

approach is flexible enough to accommodate changes in technology and the changes in the nature of business organizations in a dynamic world economy.

Finally, such guidelines would ultimately require monitoring and dispute settlement mechanisms of some sort. A few observers have pointed to the creation of a new international competition tribunal,<sup>97</sup> although this may seem exceedingly ambitious at this time. In any event, the more appropriate fora might be the newly established World Trade Organization (WTO) and the North American Free Trade Agreement (NAFTA) which will likely begin to address the competition and trade policy connection (including the prospects for some common standards) over the next several years. Both these institutions already include binding international dispute settlement mechanisms, although neither one currently embraces competition law enforcement issues. Another, perhaps more interim option, might be to develop, among a limited set of countries (in the Quadrilateral context? in NAFTA?), a NAFTA-like side agreement dispute settlement mechanism that would focus on the enforcement of domestic competition standards (not the harmonization or convergence thereof). The dispute settlement mechanism could be triggered if there were an alleged "persistent pattern of failure to effectively enforce" a country's own law. This approach would require careful work on definitions (e.g., the scope of "law", the meaning of "enforce" and "effectively").

#### 6.4 Vertical Practices and Access to National Distribution Systems

The second set of policy issues we discuss pertain to access to national markets.

The crucial question concerning manufacturer-retailer relations in international markets is whether manufacturers from one country can enter the distribution network in a foreign country. If they are unable to line up retailers in foreign markets, their entry into those markets is effectively blocked. In such a circumstance, foreign firms would enjoy less than full access to a foreclosed national market because of difficulties related to penetrating the local distribution system and to the high costs associated with establishing new, parallel networks.

The phenomenon of a closed distribution system emerges when three main factors come into play. First, vertical cartel arrangements can enable a large firm in the market to

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<sup>97</sup> For some examples, see F.M. Scherer, *Competition Policies for an Integrated World Economy*, The Brookings Institution, Washington, D.C., 1994, chapter 5; and "Draft International Antitrust Code as a GATT-MTO-Plurilateral Trade Agreement" prepared by International Antitrust Code Working Group, *Antitrust and Trade Regulation Report*, Vol. 65, No. 1628, August 1993.