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The retreat of the state
The diffusion of power in the world economy

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overdue is agreed by many impartial observers, even by members of the profession (*The Economist*, October 17, 1995: 25). But how much is politically possible, given the vested interests involved? After the BCCI collapse, Britain's Cadbury Committee in 1992 said the government should at least change the law so that auditors, without breaching rules of confidentiality, could at least report reasonable suspicion of fraud to officials (Report, 1992). It did not, however, go so far as insisting that companies change their auditors every so often to avoid too cosy a relationship, though it did suggest that maybe different partners should be charged with the firm's annual audit. More radical was an earlier proposal for a State Auditing Board responsible for setting the rules (like the FASB) and for licensing accountants (Lyall and Perks, 1976: 34–6). Though raised in Parliament, that idea found little support, and even suggestions that accountants should be bound to report suspicions of fraud, or that fee income should not be arbitrarily fixed by the auditors have got nowhere.

It seems clear that in Britain, where whatever the party in power, City interests have always had a big influence on government policy, nothing is going to be radically changed. The United States, however, is somewhat more flexible and more inclined to favour openness in government and in business. The Tiphook and Daimler Benz cases show a trend in international business to accept the exigencies of American law and practice as the necessary condition for access to US financial and consumer markets. As in other matters, US structural power – the global reach of the federal government – is steadily increasing, and is the best hope for some limitation of the powers of the Big Six and others. Little is to be hoped or expected of the professional associations, nor of inter-governmental conventions. If the governments of states who are members of the European Union have found it hard to harmonise their company laws and tax systems, it is hardly likely that agreement could be reached among the leading industrialised states in the OECD, let alone that any significant progress can be made on a global scale through the United Nations.

11 Cartels and private protectionism

A striking feature of the knowledge structure of the international political economy today is the slight attention given by social scientists to private protectionism, as compared with public or state protectionism. By that term I mean the intervention of firms with the operation of the free market. Such intervention may be unilateral. This is commonly the case when a single firm – a TNC – has a corporate strategy that limits competition between its various affiliates in different countries. Each one is master in its own territory and is not allowed to poach – i.e. compete with – another affiliate of the same company. There is also an element of private protectionism when a firm has monopoly control over a technology, or a system of marketing, or a brand-name that keeps away competitors. Some private protectionism is legitimised by governments as with pharmaceutical patents, or public procurement policies that discriminate in favour of a particular protected firm to the exclusion of others.

But private protectionism is also often multilateral. It works through an association of firms agreeing among themselves to limit their production, fix their prices and collectively manage their respective market shares. Typically, such market-managing agreements are based on the principle 'dog does not eat dog' – that is, each associate is given a free hand by the others in the home market where the large company is large and rich enough to quell any serious competition and to set prices as it pleases. The export markets will be parcelled out, the Americans having Latin America, Germany having central Europe, Britain and France their former colonies and the Japanese the Asian markets. Or else

there will be an agreement, product by product on the amounts to be sold or the prices to be charged. Cartel members also often operate a fighting fund, replenished when members are fined for underselling each other or for breaking other restrictive rules and doled out to those who claim to be victims of broken rules – effectively a private taxation system.

As a constraint on competition in the world market economy, such private protectionism may very well be every bit as significant in the international trading system as the tariffs, quotas, subsidies and sanctions imposed on trade by governments. The consequence for international political economy is also very clear. The institutional arrangements by which groups of firms, or even large firms acting by themselves, interfere with open competition constitute centres of power and sources of authority to which would-be buyers have no option but to bow.

Yet for the last twenty years, the literature on world trade – mostly written by economists – has studiously ignored such private protectionist practices. And the mainstream literature in international relations makes no mention of it (Holsti, 1967; Waltz, 1970). Even the international political economists who cover other politically significant aspects of the world economy do not seem to think it worth mentioning or analysing.

Naturally enough, the protectionist firms themselves, whether acting unilaterally or conniving together to maintain high prices or to restrict output, have kept quiet. It is only rational for them to prefer to keep their oligopolistic activities in the dark. Only in those cases – steel is the prime example in manufacturing, oil in commodity trade – where since the late 1960s governments, led in steel by the United States and in oil by Saudi Arabia, have become involved in legitimising market-sharing in international trade have the detailed arrangements been given publicity (Warnecke and Woolcock in Strange and Toozee, 1981; Mikdashi, 1986).

