

practices. Naked price theory and self-interest do not dominate the market; relationships are important too. The U.S. SCAP trust-busters ran right into this difference. In applying the AML, SCAP viewed Japan's combines as tough, unfair competitors—unfair, that is, according to U.S. rules of the game. Through Japanese eyes, such combines offered substantial benefits in terms of the stability of relationships and security of supply and labour.

This different understanding of fairness in the two countries explains many economic disputes between them. While it is true that an economy is an economy, whether individuals act on oriental or occidental avarice, the relative weight given to individualism or communitarianism skews the factors relevant to any economy. The next sections address this tension.

5.5 Competition enforcement in Japan

In Japan, private informal dispute settlement is more important than the use of public and formal laws to settle disputes.

● **The role of public law**

In the West, the law has been viewed as protecting freedom and equality. While sharing this principle, the law in Japan is, by contrast, considered primarily as an instrument of government control. Since the government-business relationship in Japan has traditionally involved negotiation and compromise, the cooperative proclivity usually makes resorting to law and litigation undesirable.⁸⁹

● **“Wa” over war: the role of private law**

Informal agreements are the norm in Japan. So too are informal dispute resolution processes. The knee-jerk response to disputes in relationships in Japan is not “Sue”. It is the very last thing that would be attempted, if at all. Formal contracts are less necessary in Japan. Parties to an agreement often have

⁸⁹Iyori, *op.cit.*, p. 62.