ICTSD

International Centre for Trade and Sustainable Development

WORLD ECONOMIC FORUM

COMMITTED TO IMPROVING THE STATE OF THE WORLD

STRENGTHENING THE GLOBAL TRADE AND INVESTMENT SYSTEM FOR SUSTAINABLE DEVELOPMENT

# Consequences of Cartelisation in Primary Commodities: Focus on Natural Rubber and Banana

Pradeep S. Mehta and Udai S. Mehta

October 2015

E15 Expert Group on
Competition Policy and the Trade System

**Think Piece**

Co-convened with

# ACKNOWLEDGMENTS

**Published by**

International Centre for Trade and Sustainable Development (ICTSD)
7 Chemin de Balexert, 1219 Geneva, Switzerland
Tel: +41 22 917 8492 – E-mail: ictsd@ictsd.ch – Website: www.ictsd.org
Publisher and Chief Executive: Ricardo Meléndez-Ortiz

World Economic Forum
91-93 route de la Capite, 1223 Cologny/Geneva, Switzerland
Tel: +41 22 869 1212 – E-mail: contact@weforum.org – Website: www.weforum.org
Co-Publisher and Managing Director: Richard Samans

**Acknowledgments**

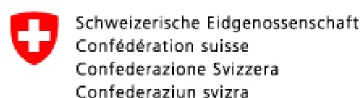
This paper has been produced under the E15Initiative (E15). Implemented jointly by the International Centre for Trade and Sustainable Development (ICTSD) and the World Economic Forum, the E15 convenes world-class experts and institutions to generate strategic analysis and recommendations for government, business, and civil society geared towards strengthening the global trade and investment system for sustainable development.

For more information on the E15, please visit www.e15initiative.org/

The Expert Group on Competition Policy and the Trade System is co-convened with Bruegel. www.bruegel.org/

Pradeep S. Mehta is Secretary General, CUTS International, and Udai S. Mehta is Director, CUTS International.

**With the support of:**




Canada

And ICTSD's Core and Thematic Donors:

Norwegian Ministry
of Foreign Affairs

**Citation**: Mehta, Pradeep S. and Udai S. Mehta. *Consequences of Cartelisation in Primary Commodities: Focus on Natural Rubber and Banana*. E15Initiative. Geneva: International Centre for Trade and Sustainable Development (ICTSD) and World Economic Forum, 2015. www.e15initiative.org/

The views expressed in this publication are those of the authors and do not necessarily reflect the views of ICTSD, World Economic Forum, or the funding institutions.

Copyright ©ICTSD, World Economic Forum, and Bruegel, 2015. Readers are encouraged to quote this material for educational and non-profit purposes, provided the source is acknowledged. This work is licensed under the Creative Commons Attribution-Non-commercial-No-Derivative Works 3.0 License. To view a copy of this license, visit: http://creativecommons.org/licenses/by-nc-nd/3.0/ or send a letter to Creative Commons, 171 Second Street, Suite 300, San Francisco, California, 94105, USA.
ISSN 2313-3805

# ABSTRACT

Increasing global interdependence and economic linkages clearly make a case for not only challenging the philosophy underpinning the case of exemption of export cartels from national competition legislations, but also changing this philosophy. This think–piece, with the help of two illustrative case studies, shows the impact of cartelisation in primary commodity markets. The case of natural rubber cartelisation relates to the effects of cartels in a primary raw-material market. The second relates to cartelisation in bananas along the vertical chain and downward monopolistic pressure from the retail level.

The paper briefly analyses the economic consequences of export cartels while highlighting the need for international rules. It describes the political economy of the genesis of export cartels and also deals with the different types of exemptions being granted to the export cartels under domestic competition laws. Following an examination of the remedies for export cartels within the multilateral trade regime and by way of the extraterritorial application of domestic competition laws, it takes up the case of natural rubber and banana to depict the extent of anticompetitive harm due to the prevalence of export cartels.

Studies find evidence that international cartels, primarily organised by firms headquartered in industrialised nations, cause prices to rise above competitive levels for buyers in developing countries. Aside from having developmental consequences outside their territories, export cartels have also been seen to impact domestic welfare by influencing domestic production and pricing decisions. Operating such cartels in the home country can also create a potential situation of "conscious parallelism" when sensitive price information is shared to set prices for foreign markets. Another domestic effect is the exclusion of competition between export traders. There are various arguments made against exemptions of export cartels from domestic competition laws in many jurisdictions. Export exemptions undercut international trade policies that promote freer international trade and greater market integration. Another argument against exemptions is that the benefits do not reach the intended beneficiaries. It has frequently been argued that large international companies, not small and medium-sized ones, are taking advantage of export cartel exemptions, thus defeating their purpose.

In the World Trade Organization (WTO), a Member country cannot bring a complaint against another Member country for anticompetitive conduct by private actors. It can be said that the WTO is without a mandate to deal with such issues in the case of private export cartels, though in cases of state-related export cartels, there is a possibility of triggering the WTO dispute settlement framework in certain circumstances. This calls for a multilateral framework on competition law and policy to combat anticompetitive practices emanating even from private export cartels and framing an effective policy to combat export cartels in general. At present, there is no international forum authorised to work towards a legally binding compromise or common rules on a global competition agreement.

Export cartels should not benefit from a blanket exemption from competition laws, which would exclude them even from scrutiny under a rule of reason approach. When assessing the impact of an export cartel, a number of issues need to be considered in each particular case. Among them would be whether the cartel is a new entrant, the nature of efficiencies claimed, the market structure, and the degree of import penetration. Keeping in view the linkage between competition law and world trade system, there seems to be a fit case for designing effective remedies for export cartels under the WTO regime. The UNCTAD has also suggested that developed countries should abolish export cartel exemptions on a non-reciprocal basis. The growth of effective antitrust enforcement regimes from perhaps three active jurisdictions in the 1980s to dozens today is an example of voluntary global policy harmonisation. The time has come for WTO Members to consider resuscitating negotiations on the WTO's role on competition law and policy, which have been stalled for a decade.