Otherwise, it is as if a curtain of silence had descended over the whole subject of cartels. The last major report by an international secretariat was published in 1977: the OECD's *Restrictive Business Practices of Multinational Enterprises*. Thereafter, most of the staff involved moved elsewhere and there was no follow-up. The same was true of the UNCTAD secretariat. A 1974 report, *Restrictive Business Practices: Studies on the United Kingdom of Great Britain and Northern Ireland, the United*

States of America and Japan had no sequel. The UN's Center for Transnational Corporations whose first report in 1978, *Transnational Corporations and World Development* had been rather critical of the multinationals, has become progressively milder in its commentaries.

Recent studies by academics – reflecting the state-centrism of most social science – have been myopically confined to those market-managing arrangements that involved governments, whether directly as in steel, textiles, oil, uranium, bauxite and tin, or indirectly as in gold and diamonds. For instance, the study by Mark Zacher and Jock Finlayson, *Managing International Markets: Developing Countries and the Commodity Trade Regimes* (1988) despite the title took an avowedly state-centric approach in line with the rest of the regime literature. It mentioned multinational corporations only as one of sources of influence on state policies. A more recent study, Deborah Spar's *The Cooperative Edge: The Internal Politics of International Cartels* sounds more promising but in fact curiously limits itself to just four case studies – gold, diamonds, uranium and silver. It concentrates entirely on the inter-state bargaining process behind the success or failure of each rather than on the role of producers and the market structures. Yet she admits that the most effective cartel of the four she studied, that in diamonds, almost entirely owed its success to the tight control over supplies exercised by one firm, Anglo-American, and the majority owners, the Oppenheimer family. The supporting role of the South African, Soviet and Israeli governments was just that – supportive.

Such myopia is all the more odd since one of the most often quoted passages of Adam Smith's *Wealth of Nations* refers to the endemic tendency of business people to combine together against the consumer. It is worth quoting once again because it reflects the common-sense experience of ordinary people the world over. No one who has gone to a furniture auction, for example, is unaware that s/he is likely to be frustrated by a prearranged ring of dealers determined to grab the best bargains for themselves even if this may sometimes mean running up the bids against the amateur buyers. (A 'combat fund' will compensate the member who has to do this; see below for an explanation of such common cartel practices). It is just one example of the phenomenon remarked by Adam Smith: 'People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices.'

For example, nineteen firms manufacturing paper board in Europe were found by the EC's competition division to be operating a cartel disguised as a social club which met regularly in Swiss hotels. British and other producers of cement for concrete construction habitually met in a pub at Newbury to carve up the local market. Ship suppliers in the North Sea disguised their regular meetings as a coffee club (*Financial Times*, 17 August 1994). And so on. The watchdogs of the EC's competition directorate or of the Anti-Trust Division of the US Department of Justice consequently have had a hard job proving that stable market shares or matching prices are anything more than a coincidence.

Economic historians will be well aware that there is a strange contrast here between the dearth of research and its limitation to inter-state bargaining in the last quarter of the twentieth century, and the rather wider and more intense interest in cartels to be found in the 1930s and even the 1940s. An early text in international relations *Introduction to the History of International Relations* (Duroselle and Renouvin, 1947) made quite a point of the large role played by international cartel agreements in world politics before 1914. E. H. Carr's magisterial *Twenty Years Crisis* tells the interwar story by interweaving economic conditions and responses with more formally political ones. Two major postwar studies collected a great deal of empirical material on what had gone on in the 1930s (Stocking and Watkins, 1946; Hexner, 1945). There were also a number of more specialised studies at that time. Nothing comparable can be found after the mid-1970s, despite the years of stagflation and recession, followed by debt and deflation.

The one outstanding exception is a book that almost never was – Kurt Mirow's *A Ditadura dos Cartéis* (1977, revised and translated into English and published as *Webs of Power; International Cartels and the World Economy* 1982). It had no sooner been published in Brazil than copies were seized and banned by the military government on the grounds that it discredited the country and its government by showing Brazil as the helpless victim of international cartels. Pirated copies quickly appeared and were soon sold. Meanwhile, the charge was so preposterous that civilian judges could not be found to try it and even the Supreme Military Tribunal eventually acquitted the author to the discomfiture of the generals. But the net result of the ill-considered ban had put Mirow and his book in the limelight, leading eventually to an English translation.

