

policy, in this context, is brought to bear when constructing the domestic cartel, and in considering whether the particular measures required to make the cartel effective can be justified. On a number of occasions (as discussed in detail in the compilation published by the Université de Liège cited) it has been concluded that particular proposed measures could not be accepted under EEC competition legislation; the position has been summed up in the following terms: "La Commission est disposée à reconnaître que, dans certaines conditions, des accords entre entreprises en vue de réduire des surcapacités structurelles peuvent être autorisés au titre de l'article 85 no. 3 (of the Treaty of Rome) mais uniquement dans la mesure où les entreprises ne fixent pas en même temps, par accord ou pratique concertée, ni les prix ni les quotas de production ou de livraison."³³

It is perhaps too early to say how this system of domestic production, investment and delivery controls, plus controls on imports, has worked in regard to steel.³⁴ However, from a competition policy point of view, the issue is the appropriateness of the domestic cartel, and the details; the competition policy aspects of the trade policy measures, if no more severe than justified by the application of the domestic measures, are presumably subsumed in the competition policy assessment of the domestic measures. From the trade policy point of view, the issue will be whether or not the exporter is being asked to bear an unreasonable share of the burden of adjustment. A doctrinaire "free-trade" answer to that question would invariably be "yes"; but much will depend on the details. In trade policy, as in competition policy, much depends on the details of the measure applied. For example, it is now generally accepted that the main result of the restriction negotiated by the EEC on exports by Japan of video-tape recorders (VTRs) after the French authorities applied a measure of administrative harassment ("Poitiers") was that the higher price realized by Japanese exporters as a result of the restriction on competition in the European market will help finance the research necessary for the next generation of VTRs to be produced in Japan. Awareness of this unintended result, unintended, at least, by France, has led to the proposal (advanced by Philips) to apply a tariff on imports rather than an export restraint. The rent of this restriction will thus go to the EEC Commission, rather than to Japanese VTR exporters.

The issue of domestic cartelization of industry within the EEC is perhaps outside the scope of this study; in any event, it has been addressed by Tumlin in sufficiently emphatic terms: "There has occurred in Europe a surprising revival of the belief in the efficacy of cartels as instruments for solving the problems of adjustment and overcapacity. . . . Three things are surprising . . . There has been a relatively sudden change in political vocabulary, in effect a resumption of the speech patterns of the 1930s, featuring in particular an overuse of the word "rationalization" (used in its incantatory quality, no corresponding plan having been specified). The second surprising point is that some of the cartels have enjoyed more, and more open, official support than any of the cartels of the 1930s, and that they seemed to be conceived from the beginning as international cartels. Finally, there is the fact that although the cartelization-rationalization movement of the interwar period was a disastrous failure, nobody refers to that experience, not even by a hint. It is as if it had never occurred."³⁵