# CONTENTS


**Introduction** 1

Definition and Meaning 1

**Export Cartels in Primary Products: Brief Analysis** 1

Historical Overview of Cartels 1

Economic Consequences of Export Cartels 1

Treatment of Cartels in Competition Law and Need for International Rules 2

**Governance of Export Cartels** 3

Political Economy of the Genesis 3

Type of Exemptions 3

Explicit Exemptions and Implicit Exemptions 3

**Existing Remedies to Fight the Adverse Effects of Export Cartels** 4

Under the Multilateral Trade Regime 4

Under the Domestic Competition Regime 5

**Economic Analysis of Export Cartels in Primary Products** 6

Brief History of Cartelisation in the Natural Rubber Sector 6

Brief History of Cartelisation in the Banana Sector 7

**Recommendations and Conclusions** 9

References 10

# LIST OF ABBREVIATIONS

| | |
|---|---|
| ACP | Africa, the Caribbean, and the Pacific |
| CCI | Competition Commission of India |
| CEPR | Centre for Economic Policy Research |
| CUTS | Consumer Unity and Trust Society |
| EC | European Commission |
| EU | European Union |
| GATT | General Agreement on Tariffs and Trade |
| INRO | International Natural Rubber Organization |
| ITRO | International Tripartite Rubber Organization |
| IRCo | International Rubber Company Ltd |
| MEP | minimum export price |
| MoU | memorandum of understanding |
| OPEC | Organization of the Petroleum Exporting Countries |
| STEs | state trading enterprises |
| TPP | Trans-Pacific Partnership |
| TTIP | Transatlantic Trade and Partnership |
| UK | United Kingdom |
| UNCTAD | United Nations Conference on Trade and Development |
| UPEB | Unión de Países Exportadores de Banano |
| US | United States |
| WTO | World Trade Organization |

# LIST OF BOXES

Box 1: Potash Cartel

# INTRODUCTION

Increasing global interdependence and economic linkages clearly make a case for not only challenging the philosophy underpinning the case of exemption of export cartels from national competition legislations, but also changing this philosophy. This think–piece, with the help of two illustrative case studies, shows the impact of cartelisation in primary commodity markets. The case of natural rubber cartelisation relates to the effects of cartels in a primary raw-material market. The second relates to cartelisation in bananas along the vertical chain and downward monopolistic pressure from the retail level.

This paper is divided into six parts. The introductory part deals with the definitional aspects. The second part briefly analyses the economic consequences of export cartels while highlighting the need for international rules. The next section describes the political economy of the genesis of export cartels and also deals with the different types of exemptions being granted to the export cartels under domestic competition laws. Part four deals with the remedies for export cartels within the multilateral trade regime and by way of the extraterritorial application of domestic competition laws. Part five takes up the case of natural rubber and banana to depict the extent of anticompetitive harm due to the prevalence of export cartels. The last part of the paper focuses on recommending feasible solutions and options for regulating export cartels.

## DEFINITION AND MEANING

Export cartels are alliances of producers from one country that aim to limit competition and promote cooperation between them so as to increase their share in foreign markets. Pure export cartels are collusive arrangements that focus only on foreign markets, not affecting directly markets in the jurisdictions where the cartel members are located. Generally, export cartels are exempted from the national competition laws of many countries, in some cases on a condition of public registration.

# EXPORT CARTELS IN PRIMARY PRODUCTS: BRIEF ANALYSIS

## HISTORICAL OVERVIEW OF CARTELS

There is a broad consensus against the anticompetitive effects of international hard-core cartels (OECD 1998: para. I[A] 2[b]). Gal (2008) calls them "a primary evil of global trade." Enforcement activities and international cooperation is on the rise to combat international cartels, especially in the wake of more and more countries adopting and reforming their competition legislations. Since the mid-1990s, there has been a resurgence of interest in economic and legal studies of cartels, in particular international cartels. It is found that these cartels have had a large impact on the international trade of developing countries, and on developing country consumers and producers (Bhattacharjea 2004; Levenstein and Suslow 2006, 2003; Becker 2007).

Cartels, especially export cartels, for more than a century have been seen as a legitimate form of market governance and national industrial policy. As will be discussed briefly below, even historical evidence suggests that export cartels played crucial roles in national economic development. This hypothesis on export cartels supporting national growth is waning, especially after the liberalisation of the world trade (see Levenstein and Suslow 2005).

## ECONOMIC CONSEQUENCES OF EXPORT CARTELS

Towards the end of the 20th century, policymakers from various countries began questioning the benevolent policies towards export cartels. The operation of export cartels is seen by some as "the most obvious sort of anticompetitive beggar-thy-neighbour conduct" (Fox 1999: 674). Another view is that export cartels are "little more than an attempt to enhance domestic welfare at the expense of global welfare or the welfare of consumers in the target market in particular" (Becker 2007: 115). Cartels can be found in any industry, and primary commodities are no exception.

Studies find evidence that international cartels, primarily organised by firms headquartered in industrialised nations, cause prices to rise above competitive levels for buyers in developing countries (Clarke and Evenett 2003; Levenstein and Suslow 2003). Aside from having developmental

consequences outside their territories, export cartels have also been seen to impact domestic welfare by influencing domestic production and pricing decisions (Box 1; Mehta and Nayak 2011). Operating such cartels in the home country can also create a potential situation of "conscious parallelism" when sensitive price information is shared to set prices for foreign markets. Another domestic effect is the exclusion of competition between export traders.

Auquier and Caves conclude, "A nation exporting a large share of its tradable goods production will be more tolerant of anticompetitive conditions, and will take more chances of adverse spill-overs to the home market when it sets rules for the operation of export cartels in these industries (1979: 575).

However, the literature is not unambiguous about the effects of export cartels. While one set of studies find export cartels welfare reducing, another set of studies come to the conclusion that they may enhance economic welfare under certain conditions (Mehta et al. 2012:.82). Sokol (2008) observes that it is difficult to offer firm conclusions on what impact export cartels have on economic development and world trade as the available empirical evidence on the actual effects and activities of export cartels is very limited. Bhattacharjea noted in 2004 that there was still only limited empirical evidence on the prevalence, efficiency justifications, and effects of export cartels, and that theoretical literature on the subject was "scanty" (331).

## TREATMENT OF CARTELS IN COMPETITION LAW AND NEED FOR INTERNATIONAL RULES

The success of cartel formation broadly depends on two factors—the market environment and the legal environment in which the cartel operates. The market environment relates to the supply and demand conditions in which firms operate. The legal environment implies the presence or absence of competition law and the effectiveness of its enforcement in a country. The problem of combating export cartels is exacerbated by both the economic and legal environments in such cases being multifaceted and mostly unquantifiable. In the absence of international competition rules, the governance of export cartels remains a moot point.

