concerted action are needed."

Lost from sight among these strategies for exploiting and combatting the possible monopoly power of export cartels is the global interest of all countries in competitive markets that equate prices to long-run incremental costs. Such a global solution requires countries to agree that each will do its best to keep its domestic producers competitive, whether they sell at home or abroad.

The critical considerations that should be recognized are:

- Export cartelists can impose higher costs on others and waste resources in building excess capacity in the countries granting them immunity;
- Countries may wish to repeal export cartel exemptions in their national laws, but are understandably reluctant to do so unless major trading partners likewise repeal their exemption and strengthen their enforcement regarding import cartels;
- Over time, there has been an increased international recognition of the costs of permitting lax antitrust enforcement, particularly as a policy tool in response to trade measures.
- Japan's use of domestic and export cartels is part of a historic modus vivendi with Western countries anxious to limit Japanese imports. This accommodation is breaking down. The emerging international agenda on competition policy is, at least in part, motivated by the desire to get Japan to harmonize its institutions and domestic policies for allocating goods, capital and information with those of its trading partners.