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Rethinking International Cartel Enforcement: Institutional and Legal Responses in Developing Economies, with Evidence from Mongolia

Otgonbayar Lkhamsuren[1]

[1]*Senior Lecturer, University of Finance and Economics, Mongolia*
LL.M (Competition Law and Innovation), University of Edinburgh, United Kingdom
PhD Candidate, School of Law, National University of Mongolia

**Corresponding Author: Otgonbayar Lkhamsuren, Otgonbayar.lkh@ufe.edu.mn*

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Abstract: *Cartels are widely recognized as one of the most harmful forms of anti-competitive conduct, often described as the "supreme evil" of the economy due to their capacity to distort markets, suppress competition, and reduce consumer welfare. While significant progress has been made in domestic cartel enforcement, the regulation of international cartels remains fragmented, particularly from the perspective of developing economies.*

This article examines the challenges faced by small and developing countries in addressing cross-border cartel conduct, including limitations in evidence collection, institutional capacity, and access to international enforcement mechanisms. It reviews seven major approaches proposed in the literature, ranging from global institutional solutions to private enforcement and cross-border cooperation mechanisms, and evaluates their feasibility using Mongolia as a case study.

The analysis demonstrates that proposals requiring high levels of international political and economic consensus are unlikely to be implemented in the near term. Instead, more practical and context-sensitive solutions emerge as viable alternatives. These include strengthening domestic enforcement capacity, leveraging foreign decisions as evidentiary tools, enabling follow-on private actions, developing parent-company liability within corporate law, and integrating competition-related provisions into bilateral and regional economic agreements.

The article argues that, in the absence of a binding international framework, developing economies must rely on a combination of domestic legal innovation and strategic international cooperation. By adopting flexible and realistic mechanisms tailored to their structural constraints, such economies can enhance their ability to combat international cartels and mitigate their adverse effects on domestic markets.

Kye words: *International cartels; Competition law; Developing economies; Antitrust enforcement; Cross-border enforcement; Private enforcement; Follow-on actions; Corporate veil piercing; Parent company liability; Collateral estoppel; Evidence recognition; Institutional capacity; Trade and competition policy; Mongolia*

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INTRODUCTION

In the context of economic coordination and institutional constraints, particularly in developing economies, cartels illustrate a form of market failure that raises the question of whether legal frameworks can provide an effective response.

The Supreme Court of the United States has characterized cartels as the "supreme evil"[1] of the economy. This designation reflects the fact that cartels restrict free market competition, the driving force of economic activity, by artificially dampening its intensity in pursuit of private interests and by reducing the welfare of the least advantaged market participants, namely consumers.

While domestic cartel enforcement has developed considerably across many jurisdictions, the regulation of international cartels, especially those affecting developing economies, remains fragmented and incomplete. The challenges are particularly significant for small and developing countries. International cartels operate across multiple jurisdictions, take advantage of information gaps, and often rely on complex corporate structures. These factors make detection, investigation, and enforcement both technically demanding and financially burdensome.

As a result, many developing economies face serious constraints in collecting evidence, assessing damages, and pursuing effective remedies. At the same time, the absence of a binding international framework further limits their ability to respond to cross-border anti-competitive conduct.

In response to these challenges, scholars have proposed a range of mechanisms to address international cartels, including the creation of global enforcement institutions, the expansion of private enforcement tools, and the strengthening of cross-border cooperation. However, the practical relevance of these proposals differs when viewed from the perspective of developing economies with limited institutional capacity.

[1] *Verizon Communications Inc. v. Law Offices of Curtis V. Trinko, LLP*, 540 U.S. 398 (2004).

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This article examines these proposals through the lens of a small and developing economy, using Mongolia as a case study. It identifies seven main approaches in the literature and evaluates each in light of domestic legal conditions, institutional readiness, and practical feasibility. The aim is not only to assess existing proposals but also to identify solutions that are realistic and adaptable to the constraints faced by developing countries.

The article argues that, in the absence of universally accepted international rules, developing economies cannot rely solely on global solutions. Instead, they must pursue a combination of domestic legal development, institutional coordination, and strategic engagement in international cooperation frameworks. This article therefore seeks to identify legal solutions for combating international cartels from the perspective of a developing country.

RESEARCH METHODOLOGY

This study adopts a qualitative, doctrinal, and comparative research approach to examine legal solutions for combating international cartels from the perspective of a developing economy. The research is primarily based on the analysis of legal texts, academic literature, and policy-oriented studies addressing cartel enforcement at both national and international levels. Particular attention is given to the intersection between economic coordination and institutional constraints, allowing the study to situate cartel regulation within a broader law and economics framework.