BOX 1:

**Potash Cartel**

Canpotex is an exporter of potash and phosphate, and an offshore company for three North American firms—Agrium, Mosaic, and Potash Corp of Saskatchewan. Canpotex coordinates with Belarusian Potash Co and its member countries, Belaruskali and Uralkali, in the world potash market. Canpotex is an export cartel because Saskatchewan's three major potash producers use it to set prices for foreign potash buyers and to control supply. Canpotex has an explicit exemption pursuant to section 45(5) of the Competition Act (1985) of Canada. It further coordinates with Belarusian Potash Co and PhosChem, a United States (US)-based export cartel to together control about 70 percent of the world trade in two key fertilisers—potash and phosphate. Due to their agricultural production needs and reliance on fertiliser imports, countries such as India, China, Brazil, and Australia have to buy from these transnational companies despite the high international prices set by them. Since potash and phosphate are essential fertilisers for agricultural production, most countries such as India, Brazil, China, and others that are import reliant on potash have no option but to pay the high monopoly rents of the supplier cartel.

Mehta and Nayak (2011) argue that huge fertiliser subsidy bills do not translate into a proportionately high volume of fertiliser use in India. During 2002–07, 88 percent of the reported increase in subsidies was due to a sharp rise in international fertiliser prices while only 12 percent was a result of enhanced consumption of fertilisers. A study by economist Frederic Jenny highlighted the overcharge paid by India due to anti-competitive practices in the global potash market. Under a competitive scenario, the price of potash would decline from US$574 per tonne in 2011 to US$217 by 2015, and subsequently increase to US$488 by 2020. However, in the continuing presence of fertiliser cartels, the price of potash would steadily increase from US$574 per tonne in 2011 to US$734 in 2020.

Given this, it is far from surprising that when the high tax revenues made by Canpotex were threatened by BHP making a takeover bid for Potash Corp, the Canadian government blocked it under the Investment Canada Act claiming that it did not provide a "net benefit" to Canada. No specific reasons were deliberated on.

Another example of export cartel exemption, which has caused huge costs for developing countries, is maritime transport. Fink et al. (2001) concluded in a study that a breakup of price-fixing arrangements among private carriers could reduce transport prices by 20 percent on US routes and a fall in the import bill of developing countries by US$2.3 billion. Becker (2007) highlights that "export cartel exemptions lead into a downwards spiral of anticompetitive measures and counter-measures taken by governments and market participants."

As noted, a consensus has emerged on the anticompetitive effects of hard-core cartels, thereby leading to enhanced cooperation among competition authorities in enforcement and investigation of hard-core cartels. A divergence in the national treatment given to export cartels due to a lack of consensus is the major reason that no effective steps can be taken against them.

# GOVERNANCE OF EXPORT CARTELS

## POLITICAL ECONOMY OF THE GENESIS

The example of Japanese industrial policy will be apt here. Export restraints were an important instrument of Japanese industrial policy from the 1950s to the 1980s (Saxonhouse 1993), and a business organisation, the *Keirestu*, became a contentious issue in US-Japan trade relations. In Japanese, *Keiretsu* is an informal term denoting different forms of inter-firm relationships, which, according to one view, are forms of cooperation, and, according to a contrary view, are collusive and anticompetitive (for a detailed discussion, see Sheard 1997). The US, seen as a country with the strongest and longest standing antitrust laws, also adopted export exemptions to its antitrust laws as early as in 1918.[1]

On exemptions of export cartels from domestic competition laws in various jurisdictions, Scherer (1996) perceives that what is discouraged by trade policies thrives under chauvinistic competition policies. Various arguments can be made against the exemptions. Export exemptions undercut international trade policies that promote freer international trade and greater market integration. Another argument against exemptions is that the benefits do not reach the intended beneficiaries. It has frequently been argued that large international companies, not small and medium-sized ones, are taking advantage of export cartel exemptions, thus defeating their purpose (Levenstein and Suslow 2005: 794; WTO 2003).

## TYPE OF EXEMPTIONS

Competition law statutes in most of the jurisdictions exempt export cartels from anticompetitive regulations, provided that the cartel does not lead to injurious effects on competition in the domestic market, such as price-fixing agreements or allocation of the domestic market.

Export cartels, while being exempt under domestic competition laws, do exploit the domestic market as well. Russian firms Uralkali and Silvinit have faced the ire of the Russian competition authority, the Federal Anti-monopoly Service. In 2010, they were each fined heavily for charging "monopolistically high" prices to Russian farmers. Uralkali was to pay €3.64 million and Silvinit around €1.78 million. They pleaded innocence saying their main market was abroad. Quite often, when cartelists get caught, they explore a merger so that whatever they do is not actionable. When Uralkali and Silvinit decided to merge, perhaps the Russian authority did not find it anti-competitive. However, the Chinese, using extraterritorial powers, stepped in and cleared it on the condition that the merged entity would maintain its level of sales and pricing in China (Mehta 2013).

## POLITICAL ECONOMY OF THE GENESIS

Most of the jurisdictions provide for exemptions to export cartels. A distinction between explicit and implicit exemptions has been made by various authors. Explicit exemptions are created when a statute explicitly excludes export cartels from the substantive provisions of antitrust law. There are two types of explicit exemptions—those that require notification or authorisation procedures, and those that do not. The notification procedures generally require businesses to apply for, and receive, permission from the government before, or concurrent with, participating in practices that may otherwise violate domestic antitrust law.

Levenstein and Suslow (2005) examine the status of export cartels exemptions in 55 jurisdictions. Out of the 55, 34 countries have implicit exemptions, 17 have explicit exemptions, and four have no statutory exemptions. A little more than one-third of those with explicit exemptions also have a notification requirement for export cartels. Like the US, Australia tends to regulate export cartels through a registration system so that they do not translate into a restriction of competition in the domestic market. The Indian competition law provides a good example of an explicit exemption without a notification requirement.

There is a growing trend among competition authorities on competition law enforcement being effects-based rather than form-based, observe Levenstein and Suslow (2005). A lack of powers to investigate outside their domestic territory inevitably pushes competition authorities to not intervene when the effects of possibly anticompetitive practices, such as an export cartel, are not felt in their jurisdiction. An

1 For example, see the Webb-Pomerene Act, 15 U.S.C. §§ 61-66, Export Trading Company Act, 15 U.S.C. §§ 4001-4003; see Waller (1992).

implicit exemption for export cartels exists when a national antitrust statute applies only to anticompetitive conduct affecting the domestic market. According to Levenstein and Suslow (2005), 34 of the 55 countries surveyed lack an explicit exemption, but maintain an implicit exemption because their domestic antitrust legislation limits the law's reach to the domestic market.