Though much of the content – on the oil business, on steel and shipping, was fairly common knowledge, its disclosures regarding the

electrical equipment were (so to speak) electrifying. They were the fruit of bitter personal experience. Mirow's family firm, founded by his great grandfather, started a new venture in the 1950s producing the kind of electrical equipment it had formerly imported from Germany. But its import-substituting prosperity came under attack from its big foreign competitors. It went bust and the family tried again in the 1970s. Kurt Mirow was convinced that Brown Boveri and other multinationals were practising predatory pricing, below cost. His case to the government failed for lack of evidence, but in 1972 brought a call out of the blue from an employee of the Brazilian subsidiary of a Belgian electrical equipment manufacturer. This man passed on inside information on the rules of a trade association innocuously registered as the Institute for the Study of Exports of Heavy Electrical Equipment (IBEMEP). Leaked documents showed its members as the major multinationals in the business, including Siemens and General Electric, Asea and AEG, and two local firms, one of which was soon taken over by Hitachi. Mirow then found out that IBEMEP was part of a larger world-wide association, the International Electrical Association (IEA) which also acted behind an innocuous front as a full-fledged cartel. IEA members accepted protection of each other's home markets, fixed prices, managed non-competitive bidding and financed a combat fund to beat and keep out competition. What had particularly upset the Brazilian military government was the suggestion that, for all their nationalistic bragging, they had actually connived at this foreign penetration of the economy and the attempted elimination of local enterprise by a well-organised but covert cartel of rich and powerful multinational firms. Only the generals' clumsy attempt at censorship, combined with Mirow's injured family pride and talent for investigation, had provided the coincidence of causes leading to a new study of international cartels at a time when most other writers appeared to have lost interest in the subject.

But why should this have been? Why is Mirow's book so exceptional? On the political right, the pervasive silence among liberal or neo-classical economists is striking. The subject of private protectionism seems tacitly taboo. A random survey of the economic literature on trade, whether theoretical or descriptive, yields sparse results. Paul Samuelson's popular text, for example does not get round to international trade until page 621, spends a great deal of time on theories of comparative advantage, even though these are now generally judged by management writers to be in need of radical revision. Just two pages are

given to all kinds of restrictions on competition, with the dismissive comment that, for economists, it does not matter which devices are used to raise prices; whether they are private arrangements or those made by governments, it is all the same. Mergers, cartels or pool agreements, holding companies, trade associations, trusts or 'fair price' laws are all indiscriminately judged to be 'evil'. Yet on other matters, the role of government in relation to economy is a matter of great concern. Why not where public and private protection is concerned?

A more specialised and recent text, Nigel Grimwade's *International Trade, New Patterns of Trade, Production and Investment* (Grimwade, 1989) does not even index 'cartels', has one chapter on the rise of the multinational company and the expansion of intra-firm trade which says nothing about the extensive history, throughout the twentieth century, of inter-firm bargaining in manufacturing and services, all designed expressly to keep competitive newcomers out, to carve up the world market to the benefit of the producers and at the expense of consumers. Another book, John Jackson's *The World Trading System; Law and Policy of International Economic Relations* (Jackson, 1989) gives a very full account of the Bretton Woods institutions, the GATT and the evolution of US trade policy, ending with the comment that the 1988 Trade Act – the basis of Uruguay Round negotiations – lists restrictive business practices if practised in other states as one of the grounds on which the US government may invoke the punitive section 301 – but only if such practices restrict the sales of goods made by US firms in that country.

Theoretical texts in liberal economics naturally tend to predicate a world of perfect markets and rational (materialist) behaviour. Take Lipsey's *Introduction to positive economics* (1963) now in its 6th or 7th edition. Most theoretical propositions explained therein assume a national economy virtually untouched by global forces of structural change. Although Lipsey notes that oligopoly and the concentration of economic power is increasing, and with it predatory pricing and 'brand proliferation' by means of advertising, he sticks to the basic contention that costs and demand determine an equilibrium price and level of output. 'Rigorous' theory is justified:

Foreign exchange markets, markets for raw materials, markets for many agricultural commodities, real estate, most futures markets, the market for gold and other precious metals and securities markets are but a few whose behaviour is comprehensible with, *but makes no sense without*, the basic model of perfect competition (possibly augmented

by one or two specific additional assumption to catch the key institutional details of each case. (Lipsey, 1963: 306, my italics)

Such a judgement hardly squares with actual historical experience in any of the markets he mentions. But it accurately reflects a mind-set among many economists that bristles with distrust and suspicion at the very idea of political regulation of markets of any kind, but more particularly at such regulation at the hands of government.¹ In their book, state ownership always leads to inefficiency and waste; private enterprise is always to be preferred to public enterprise; and any limitation on the actions of firms is to be resisted. The profession's studied neglect of restrictive business practices is therefore understandable, if not defensible. The disinterest itself is ideologically biased; a classic case of 'theory' in social science always being – as Cox insists – 'for' someone.