The methodology includes a structured review of seven major approaches proposed in the literature, which are comparatively analyzed in terms of their legal design, underlying assumptions, and practical feasibility. Each approach is evaluated against the institutional and economic context of Mongolia, with emphasis on enforcement capacity, availability of evidence, legal infrastructure, and resource constraints. This comparative method enables the identification of both transferable mechanisms and context-specific limitations.

In addition, the study employs a case-oriented and analytical method to assess the applicability of selected legal doctrines and enforcement tools, including private enforcement, recognition of foreign decisions, and corporate liability mechanisms. Rather than relying on quantitative measurement, the research focuses on normative evaluation and contextual adaptation,

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aiming to develop realistic and implementable legal solutions suited to the structural characteristics of developing economies.

The analysis focuses on seven approaches to international cartel enforcement that have been proposed in the literature by various scholars and international organizations. These approaches were chosen because they reflect the principal strands of contemporary debate on how cross-border cartel conduct should be regulated and enforced.

I. IMPACT OF INTERNATIONAL CARTELS

Levenstein.M and Suslow.V draw a striking comparison: as of 1997, overcharges imposed by international private import cartels targeting developing countries amounted to USD 51.1 billion, while total loans and aid provided to those countries in the same year were only USD 39.4 billion.[2] This comparison is far from coincidental. It indirectly demonstrates that, by effectively preventing cartel conduct through legal regulation, developing countries could save more than they receive in external loans and aid, while also protecting consumers from price pressures.

According to the statistical overview of international private cartels prepared by John M. Connor, during the period 1990–2005, the total overcharges generated by international cartels reached approximately USD 500 billion, whereas the total fines imposed amounted to only USD 1.5 billion.[3] This stark disparity illustrates the limited scale of liability imposed on cartels.

Furthermore, in the early 1990s, cartel enforcement was largely confined to the activities of the European Commission and U.S. competition authorities, which together accounted for approximately 95% of all cartel fines imposed globally. In recent years, however, their share has declined by around 50%, reflecting the increasing adoption of competition laws prohibiting cartels across a broader range of jurisdictions.

[2] Levenstein, M., Suslow, V. Y., & Oswald, L. J. (2003). *Contemporary international cartels and developing countries: Economic effects and implications for competition policy* (Working Paper No. 03-10). International Agricultural Trade Research Consortium, p. 5. https://doi.org/10.2139/ssrn.10989218
[3] Connor, J. M. (2020). *The private international cartels (PIC) data set: Guide and summary statistics, 1990–2019*. SSRN. https://doi.org/10.2139/ssrn.3682189

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Another notable trend is the decline in the overall level of cartel fines worldwide since the period 2012–2014. This may be attributable to the aftermath of the global financial crisis, during which many countries appear to have adopted relatively more lenient legal enforcement policies toward cartel regulation.

T.Wang, argues that international cartels produce effects in two main directions—on consumers and on producers in the importing country. [4] These include: (a) undermining fair competition and thereby weakening trust in legal regulation; and (b) hindering, slowing, or even halting scientific and technological progress and innovation.

He further notes that when a new competitor enters the domestic market, consumers may initially benefit in the short term from lower prices and greater choice as a result of price competition. However, once a cartel establishes its position and begins operating effectively in the domestic market, it raises the prices of its products and services. At that point, consumers are faced with only two options: to refrain from purchasing the product or service, or to accept and purchase it under cartelized conditions. Where purchase is unavoidable, consumers are compelled to pay cartel-inflated prices, resulting in a transfer of wealth toward the international cartel.

With respect to producers, cartel strategies may include collusive practices such as manipulating or restricting market information related to a country's products and services, and organizing coordinated actions to prevent producers from entering one or more foreign markets.

II. SCHOLARLY APPROACHES TO MECHANISMS FOR COMBATING CROSS-BORDER INTERNATIONAL CARTELS

Let us review the proposals and solutions put forward by scholars on how to combat international cartels. The study reveals that seven types of proposals have been advanced in this area. Accordingly, these proposals are comparatively analyzed, and for each, observations are provided regarding Mongolia's legal context, institutional readiness, and feasibility of implementation. Although Mongolia has investigated several domestic cartel cases in sectors such as petroleum products, construction materials, and pharmaceuticals, no publicly available case

[4] Wang, T. (2016). *International cartels and developing countries: A proposal to reframe competition law* (Doctoral dissertation, University of Birmingham). University of Birmingham.