The competition laws of some countries even include the possibility of an exemption for domestic anticompetitive practices, provided such practices have the effect of promoting exports. For instance, Section 3(b) (i) of the 1998 South African Competition Act provides for "maintenance or promotion of exports" as one of the possible grounds for granting an exemption for a restrictive agreement or practice.

# EXISTING REMEDIES TO FIGHT THE ADVERSE EFFECTS OF EXPORT CARTELS

## UNDER THE MULTILATERAL TRADE REGIME

Generally, in the World Trade Organization (WTO), a Member country cannot bring a complaint against another Member country for anticompetitive conduct by private actors. Thus, it can be said that the WTO is without a mandate to deal with such issues in the case of private export cartels, though in cases of state-related export cartels, there is a possibility of triggering the WTO dispute settlement framework in certain circumstances.

The basic principles of national treatment, most-favoured nation treatment, and transparency that underpin WTO agreements are in consonance with the principles of competition policy. Article III establishing the principle of national treatment requires that a WTO Member does not put the goods or services or persons of other WTO Members at a competitive disadvantage vis-a-vis its own goods or services or nationals. The essence of the principle of national treatment is to prevent a country from discriminating between its own products and those from another country.

Further, Article XVII: 1 of the General Agreement on Tariffs and Trade (GATT) requires WTO Members to ensure that their state trading enterprises (STEs), in their purchases or sales involving either imports or exports act in a manner consistent with the general principles of non-discriminatory treatment and, in particular, that they make such purchases or sales "solely in accordance with commercial considerations." Article XI of the GATT prohibits the use of quantitative restrictions, whether on imports or on exports. Thus Members must not institute or maintain import and export cartels. Export restriction measures can be divided into quantitative restrictions on exports restricting the volume of exports, and export taxes, which levy a tax on exports. The former group of measures includes export quotas and export bans (Hoekman and Martin 2012: 28).

The relevant text of Article XI reads, "No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licenses or other measures, shall be instituted or maintained by any contracting party ... on the exportation for sale or export of any product destined for the territory of any other contracting party." However, Article XI is permissive for agriculture export restraints if concurrent measures are taken to restrict domestic production. Moreover, Article XI: 2(a) permits temporary restrictions to prevent critical shortages of food or other goods. This exception appears to have been interpreted relatively broadly in justifying the application or threat of export barriers, in cases such as the US proposal for an export ban on soybeans in 1973 (Hoekman and Martin 2012).

From the language of Article XI, generally inference is drawn that there is no obligation on Member states to actively combat restrictive business practices. Both the *China Exportation of Raw Materials* and *China Rare Earths* cases dealt with the issue of export quotas and ruled that they were inconsistent with Article XI. In *China Exportation of Raw Materials*,[2] the WTO Panel ruled that under Article XI, Member states are also prohibited from imposing export cartels under the guise of a "system of self-discipline" based on "informal statements and oral agreements between traders and export regulators." In the appeal against this decision, the Appellate Body found that the Panel erred under Article 6.2 of the WTO Understanding on Dispute Settlement in making findings on minimum export price (MEP) requirement claims. The Appellate Body therefore declared the Panel's substantive findings on these issues to be "moot and of no legal effect."[3]

2 See Panel Report, *China – Measures Related to the Exportation of Various Raw Materials*, WT/DS394/R, WT/DS395/R, WT/DS398/R, adopted 5 July 2011, para. 7.1082.

3 See Appellate Body Report, *China – Measures Related to the Exportation of Various Raw Materials,* WT/DS394/Appellate Body/R, WT/DS395/Appellate Body/R, WT/DS398/Appellate Body/R, adopted 30 Jan. 2012, paras. 234–235.

Incidentally, these provisions are designed to address state involvement in export cartels and do not address the menace of private export cartels. This calls for a multilateral framework on competition law and policy to combat anticompetitive practices emanating even from private export cartels and framing an effective policy to combat export cartels in general. International cooperation on competition legislation has also found its way into the ongoing trade negotiations for the Trans-Pacific Partnership (TPP) and the Transatlantic Trade and Partnership (TTIP) treaties. Efforts to enhance coordination of competition law and policy in multilateral agreements could make a valuable contribution to develop global competition law enforcement and will check exploitation by cartels.

## UNDER THE DOMESTIC COMPETITION REGIME

Attempts to construct a global competition agreement have been unsuccessful till now. In 2004, following the WTO ministerial meeting in Cancun, competition policy was removed from the Doha trade agenda.[4] At present, there is no international forum authorised to work towards a legally binding compromise or common rules in this regard. To combat cartel behaviour, countries can look for solutions through positive comity or through application of domestic competition laws extraterritorially.

In the setting of international competition law, positive comity first appeared in the competition agreements forged between the US and the European Union (EU).[5] The OECD Report on Positive Comity (1999) defines positive comity as a country giving full and sympathetic consideration to another country's request that it open or expand a law enforcement proceeding in competition cases to remedy conduct in its territory that is substantially and adversely affecting another country's interests. The report further notes that the requested country is urged to take whatever remedial action it deems appropriate on a voluntary basis and in consideration of its own legitimate interests.

It is clear from this that in substance a positive comity request seeks the initiation or extension of enforcement proceedings by the requested country. In the case of export cartels, the anticompetitive conduct occurs in the exporting state and the anticompetitive effects transpire in the importing state. Thus, cooperation in form of positive comity will be inherently inapplicable to conduct that does not violate the law of the country to whom the request is made. Export cartels are thus excluded from the reach of positive comity.

The effects doctrine can be a basis for developing a potent mechanism for a country fighting against foreign anticompetitive arrangements in the absence of any international framework. Application of the effects doctrine could in theory provide a good basis to prosecute export cartels. In practice, developing countries are unlikely to make effective use of the effects doctrine owing to a lack of expertise and resources for effectively bringing action against the anticompetitive conduct of foreign players.

To see the comparative application of extraterritoriality, Martyniszyn (2012) analysed the cases of a US soda ash export cartel challenged with different outcomes in India and South Africa. The successful extraterritorial application of the South Africa competition law led to better supply and most likely lower prices. On the other hand, India failed to take action against the US soda ash export cartel because of ambiguity in its legislation, which was interpreted as having no extraterritorial reach by the Supreme Court of India. This shows that statutory provisions allowing for extraterritoriality, when not hindered by internal or external political pressure, are successfully able to challenge foreign export cartels. Under India's new competition law introduced in 2002, it has specifically included the extraterritorial reach of competition law to any anticompetitive international practice having appreciable adverse effects on competition in India.[6] In spite of a preliminary information report by the Consumer Unity and Trust Society (CUTS) to the Competition Commission of India (CCI), it did not act. The ministry of fertilisers and chemicals sent a reference to the CCI to take action and cooperate with China under a bilateral memorandum of understanding (MoU), but the CCI pleaded its inability to investigate and closed the matter (Mehta 2013).

