

Nonetheless, cartels in Japan are authorized, not on account of competition considerations, but due to other policy goals. For example, the MITI has used administrative guidelines to achieve horizontal agreements or the grouping of firms to promote the protection of small firms, to assist depressed industries and to promote basic R&D.

Export cartels. Export cartels permit the shifting of profits from foreigners to home-country firms, presumably on grounds that no national is injured and that domestic producers profit. All the Triad countries have laws or policies that permit export cartels to operate from within its borders. Export cartels are authorized by governments or are broadly exempted from competition law.¹⁵⁰

Overall, competition law and philosophy in the Triad with regards to conspiracy and cartel practices began with a position of prohibition. To a large extent, the U.S. stands out for its strong *per se* treatment, while the EU provide near *per se* standards, and Japan tends to dilute its proscription of cartels and horizontal collusion by granting exemptions and recourse to administrative guidance exceptions.

- **Abuse of dominant position/firm size**

U.S.: Monopolization, while central to its anti-trust regime, has been treated in the U.S. through the rule of reason. During the 1940s-1960s, the structuralist approach sustained the systematic break-up of concentrated industries without regard to efficiency issues. In the structuralist view, the threat of entry into concentrated markets was thought not to pose an effective check on the exercise of market power. The so-called Chicago School proponents, during the 1970-1980s, argued that the danger of successful monopolization or exploitation of market power was fairly low. Thus, in the mid 1980s, high market concentration or even dominance by itself did not figure prominently in initiating competition policy action in the U.S..

¹⁵⁰See William Ehrlich and I. Prakash Sharma, "Competition Policy Convergence: The Case of Export Cartels", **Policy Staff Paper** No. 94/03, Ottawa: Foreign Affairs and International Trade, April 1994.