It is less easy to understand the silence of the radical left on this subject, especially of those writers interested in international political economy, Robert Cox, for example, refers to the concept of the 'cartel-state'. But this has nothing much to do with market management. The term refers only to states in which a neo-corporatist bargain is forged between interested parties in society – business, labour, government – thus avoiding a greater evil – the fascist alternative of authoritarian repression (Cox, 1987: 195). Gill and Law refer only briefly to the bauxite agreement – one of the falsely optimistic commodity associations that fell apart – in the context of a discussion of North-South relations (Gill and Law, 1988: 293). Otherwise, they take the Leninist view that because of the essentially conflictual nature of national capitalist states, cartels have a built-in tendency to break down because of differential costs of production (Gill and Law, 1988: 58).

That judgement is not actually borne out by the historical record of the past century. Nor would the EC officials who are trying to make European firms behave in a more competitive manner and who have uncovered the paperback cartel and many other instances of private protection agree. The fact is that there have been plenty of transnational cartel arrangements, and not only within Europe, that have persisted over recent years, as they have in the past. They have not always lasted. But the reasons for breakdown have not been, as Gill and Law suggested, differential production costs. In retrospect, the two most

¹ This is another clear example of the mental limitation by western political scientists that perceives 'politics' as consisting only of action by states. See above, chapter 3.

common causes of breakdown were wars – notably both world wars – and financial and economic crisis – as in 1929–31 – and the instability it brought to exchange rates, commodity prices, markets and governments.

The First World War brought to an end the oldest international manufacturing cartel of all – that among makers of steel rails which had first been organised in 1883. A more powerful and extensive steel cartel, first organised in 1926, collapsed in the free fall of all prices after 1929. It began to get together again by 1933, was joined by the British in 1935, but once again could not survive the outbreak of war in 1939. In both world wars, the Allied navies took over the management of sea-trade from the liner shipping conferences that, in all the seven seas, had regularly fixed prices and kept out competition. Only the Phoebe cartel maintaining the oligopolistic price of electric lamps managed to survive the interwar Depression, despite some members cheating by cutting prices to protect their market shares. But it too could not survive the war in 1939 (Mirow, 1982: 38–41).

To give the reader some idea of how – despite the silence of the academics – cartels really operate in the real world, and incidentally to suggest how the 'long peace' of the Cold War may actually have favoured their proliferation, let us take as an example a recently organised cartel set up in one of the oldest of international businesses – shipping. It is a business that well illustrates – today, no less than in the past – Adam Smith's dictum about agreements made at the expense of the consumer. It also demonstrated two other points I have repeatedly made – the impact on producers of market conditions, more especially when these tend to be cyclical; and, secondly, the impact on them and on outcomes generally, of changing technologies in the production of goods or (in this case) services.

In the 1970s, established shipping conferences, of which there were over 300, came under threat from two directions: the new technology of container shipping, and the world-wide fall in freight rates. The depressed market in shipping services lasted for the next two decades (Strange, 1976; Cragg, 1981). But by 1994, all the major shipping enterprises had converted to the use of containers. While their global trade association, the International Council of Containership Operators, popularly called The Box, was divided on the obvious long-term solution – an agreement to scrap the older part of the world merchant fleet – the big firms dominating the heavy-traffic transatlantic route had finally reached agreement. They would set up a super-cartel whose

members would set uniform prices for different kinds of cargo, would agree to cuts in capacity by leaving empty an agreed percentage of container slots on each ship, and would enforce discipline on its members by fines and on their customers by the time-honoured practice of deferred rebates.²