Notably, the CCI may enter into any memorandum/arrangement, with the prior approval of the central government, with any agency of any foreign country.[7] The CCI has signed MoUs with various competition agencies, including those of the US, EU, China, Australia, and Russia. These MoUs are more in the form of soft cooperation with a focus on capacity building and voluntary information exchange.

Fox and Davis (2006) depict the incongruity in the case of Chinese export cartels pursued by the US. When Chinese firms export goods at low prices (even when such prices reflect real local costs), the US is able to bring antidumping actions against China, and when the Chinese government puts in place a regulatory framework to avoid such

4 Doha Work Programme, WTO Doc WT/L/579 (Aug. 2004) [1(g)], Decision Adopted by the General Council, WTO.

5 Agreement between the Government of the United States of America and the Commission of the European Communities regarding the Application of Their Competition Laws [1995], Official Journal of the European Union, L 95, 47. Later, supplemented by the Agreement between the European Communities and the Government of the United States of America on the Application of Positive Comity Principles in the Enforcement of Their Competition Laws [1998], Official Journal of the European Union, L 173, 28.

6 See Section 32 of the Indian Competition Act, 2002.

7 See Section 18 of the Indian Competition Act, 2002.

challenges, Chinese firms may be sued in antitrust actions for fixing prices. In the ongoing Vitamin C case, four Chinese manufacturers of vitamin C and their trade association did not deny the allegations of price fixing and limiting exports made by US purchasers. Generally, state-owned enterprises in China, with considerable state involvement and support, are responsible for cartel creation and operation. These Chinese firms brought a motion to dismiss the case based on the doctrines of foreign sovereign compulsion, the act of a state, and international comity. The Chinese export cartel case depicts that a government's involvement and support to export cartels can pose a tough challenge to competition authorities. Interestingly, the China-US case also proves that export cartels may also come from the global South, which has not been the trend in general. If this scenario becomes a larger phenomenon, it could work as a catalyst to reframe the discussion on export cartels in terms of possible trade-offs.

# ECONOMIC ANALYSIS OF EXPORT CARTELS IN PRIMARY PRODUCTS

World primary commodity markets remain highly distorted despite world trade seeing a wave of liberalisation. Developing countries are rapidly increasing their share of manufactured goods trade. Their shares have been rising not just in labour-intensive products, but also in capital and skill-intensive ones. However, manufactured exports remain highly concentrated with a few countries; most developing countries still depend on primary products for their export earnings. In some cases, commodities account for more than 60 percent of their merchandise exports. Yet, the share of developing countries in the world export of primary products remains smaller than that of developed countries. In part, this could be attributable to anticompetitive practices of international and domestic export cartels, although restrictions on the trade of commodities in the form of licensing, quotas, export restrictions, tariffs, packaging regulations and other non-tariff barriers by developed countries may also contribute to the volatility of these markets (Jain et al. 2010). This section will depict the presence of export cartels in the natural rubber and banana markets.[8]

## BRIEF HISTORY OF CARTELISATION IN THE NATURAL RUBBER SECTOR

Natural rubber is a unique, environmentally friendly, and very useful raw material used for industrial, medicinal, transportation, and personal use. Despite having synthetic rubber as a close substitute, it cannot be substituted for many of its uses. Secure access to natural rubber is a strategic issue for tyre industries and military and other uses by countries that import natural rubber. More than 60 percent of natural rubber is used for tyres, which is the major driving force behind changes in natural rubber demand. One of the unique properties of natural rubber is that it is consumed as an industrial raw material but produced as an agricultural commodity. The market for natural rubber is faced with many critical threats ranging from environmental factors causing drought, socioeconomic factors making production expensive, and increasing competition for land by oil plantations and others.[9]

The first "rubber boom" in the 19th century was fuelled by the invention of the bicycle. This was accentuated by the growth of the automobile and the expansion of the tyre industry. Due to rubber plantations in the Amazon basin, Brazil sold almost 90 percent of the total commercial rubber in the world. The early 20th century saw a huge surge in rubber demand, which Brazil found difficult to meet alone. This attracted new players to the rubber market. By 1933, natural rubber prices had fallen by 95 percent from US$0.75 per pound in 1925 to less than US$0.04 per pound, which formed the motivation for the first International Rubber Regulation Agreement in 1934 between France, India, the Netherlands, Siam, and the United Kingdom (UK), a cartel of natural rubber-importing countries. The cartel managed to restrict the supply by 70 percent of the quotas set by the agreement and raise prices such that by 1937 natural rubber was selling for more than US$0.19 per pound (Le Clair 2000).

The next phase in the cartelisation of natural rubber began in 1979 under the auspices of the United Nations Conference on Trade and Development (UNCTAD) and it was then renegotiated in the mid-1980s (1987 Agreement) and during 1994–95 (1995 Agreement). The 1979 Agreement had seven exporting countries accounting for about 95 percent of world exports, and 25 importing countries, plus the European Community, as members (UNCTAD Report 1997).

An intergovernmental commodity body, the International Natural Rubber Organization (INRO) was set up in 1980

8 The analysis in this section is based on Mehta et al. 2012.

9 Submission by EU-PEARLS Consortium, 2010, "Public Consultations on Commission Raw Materials Initiative," http://ec.europa.eu/enterprise/policies/raw-materials/files/pc-contributions/org-100-eu-pearls-universite-de-lausanne_en.pdf.

to administer the agreement. The INRO comprised six producing and 17 consuming countries. The six producing countries were Thailand, Indonesia, Malaysia, Sri Lanka, Nigeria, and Cote d'lvoire. The 17 consuming countries were the US, UK, Japan, China, Germany, France, Austria, Belgium, Luxembourg, Finland, Ireland, Greece, Denmark, Italy, the Netherlands, Spain, and Sweden. An international buffer stock of 550,000 tonnes was set up and the intervention was by way of buying rubber stocks when prices were too low and selling them when prices were very high (Chong-Yah 2001). The agreement succeeded to some extent in maintaining natural rubber prices. Any attempts at raising the prices, however, faced competitive constraints from the growing substitute, synthetic rubber, which had grown in production from 7.6 million metric tonnes in 1974 to more than 8.8 million metric tonnes by 1994 (Le Clair 2000).