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demonstrates that an international cartel affecting the Mongolian market has been directly detected, investigated, and sanctioned by domestic competition authorities or courts. This should not necessarily be interpreted as evidence that international cartels have not affected Mongolia. As a small, import-dependent economy, Mongolia is exposed to products and inputs traded in global markets, including goods that have been subject to international cartel enforcement abroad. For example, international cartels involving vitamins, pharmaceutical ingredients, chemicals, and industrial products have been detected and sanctioned by U.S. and EU competition authorities, yet their effects on small importing economies have rarely been examined. This evidentiary gap reflects the practical difficulties developing countries face in collecting cross-border evidence, assessing foreign market conduct, quantifying damages, and accessing specialized investigative resources.

The absence of domestically detected international cartel cases therefore highlights a broader institutional challenge rather than the absence of potential harm. It is precisely this limitation that motivates the present study. The objective of this article is not to prove the existence of a specific international cartel affecting Mongolia, but to identify legal and institutional mechanisms that would enable competition authorities in developing economies to investigate, establish, and respond more effectively to international cartel conduct when such conduct adversely affects their domestic markets.

a) Proposal to establish an international agency with the mandate to combat cartels, collect evidence, and assess damages caused at the international level

This proposal has been advanced by researchers Levenstein and Suslow[5] They argue that the establishment of such an institution would require the adoption of an international convention. It is also evident that meaningful progress in this regard would depend on achieving substantial political and economic consensus at the international level.

[5] Evenett, S. J., Levenstein, M. C., & Suslow, V. Y. (2002**).** *International cartel enforcement: Lessons from the 1990s***.** SSRN**.** https://ssrn.com/abstract=265741

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At the regional level, a relevant example demonstrating the feasibility of performing such functions is the competition authority operating within the European Commission, namely its Directorate responsible for competition matters. In the case of the European Union, the legal basis for competition enforcement is enshrined in the Treaty of Lisbon, a foundational legal instrument of constitutional nature thereby enabling the competition authority to function within the institutional structure of the European Commission. However, the model proposed by the above-mentioned scholars would, above all, require sustained commitment from countries with well-developed competition law regimes, active engagement in international affairs, and sufficient financial capacity to support the establishment of such an institution.

b) Proposal to establish a multilateral framework on cartels within the World Trade Organization

Within the negotiation mechanisms of the World Trade Organization (WTO), two cartel-related issues have been raised over time. First, there is the question of adopting a convention incorporating competition regulation as a fundamental component of the multilateral trading system. Second, there is the issue of establishing a multilateral framework specifically addressing export cartels.

With respect to the first issue, the possibility of developing multilateral legal rules on fair competition in international trade was discussed during the negotiations surrounding the 1996 Singapore Ministerial Declaration. Subsequently, at the 2001 Ministerial Conference held in Doha, competition policy was included among the topics to be developed under the Doha Development Agenda, alongside agriculture, services, and trade-related issues. However, negotiations on this matter reached an impasse at the 2003 Ministerial Conference in Cancún, where no consensus could be achieved. Although further discussions had been anticipated, the WTO General Council in 2004 formally confirmed that this issue would not be included within the Doha Development Agenda, after which the topic effectively disappeared from the negotiating agenda.[6] Nevertheless, several scholars maintain that such a framework remains feasible. Among them, Martyn Taylor has argued in a monograph that it is possible to develop a comprehensive international competition

[6] Lee, J. S. (2016). *Strategies to achieve a binding international agreement on regulating cartels*. Springer.

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law regime within the WTO framework, encompassing not only cartels but also other competition-related institutions.[7]

As a member of the WTO, Mongolia should, in the event that such a framework is established, carefully assess its domestic conditions and potential implications, and determine whether to accede to such an arrangement, or to do so subject to specific conditions in order to safeguard national interests.

c) The international regulatory movement toward criminalizing cartels

The international regulatory movement[8] toward the criminalization of cartels has expanded since 1998 through policy-oriented discussions, multiple research reports, and publications within frameworks such as the Organisation for Economic Co-operation and Development and the International Competition Network.[9]

Considering the context of Mongolia, its competition landscape is characterized by a small market size, a limited number of active firms, and a high degree of market concentration. Notably, cartels do not necessarily require a highly concentrated market structure to arise. In other words, under Article 11 of the current Law on Competition, there is no minimum market share threshold required for conduct to qualify as a cartel. As a result, even small-scale price agreements among adjacent vendors in food markets or retail shops may fall within the strict definition of a cartel. This suggests that it may not be necessary to criminalize every instance of such commonly occurring conduct under criminal law.