The Transatlantic Trade Agreement (TTA) was first negotiated and signed in May, 1992 by the twelve big shipping enterprises in the Atlantic trade – Sea-Land (US), Atlantic Container (Sweden), Hapag-Lloyd (Germany), Moller-Maersk (Denmark), DSR-Senator (Germany), P&O and OOCL (UK) and Swiss, French, Korean, Dutch and Polish firms. Three more joined later and the terms of the deal were revealed in the trade press early in 1994. Rates were to vary according to the value of the cargo and to what the traffic could bear. They were to be moved up or down according to the state of the market, the degree of outside competition and other variables. The agreement also extended from transport by ship to transport by land since it also covered rates for land transport of the containers to and from the ports. Initially, because traffic eastward was only two-thirds of westbound traffic, the agreement was only one-way, east-to-west. But its members accounted for 70 per cent of the traffic and set up a secretariat and a policing Enforcement Authority to make sure its rules were kept. It had power to investigate alleged breaches, inspect accounts and records of members, their sub-contractors and associates, hear evidence and ultimately assess fines.

The secretariat ran the Capacity Management Program which could enforce empty cargo-space up to 25 per cent of any ship's capacity. Its power has extended to the smaller independent 'consolidators' who package small cargoes, two of whom have already been forced out of business.

And the regulators? Under Article 85 and pressure from the users, the European Commission did initiate an inquiry. But there is no overall EC law on shipping, and national laws have long tolerated the old conferences. And a 1986 decree only threatened action against cartels seeking to eliminate all effective competition. In the United States, the Federal Maritime Commission is the agency responsible for monitoring the TAA, but the 1984 Shipping Act indicated an exemption from anti-trust rules, and although it has been kept fully informed by the

² For this and other details on the TTA, I have drawn on an unpublished research paper, *The Trans-Atlantic Agreement in plain words* by Manuel Terranova, a student at the Bologna Center, Johns Hopkins University in 1993.

cartel it was so far neither approved it nor declared it illegal. In effect, if the US government turns a blind eye on the TAA, it would be hard for the European Commission to act against it. Meanwhile, it is expected to be the model for other major trade routes.

Economic history, in short, shows clearly that the management of surplus capacity is and has always been an important and recurrent issue in political economy, and one to which states and firms have sought, and sometimes found, a variety of solutions.³ In agriculture, the solutions, when they have been found, have been national, usually requiring the direct or indirect intervention of political authority over output, or over prices, or over both. The European Union's Common Agricultural Policy is a good example, but is mirrored by similar policies within Japan or the United States or any industrialised country – Sweden and Switzerland being extreme examples. In manufacturing, especially where barriers to entry have limited the number of competing enterprises, the solution has often been found in cartel arrangements between firms. Only when steelworkers or textile workers were threatened with sudden job losses, apparently as a result of market invasion by foreign producers, have governments become involved. Protectionist policies – like the American trigger price mechanism for steel in the 1970s, or the D'Avignon output cuts in the EC in the 1980s – have been used to supplement the efforts of firms to manage surplus capacity. Alan Milward has argued persuasively and on the basis of French protection for cereal producers in the 1880s that such intervention by the state can be seen as a 'set of stages in the widening participation of different groups in that body politic. In this sense', he goes on, 'the transition from mid nineteenth century liberalisation of trade was not a regressive atavistic response by conservative agrarian pressure groups but a progression in democratic political participation' (Milward, 1981).

Why then, have social scientists, with so few exceptions, not gone hunting for the transnational cartels of the 1980s and 1990s? Why have they not bothered to dig out the evidence that, in the most recent period of slowed growth in the developed industrial countries, cartels and restrictive agreements have once again been the preferred solution to

³ Some of us have been alert to the political aspects of the problem for some time. In the 1970s, the slow growth of western economies gave rise to what was called the 'new protectionism'. Roger Tooze and I organised an inter-disciplinary, multi-professional discussion of the issues, few of which have changed substantially since. The results were published in a book, *The International Politics of Surplus Capacity: Competition for Market Shares in a World Recession* (Strange and Tooze, 1981). See also Strange (1979).

problems of surplus capacity? It would be odd indeed if, while public protectionism was being practised in some industries like steel or textiles, other industries also afflicted in the same way did not resort to self-help in the shape of private protectionism.

For lack of sufficient evidence, no definite answer is possible to that question. It remains a puzzle until the results of more investigative research can be assembled. Yet there are some plausible hypotheses for the silence of western social scientists and for the consequent dearth of data. One is that the major private-protectionist manufacturing cartels that were known to exist in the past – electrical products, chemicals, synthetic fibres, aluminium, for example – do still exist – but they have 'gone underground', so that they have become much less visible. Mirow says that no one knew where the headquarters office of the International Electrical Association had gone when it left London in 1973. Then a *Le Monde* reporter accidentally found its new office in Lausanne (Mirow, 1982: 245). There, under Swiss law, it was under no legal obligation to register, nor even to disclose its membership or make public the rules that bound them. The decision to leave London was most likely due to increased activity by the UK Monopolies Commission which had been given powers in the 1960s to investigate sectors suspected of price-fixing resale price maintenance or other restrictive practices.