Further, struck by the South-East Asian financial crisis in 1997, exporting member countries proposed an increase of the reference price of natural rubber in 1998, which was rejected by the importing countries. These developments catalysed in the demise of the Agreement, and when Malaysia, Thailand, and Sri Lanka withdrew from it, the Council of the INRO decided to terminate it.

**Post-2001 natural rubber cartel**

In 2001, the three biggest producers of natural rubber—Indonesia, Malaysia, and Thailand—established the International Tripartite Rubber Organization (ITRO), which declared management of rubber production to ensure orderly market growth as its mandate. To stabilise world natural rubber prices, they launched the International Rubber Company Ltd (IRCo) in October 2003, which is more popularly referred to as the International Rubber Consortium. The ITRO and later the IRCo aimed to maintain high prices of natural rubber on the market through two mechanisms—the Agreed Export Tonnage Scheme and the Supply Management Scheme.

IRCo is the only cartel in the natural rubber market today and controls about 70 percent of the global output of rubber, which is valued at exports worth about six million tonnes of rubber every year. In 2009, the IRCo announced plans to cut rubber exports by a sixth. The consortium, therefore, expressed intentions to curb exports and cut trees when necessary to limit supply. Currently, rubber is sold at around US$3.40 per kilogram after gradually sliding by 32.35 percent from its initial price of US$4.50 per kg early in 2011. On 14 November, the IRCo agreed to set the rubber price at US$3.50 per kg (Yulisman 2011).

Another matter of considerable concern is that Vietnam, another large producer of natural rubber that is expected to surpass India and Malaysia in coming years to become the third largest producer of rubber, has been requested to join the consortium. With Vietnam on board, the IRCo would control 84 percent of the total rubber production. Chances of this happening are pretty good given that unlike the IRCo countries, in Vietnam 60 percent of the rubber production is state owned and nearly half the remaining production is controlled by one company (Mohindru 2010).

According to recent news reports (Bangkok Post 2015), Vietnam has agreed to join Thailand, Malaysia, and Indonesia in a regional trading network aimed at shoring up rubber prices. In March 2015, Vietnam's agriculture and rural development minister announced that the country would participate in a plan to set up an "ASEAN Rubber Council." News reports have it that Laos, Cambodia, and Myanmar are also being encouraged to join this council.

**Assessment of the cartel and its implications**

When the price of rubber dropped to an all-time low in 2008, members of the IRCo agreed to reduce the amount they were exporting to increase the cost. The consortium met in 2008 and jointly agreed to reduce production by limiting plantations and tree tapping, and asking businesses not to sell rubber at prices that would defeat their goals. The cartel's goal was to cut production by a sixth of the total world sales, by approximately 915,000 tonnes. The Global Trade Alert, a Centre for Economic Policy Research (CEPR) initiative to monitor policies that affect world trade, estimates that such a jumbo measure has the potential to impact world trade worth US$26.322 billion across a total of 105 trading partners (Evenett 2010). Today, there is a worldwide crunch in the availability of natural rubber, and rapidly rising prices are a major concern for all tyre manufacturers. This is attributable to the major production cuts and export quotas maintained by the big rubber growers. The proposal to form an "ASEAN Rubber Council' is a matter of concern. These developments will clearly give IRCo countries a dominant and controlling position to further exploit the already distorted international natural rubber market.

## BRIEF HISTORY OF CARTELISATION IN THE BANANA SECTOR

Among agricultural products, banana is the fourth most important food product in the least developed countries, being the staple food for some 400 million people.[10] Of all fruits, the banana is in first place by production volume and is among the five most consumed fruits on the planet. International trade in bananas tripled between the 1970s and 2010. But world trade is still characterised by a high concentration of key players—five countries, four of which are in Latin America, Ecuador, Colombia, Costa Rica, Guatemala, and one in Asia, the Philippines, which represent

19 Statistics from UN Conference on Trade and Development (UNCTAD), "Infocomm Commodity Profile: Banana," http://www.unctad.info/en/Infocomm/ AACP-Products/COMMODITY-PROFILE---Banana/.

11.6 Mt of exports (2010) out of a worldwide total of 13.9 Mt, or 83 percent.

Banana exports are concentrated in Central America and the Caribbean and some of the nations in these regions are quite dependent on them. With just five major multinationals (Dole, Del Monte, Chiquita, Fyffes, and Noboa) controlling more than 80 percent of all internationally traded bananas, their cultivation and distribution show the grim reality of anticompetitive practices.

**Banana cartel, 1974**

By 1970, two companies, United and Standard, shared 83 percent of the market between them. Del Monte started trading in bananas in 1969, and by 1984, its share was 19 percent (Tucker 2000). In 1974, the banana belt countries of Colombia, Costa Rica, Ecuador, Guatemala, Honduras, Nicaragua, and Panama joined to form the Union of Banana Exporting Countries (Unión de Países Exportadores de Banano; UPEB) as a cartel inspired by the Organization of the Petroleum Exporting Countries (OPEC). This was formed in an attempt to loosen the power of the US banana multinationals. The objectives of the organisation also included expansion of markets, ensuring remunerative and fair prices for banana exports, improving technical cooperation among member countries, and achieving marketing improvements. The Philippines was the only major exporter of bananas to the US that did not join.

At that time, the marketing of bananas was monopolised by three US companies—United Brands Company (formerly United Fruit), Standard Fruit, and Del Monte Corporation—which handled 90 percent of the exports of these countries. The UPEB proposed an export tax of US$1 for every 40-pound box of bananas exported. The trading monopolies protested and threatened to withdraw their operations, giving place to the first "banana war." Ecuador, the leading producer, refused to enact the tax. Panama backed off, lowering its demand to 20 cents to a dollar. Costa Rica dropped its demand to 25 cents a crate. Honduras enacted a tax of 50 cents per 40-pound box but eventually lowered it to 25 cents. Nicaragua and Guatemala dropped out of the cartel. The cartel collapsed, and the role of the UPEB was diminished. But this cartel had far-reaching effects on the restructuring of the banana trade in the long run. It changed the relationship between corporations and governments, with greater government control on banana income.