At the same time, a counterargument emphasizes that competition culture remains underdeveloped, and the small market size, limited population, and close interactions among competitors—combined with the insufficient academic study of cartels and related phenomena—warrant a cautious approach toward criminalization. If cartels are criminalized, the firms involved may face severe consequences, such as losing access to credit and capital markets, being excluded from public procurement processes, and ultimately exiting the market. This could increase the

[7] Taylor, M. D. (2006). *International competition law: A new dimension for the WTO?*. Cambridge University Press.
[8] Beaton-Wells, C., & Ezrachi, A. (2011). Criminalizing cartels: Critical studies of an international regulatory movement. In *Criminalizing cartels: Critical studies of an international regulatory movement* (pp. 3–23). Hart Publishing.
[9] Отгонбаяр, Л. (2023). Монгол Улсын өрсөлдөөний эрх зүй дэх картелийн тодорхойлолт: Онол, үзэл баримтлал, шүүмж. *Хууль дээдлэх ёс*, 2023(3), Цуврал 94.

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country's dependence on a small number of firms or even on foreign suppliers, as domestic producers are displaced. In a small and vulnerable economy, these risks are particularly significant.

Accordingly, rather than immediately resorting to criminal sanctions, a more effective approach may be to optimize administrative and civil liability mechanisms through economically rational incentives, thereby ensuring that participation in cartels becomes unprofitable.

However, if administrative enforcement proves ineffective and repeated violations continue to harm public interests, it may become necessary to consider stronger legal responses within the framework of criminal law. Criminalization could enhance deterrence, prevent recidivism, and ensure accountability. For instance, if firms that have already been fined for cartel conduct subsequently coordinate to pass the cost of fines onto consumers through price increases, this would demonstrate the ineffectiveness of competition law enforcement and justify the introduction of criminal sanctions as a protective mechanism.

d) Proposal to establish an international mechanism for information exchange on cartels

While such mechanisms have, to some extent, already been practiced, they may in certain cases conflict with key policy tools used in cartel enforcement. For example, both the United States and the European Union rely on leniency programs as a primary instrument for cartel detection. These programs offer immunity or reductions in legal liability to cartel participants that voluntarily disclose their involvement. Importantly, they often include commitments not to publicly disclose information provided by self-reporting firms.

This confidentiality serves as a crucial incentive, assuring cooperating cartel members that their disclosures will not trigger parallel proceedings or liabilities in other jurisdictions. Consequently, the establishment of a broad and fully operational international mechanism for information exchange may face significant practical limitations, as it could undermine the effectiveness of leniency programs.[10]

[10] Gal, M. (2010). Free movement of judgments: Increasing deterrence of international cartels through jurisdictional reliance. *Virginia Journal of International Law, 51*(1), 57. https://ssrn.com/abstract=1291844

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e) Strengthening the competition enforcement and regulatory capacity of developing countries

The implementation of technical assistance projects and programs constitutes a key component of this approach. Numerous initiatives have been carried out by developed countries and international organizations aimed at supporting the development of competition law frameworks in developing economies. However, due to a range of country-specific internal factors, the outcomes of such programs may sometimes fall short of providing comprehensive solutions. Nevertheless, it can be observed that these projects and programs have contributed significantly to the widespread adoption of competition laws across developing countries.[11]

f) The right of business entities to bring claims before domestic courts, under private law enforcement (private rights of action), to seek compensation for damages caused by international cartels

While it is important for firms to have the right to bring claims before domestic courts to recover damages caused by international cartels, it is common for national legal frameworks to lack sufficient provisions to effectively support such claims. According to studies conducted by the International Competition Network, only a limited number of jurisdictions, such as New Zealand, United States, Switzerland, Japan, Brazil, Canada, and Ireland—have established comprehensive legal frameworks that fully enable private rights of action in competition law. This remains a relatively modest level of global adoption.[12]

Among these, Brazil, Canada, and Ireland have the added advantage of allowing both stand-alone civil actions and follow-on actions based on prior decisions of competition authorities, thereby offering more flexible procedural pathways for claimants.

[11] OECD. (2020). *OECD Competition Trends 2020*. http://www.oecd.org/competition/oecd-competition-trends.htm
[12] International Competition Network. (2018). *Setting of fines for cartels in ICN jurisdictions*. https://www.internationalcompetitionnetwork.org/wp-content/uploads/2018/05/CWG_SettingFines.pdf

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However, even where such private enforcement mechanisms are established within national legal systems, their scope remains limited, and they cannot, on their own, provide a comprehensive solution to the challenges posed by international cartels.

Where a cartel implemented through subsidiaries and affiliated companies of a particular parent company causes harm to the domestic economy of a state, there exists the corporate veil piercing doctrine, under which the parent company or any member of the corporate group may be presumed to constitute a single economic entity if it exercises policy or control over the conduct in question, and thus should bear responsibility for the effects produced in the domestic market.