A variant of this hypothesis is that formal agreements, written documents used to have to pass through the post so that they could be leaked to the media or the politicians. Now, not only are such formal agreements no longer the norm for transnational cartels. The new technologies of communication also contribute to a greater degree of secrecy for inter-firm messages. The acceleration in both vertical and horizontal concentration of economic power means fewer big firms competing in the world market. Everywhere except Japan and perhaps Germany, the 1980s were marked by a spate of mergers and acquisitions. Negotiating and financing them was one of the few ways big banks managed to survive the foreign debt crisis of the 1980s. The victims (as in Brazil) were usually smaller, middle-sized firms that had access to their home markets. Their absorption by international business meant that the gap between the dominant firms and their small competitors widened. There was less danger of unexpected challenges from them to the big players. And small groups made up of a few very large transnational firms, in which each is vulnerable to retaliation by the others, may feel no need of legal agreements. These in any case may be too inflexible to adapt to rapidly changing market conditions, or new

products and processes. In some sectors – cars and chemicals, for instance – there has also been more vertical integration. Big firms either acquired or built close relations with both their suppliers and their distributors. This imitated the *keiretsu* relations common in Japan. And by internalising transactions in the value-adding chain, it also made the big TNCs more formidable, especially in their protected home markets.

A third hypothesis is also a variant on the theme *autres temps, autres moeurs*. A feature of the production structure in the world economy of the late twentieth century has been the accelerated rate of technological change, not only in what are thought of as the high-tech industries, but also in older ones like steel or textiles, or indeed agriculture and food-processing. In all the developed market economies, states have offered protection to the property rights of inventors and innovators by means of patent laws. And where other countries have claimed their rights to technology transfer, if necessary by pirating patented technology, the US and other developed country governments have put the protection of intellectual property rights on the international agenda. They have then put pressure on developing countries, bilaterally and multilaterally in the GATT, to conform. But while the outsider is prevented from using the patented technology, there is nothing to stop its 'owner' either from keeping it off the market altogether or from selling it to other selected big firms by means of licences, or from exchanging complementary licences with its fellow TNCs.

All this means that cross-licensing, tie-in sales agreements and other similar practices may make a collective agreement to form a cartel hardly necessary. As the management professors keep telling us, late capitalism is marked by a move from the identifiable discrete 'enterprise', company or firm to networks of firms linked together by various kinds of strategic alliances. Either these networks conceal a covert cartel, or they make it unnecessary.

There is a fourth and final hypothesis which is not incompatible with any of the other three. It is that the governments of states have given up the struggle, having found it increasingly difficult, if not impossible, to enforce the anti-trust and competition policies that are formally on the statute books. After all, a few isolated prosecutions and fines do not constitute a generally effective law.

In the lead in this respect is the United States. Although its apologists and intellectuals claim that it has the toughest anti-trust laws of any industrialised countries, the truth is rather different. In the first place, much depends on what priority is given to anti-trust suits by the White

House. Presidents Reagan and Bush were noted for having little interest in them. The big suit against IBM, which for years pre-empted most of the human and financial resources of the Department of Justice, was dropped in the 1980s; its place was not taken by any others and the funds allocated to the Department of Justice proved no match for the legal aid budgets of the big firms. The anti-trust division had neither the funds nor the staff to fight multiple court cases. The result was that it often had to be satisfied with a plea of *nolo contendere* – no contest. This meant that the offending firm admitted guilt, promised not to do it again and got off scot-free. The legal costs of such suits were much lower for the government than contested cases which required piles of evidence to be assembled and long legal battles over technicalities. The trouble was that there was no follow-up, no enforcement process to ensure that the promises given in such no-contest cases were kept (Mirow, 1982: 220–2). Mirow adds: 'The penalties applied to violations of US anti-trust laws are usually so petty that the crime pays off whether or not the criminal is caught . . . Only on the rarest occasions are executives convicted of felony violations and, although the law provides for prison terms, they are almost never imposed.'