In 1975, a scandal called "Bananagate" was uncovered during an enquiry into the suicide of Eli M. Black, the chairman and president of United Brands Company. It was revealed that the company had paid a US$2.50 million bribe to the Honduran president to reduce the tax from 50 cents to 25 cents per box. Honduras had supplied more than 22 percent of United Brands Company's exports in 1974. This saved the company about US$7.5 million in tax payments. The revelation provoked the overthrow of the military government in Honduras, and this, in turn, led to the nationalisation of United's railroads, along with a major divestiture of land (Graham 1990: 15). In addition it was discovered that United Brands Company had paid US$750,000 in bribes to an Italian official to prevent restrictions on its banana exports to Italy, beginning in 1970.

**Banana cartel, 2008**

Chiquita was the first to inform the European Commission of the existence of a cartel, which triggered the Commission's investigation in April 2005. The case related to the supply of bananas to northern Europe, covering Austria, Belgium, Denmark, Finland, Germany, Luxembourg, the Netherlands, and Sweden. The Commission estimated that the annual retail value of the bananas sold to consumers in the eight member states affected by the cartel amounted to around €2.5 billion in 2002. In October 2008, the Commission fined Dole and Weichert €60 million for operating a price-fixing cartel in eight northern EU member states from 2000–02. Chiquita was eventually granted immunity from any fines that would otherwise have been imposed in this case. Del Monte was held jointly and severally liable for the fine imposed on Weichert as it controlled the firm at the time of the infringement.

**Import quota framework adopted by the EU**

In 1993, the European Commission adopted a Common Market Organization for bananas. The import regime consisted of a tariff quota of 2 million tonnes (increased in 1994 to 2.1 million tonnes; in 1995, to 2.2 million tonnes following the Banana Framework Agreement; and again in 1995, following an additional tariff quota of 353,000 tonnes introduced by the European Commission) for Latin American countries and non-traditional Africa, the Caribbean, and the Pacific (ACP) bananas. It also allocated quantities to traditional ACP banana suppliers totalling 857,700 tonnes, and had a within quota duty of €75 for Latin American countries and zero duty for ACP countries, in line with obligations under the Lomé Convention. This import regime was found to be illegal by the WTO in 1997. A revised scheme was implemented on 1 January 1999, also based on a 2.553 million tonnes tariff quota with an additional quantity assigned globally to the ACP. This was also found to be illegal, according to the WTO. The main criticisms were the setting aside of a quantity reserved solely for ACP imports, and the allocation of licences on a "historical" basis (that is, reflecting past sales). In April 1999, the WTO authorized the US to impose trade sanctions for an annual value of US$191 million. The US carried this out by setting 100 percent customs duties on an equivalent amount of trade. The US has now been applying these prohibitive duties to a number of products from European Commission member states (excluding the Netherlands and Denmark) since 3 March 1999 (European Commission 2000).

**Banana cartel, 2011**

In 2011, the EU concluded that the Chiquita and Pacific Fruit groups operated a price-fixing cartel in southern Europe from July 2004 to April 2005, which affected consumers in Italy, Greece, and Portugal. During the cartel period, they fixed weekly sales prices and exchanged price information. Chiquita received immunity from fines for providing the Commission with information about the cartel. Pacific Fruit was imposed a fine of €8,919,000 by the EU Commission for operating a cartel.

**Assessment of the cartel and its implications**

Export volume or price changes bring about income changes for vast populations involved in production, both as smallholder farmers and as wage earners on banana plantations. There is a strong relationship between banana-generated income and household food security. The dominance of distribution by a few companies and the retail market by supermarkets has reduced the negotiating power of producers and traders and their opportunities to seek alternative markets with higher prices.

A study by Banana Link (2006) finds that the biggest supplier of bananas to the UK in recent years has been Costa Rica. Faced with pressures to keep costs down, producers have cut wages to their own workers by a third, replaced many permanent jobs with temporary contract work, and suppressed trade union rights. Price wars, particularly between the two largest UK retailers (Asda/Wal-Mart and Tesco) have driven down prices paid to their suppliers in a number of product ranges. Between 2002 and the end of 2007, UK retail prices of bananas fell by 41 percent. This might have had a direct impact on the prices paid to banana producers by distributing companies. While the current legal minimum price paid to a producer for a box of bananas in Ecuador is US$2.90, the same box in a British supermarket is sold for about US$25.00, with the supermarket taking 40 percent of the final price. It concludes that UK supermarket price wars have damaged livelihoods in such banana-producing countries.

# RECOMMENDATIONS AND CONCLUSIONS

There are different views on whether government-sponsored export cartels should be treated the same way as private export cartels. Atwood (1987) suggests that a distinction should be made between government-sponsored export cartels and private export cartels while devising a framework to combat export cartels. Government export cartels should not be liable to scrutiny under the domestic competition law of the importing country but a matter for international negotiation by governments. Scherer (1996) observes that developing countries have been victims of export cartels and warns that a general ban on export cartels of mineral or agricultural commodities would be difficult for developing countries to accept.

Export cartels should not benefit from a blanket exemption from competition laws, which would exclude them even from scrutiny under a rule of reason approach. Bhattacharjea (2004: 354) notes that when assessing the impact of an export cartel, at the end of the day, “it all depends”, and that a number of issues need to be considered in each particular case. Among them would be whether the cartel is a new entrant, the nature of efficiencies claimed, the market structure, and the degree of import penetration.

Keeping in view the linkage between competition law and the world trade system, there seems to be a fit case for designing effective remedies for export cartels under the WTO regime. Bhattacharjea suggests a multilateral agreement along the lines of a “reverse” anti-dumping agreement for combating export cartels. Jenny, analyzing the effects and response to the potash cartel from different countries, notes that even if China was able to protect itself to a limited extent against its effects, it remains clear that in many victim countries, competition authorities are not in a position to fight such export cartels. Noting the lack of resources of competition authorities in developing countries to sanction export cartels, Hoekman and Mavroidis (2002) argue that developed countries should have the responsibility to fight against exploitative export cartels. While retaining export exemptions for developing countries, developing countries support the elimination of export cartel exemptions in industrialised countries. The reason for this is that most export cartels damage the economies of developing countries and such exemption will provide protection to their small exporters.

The UNCTAD has also suggested that developed countries should abolish export cartel exemptions on a non-reciprocal basis.[11] The growth of effective antitrust enforcement regimes from perhaps three active jurisdictions in the 1980s to dozens today is an example of voluntary global policy harmonisation (Connor 2012: 77). The time has come for WTO Members to consider resuscitating negotiations on the WTO's role on competition law and policy, which have been stalled for a decade.

11 Communication from UNCTAD to WTO Working Group on the Interaction between Trade and Competition Policy, WT/WGTCP/W/197 (Aug. 2002), paras. 53, 55, 72.