In the European Community, the regulatory power seems stronger. The Rome Treaty in Articles 85 and 86 laid the basis for a common policy against inter-firm collusion and against the abuse by firms of a dominant position in any market. The latter principle was an implied presumption against big business that has never existed in America. It assumed, not without reason, that size was apt to give dominance and power, and power was apt to be abused. Abuse of market dominance was therefore proscribed. Translated into policy, this means that offenders can be fined up to 10 per cent of their world-wide turnover – much more than most US fines. There is also a separate directorate of the European Commission in charge of competition policy, and constitutional representation for consumer interests. Yet at the same time there has always been a fundamental ambivalence in EC policies toward manufacturing industry. On the one hand, the Commission is charged with protecting the European market and supporting European industry against American or Asian competition. On the other, it has this responsibility for investigating and bringing to justice firms operating in Europe that transgress its basic laws of open competition.

The most cursory survey of books on the European Community – European Union as the Maastricht Treaty says it should be called – shows that member states have paid far more attention to the support-

ive, protectionist role than to the policing, anti-cartel role. Ineluctably, there is an inherent conflict between enforcing fair competition and the industrial policies – in semiconductors, for example – in which instead of the national champion firms nurtured and built up by the member states in the 1960s and 1970s, the Commission is supposed to nurture and build up 'European champions'. As Tsoukalis observes, it took the Council of Ministers sixteen years, from 1973 to 1989, to take action on a Commission proposal to follow British and German leads against oligopolistic mergers. By the time it accepted the need for stronger competition laws, the number of mergers in European industry had risen from 115 in 1982/83 to 622 in 1989/90 – and that was based only on mergers involving the top 1000 firms. And even then, only three of the twelve member states had any agencies of government comparable to the US Anti-Trust Division, the British Monopolies Commission or the German Kartellamt. Without national enforcement, the Commission secretariat has been heavily handicapped. The law, moreover, was the result of compromise on the threshold, based on the combined turnover of the firms, beyond which a merger could be barred. And some uncertainty remained on the relative competence of national and EC administrations, and the exact criteria by which a merger might be barred or permitted. The extent of political discord on European industrial policy is reflected in the multiple ambiguities in the chapter in the Maastricht Treaty on industrial policy. It has been demonstrated, too, in the matter of European airfares, maintained by agreement among the airlines, often backed (and sometimes, as in France, openly subsidised, by governments). Again and again in the 1990s, the Commission has been obstructed in its declared intention of replacing the existing cartel agreements with open competition and so leading to lower airfares.

The conclusion seems clear that, while the rhetoric of free enterprise and open competition is necessary to the full integration of a world economy operating on a market principle, the rhetoric is often, in reality, empty of meaning. Both in the United States and in Europe, let alone Japan, the war against restrictive cartels is pretty much of a farce. In steel, in shipping, and probably in most chemicals, aluminium, electrical products, authority over the market is exercised by associations of firms organised in overt or covert cartels to rig prices in favour of the members – 'conspiracies against the public' in effect. And in political terms, since the regulators are blind, inert or impotent, such cartels constitute 'regimes within regimes'.

12 International organisations: the econocrats

One of the three hypothetical propositions in this book was that power had moved in recent times from the nation-states to international organisations. Some authority over some issues had shifted upward, as it were, from national capitals and their political institutions, to the scattered headquarters of international bureaucracies. International organisations – IGOs or intergovernmental organisations – are certainly more numerous and more visible than they were a generation or more ago. The annual meetings of the World Bank and the International Monetary Fund draw literally thousands of journalists every year. Their readers no longer have to be told what these bodies are; 'IMF' is already in the translingual, global vocabulary, along with STOP, Fax or Coca-Cola. But visibility and familiarity are not the same as authority. How much power do the worldly bureaucrats really exercise over outcomes in world economy and society?

And even if the evidence shows that they do have authority, there is a second and even more important question. On whose behalf is that authority used? For there are two alternative interpretations. One, dear to liberal internationalists and neo-functionalists in academic circles, is that this nascent authority is the embryo of supranational government, exercised in the interests of the world community. For all its frustrations and all its shortcomings, this shift from national to supranational authority is seen as the first glimmer of dawn after a long dark night. Recall, though, that the same liberal internationalists have been guilty of wishful thinking before. For example, many of them hailed the IMF's introduction of Special Drawing Rights in 1969 as the dawn of a shift from national money to an international currency. They failed to see that the United States had only agreed to SDRs because they saw them, on