# REFERENCES


Auquier, A. A. and Caves, R. E. 1979. "Monopolistic Export Industries, Trade Taxes, and Optimal Competition Policy." *Economic Journal*, 89, No. 355, 575.

Atwood, James R. 1987. "Conflicts of Jurisdiction in the Antitrust Field: The Example of Export Cartels." 50, *Law and Contemporary Problems*, pp. 153–164, http://scholarship.law.duke.edu/lcp/vol50/iss3/8.

Banana Link. 2006. "Collateral Damage: How Price Wars between UK Supermarkets Helped to Destroy Livelihoods in the Banana and Pineapple Supply Chain." http://www.bananalink.org.uk/sites/bananalink.neontribe.co.uk/files/documents/Retailers/COLLATERALDAMAGEfinal.pdf.

Bangkok Post. 2015. "Vietnam to join Asean Rubber Council." 17 March, http://www.bangkokpost.com/business/news/499132/vietnam-to-join-sea-rubber-council.

Becker, Florian. 2007. "The Case of Export Cartel Exemptions: Between Competition and Protectionism." 3, *Journal of Competition Law and Economics,* 97.

Bhattacharjea, Aditya. 2004. "Export Cartels – A Developing Country Perspective." 38, *Journal of World Trade*, 331.

Connor, John M. 2012. "Price Effects of International Cartels in Markets for Primary Products." In Simon J. Evenett and Frédéric Jenny (eds.), *Trade, Competition, and the Pricing of Commodities,* CEPR and CUTS International.

European Commission. 2000. "The Banana Case: Background and History." Memo 00/40, Brussels, 5 July, http://trade.ec.europa.eu/doclib/docs/2003/december/tradoc_114950.pdf.

Evenett, S. ed. 2010. "Unequal Compliance: The 6th GTA Report." London: Centre for Economic Policy Research.

Fox, Eleanor M. 1999. "Competition Law and the Millennium Round." 2, *Journal of International Economic Law*, 665.

Fox, Eleanor M. and Davis, Dennis. 2006. "Industrial Policy and Competition – Developing Countries as Victims and Users." Fordham Corporate Law Institute, 151.

Gal, Michal S. 2008. "Free Movement of Judgments: Increasing Deterrence of International Cartels Though Jurisdictional Reliance." New York University School of Law, Law and Economics Research Paper Series No. 08-44, 1, http://ssrn.com/paper=1291844.

Graham, R. 1990. "A Modern Banana Republic." *Financial Times,* 17 Feb., p. 15.

Hoekman, B. and Martin, W. 2012. "Reducing Distortions in International Commodity Markets: An Agenda for Multilateral Cooperation." World Bank Policy Research Working Paper 5928.

Hoekman, B. and Mavroidis, P. 2002. "Economic Development, Competition Policy and the WTO." World Bank Policy Research Working Paper No. 2917.

Jain, T. R., Trehan, M. and Trehan, R. 2010. "Business Environment." V. K. India Enterprises.

Le Clair, S. M. 2000. "International Commodity Markets and the Role of Cartels." M E Sharpe Inc, Armonk, NY.

Levenstein, M. and Suslow, V. Y. 2005. "Changing International Status of Export Cartel Exemptions." 20, *American University International Law Review,* pp. 785–828.

Levenstein, M. and Suslow, V. Y. 2003. "Contemporary International Cartels and Developing Countries: Economic Effects and Implications for Competition Policy." 71, *Antitrust Law Journal,* 802.

Martyniszyn, Marek. 2012. "Export Cartels: Is it Legal to Target Your Neighbour? Analysis in Light of Recent Case Law." *Journal of International Economic Law*.

Mehta, Pradeep S. 2013. "Singed by the Potash Cartel." *Business Line,* 17 Sept., http://www.thehindubusinessline.com/opinion/singed-by-the-potash-cartel/article5138520.ece.

Mehta, Pradeep S., Aggarwal, Aradhna and Nayak, Natasha. 2012. "Global Welfare Consequences of Cartelisation in Primary Commodities Cases of Natural Rubber and Banana." In Simon J. Evenett and Frédéric Jenny (eds.), *Trade, Competition, and the Pricing of Commodities*, CEPR and CUTS International.

Mehta, Pradeep S. and Nayak, N. 2011. "Hit Fertiliser Cartels with Alliances." *Economic Times*, 28 March.

Mohindru, S. 2010. "Bad News For Tire Makers." *Wall Street Journal*, 11 March.

OECD. 1998. "Recommendation of the Council Concerning Effective Action Against Hard Core Cartels." C (98) 35/FINAL, http://www.oecd.org/dataoecd/39/4/2350130.pdf.

OECD. 1999. "Report of the OECD Committee on Competition Law and Policy, Making International Markets More Efficient Through 'Positive Comity' in Competition Law Enforcement." DAFFE/CLP(99)19, http://www.oecd.org/daf/competition/prosecutionandlawenforcement/2752161.pdf.

Saxonhouse, G. R. 1993. "What Does Japanese Trade Structure Tell Us About Japanese Trade Policy?". 7 (3), *Journal of Economic Perspectives,* 21, http://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.7.3.21.

Scherer, F. M. 1996. "International Competition Policy and Economic Development." Discussion Paper No 96-26 Zentrumfür Europaische Wirtschaftsforschung GmbH, Industrial Economics and International Management Series, http://ftp.zew.de/pub/zew-docs/dp/dp9626.pdf.

Sheard, Paul. 1997. "Keiretsu, Competition and Market Access." In J. David Richardson and Edward M. Graham (eds.), *Global Competition Policy*, Institute for International Economics.

Sokol, Daniel D. 2008. "What Do We Really Know About Export Cartels and What Is the Appropriate Solution?". *Journal of Competition Law and Economics,* 4.

Waller, Spencer Weber. 1992. "The Failure of the Export Trading Company Program." 17, *North Carolina Journal of International Law and Commercial Regulation,* 239.

World Trade Organization (WTO). 2003. "Report of the Working Group on the Interaction Between Trade and Competition Policy to the General Council." WTO Doc. WT/WGTCP/7, 14, 17 July.

Yulisman, L. 2011. "Local Rubber Producers Told to Halt Exports." *Jakarta Post*, 25 Nov.

**Implemented jointly by ICTSD and the World Economic Forum, the E15Initiative convenes world-class experts and institutions to generate strategic analysis and recommendations for government, business, and civil society geared towards strengthening the global trade and investment system for sustainable development.**