A notable example of a cartel case decided under this doctrine is *Dow Chemical Co. v. European Commission*. In that case, a group of companies engaged in the production and sale of synthetic rubber, with a parent company incorporated in the United States, was found to have coordinated price-fixing, market allocation, and the exchange of commercial information in Germany, Italy, France, and the Netherlands through its subsidiaries operating in those jurisdictions.

The authorities established that the parent company exercised full control over its subsidiaries and that the cartel conduct was organized through this corporate structure, thereby affecting the market and harming consumers. Accordingly, both the parent company and its subsidiaries were held jointly liable.[13]

In developing countries, where enforcement capacity is limited and corporate groups often operate through locally thin subsidiaries, effective cartel control requires holding the entire economic group accountable. Adopting a structured approach to parent-company liability can prevent the use of corporate structures to evade responsibility, ensure meaningful recovery of damages, and enhance the credibility and deterrent effect of competition law.

g) Mechanism for recognizing and adopting foreign court judgments in international cartel cases

[13] Dow Chemical Co. v. European Commission, Case T-77/08, ECLI:EU:T:2012:93 (General Court of the European Union, March 13, 2012).

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The idea of recognizing foreign court judgments in international cartel cases has been proposed by Michal S. Gal as a potential solution to the common challenges faced by developing countries in combating international cartels. Importantly, this proposal does not advocate for the direct recognition and enforcement of foreign judgments. Rather, it suggests that factual findings established by foreign courts in cartel cases should be recognized within the national legal systems of other countries under the doctrine of "collateral estoppel." In this sense, facts already determined by a foreign court would be treated as "judicially established facts," and therefore would not need to be re-proven or contested in subsequent proceedings in another jurisdiction.

In support of this approach, Gal proposes five criteria for recognizing factual findings established by foreign court decisions: (1) the decision must have been rendered in accordance with the laws of the foreign jurisdiction; (2) the judgment must clearly and specifically establish the facts relating to the international cartel; (3) the issues determined must have been essential to the court's decision; (4) the foreign authority issuing the decision must meet the standards required of a court; and (5) the defendant must have been afforded a fair and full opportunity to contest the decision in the foreign proceedings.[14]

Under the proposed recognition mechanism, developing countries could overcome key challenges in proving international cartel conduct—such as collecting evidence, analyzing complex information, developing detection methodologies, securing specialized expertise, and mobilizing financial resources. By relying on factual findings established abroad, competition authorities and courts would be able to focus primarily on assessing the harm caused within the domestic economy.

If implemented, Gal's proposal could generate a range of positive effects, including the promotion of a competition culture, raising public awareness among consumers, providing a deterrent signal to domestic cartels, and reducing political influence over enforcement processes. Although the recognition mechanism is proposed specifically for investigating international cartel cases, Gal emphasizes that similar mechanisms have already been implemented in other areas of

[14] Gal, M. (2010). Free movement of judgments: Increasing deterrence of international cartels through jurisdictional reliance. *Virginia Journal of International Law, 51*(1), 57. https://ssrn.com/abstract=1291844

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international law. In this regard, he refers, for example, to the Patent Cooperation Treaty[15] and the Hague Convention on the Civil Aspects of International Child Abduction[16] as evidence of established models of such recognition frameworks.

On the other hand, one factor that may cast doubt on the effective implementation of the recognition mechanism is that, for reasons similar to those discussed in section (d), it may conflict with the objectives of leniency programs. Therefore, the possible scenarios arising from this issue can be analyzed through the lens of game theory, as cartel participants must decide whether the benefits of cooperating under a leniency program outweigh the risk that the disclosed information may subsequently be used in proceedings in other jurisdictions.

It can be argued that Mongolia's competition authority and courts lack sufficient institutional capacity to assess damages, due to constraints in collecting evidence, analyzing competition data in international markets, accessing relevant information databases, and securing the financial resources necessary for expert analysis.

Under these conditions, the proposals outlined in sections (a) and (b) are likely to have a low probability of implementation, as they require a high level of global political and economic consensus. Nevertheless, if such mechanisms were to be realized, Mongolia could benefit by acceding as a member, thereby establishing legal instruments to protect its domestic economy from unfair competition.

The idea of fully institutionalizing information exchange, as outlined in section (d), should be approached with caution, as it may have the unintended effect of weakening the incentives provided by leniency programs. On the other hand, in the case of Mongolia, if a cartel operating outside its borders is secretly terminated through a foreign leniency program, the ability to access relevant information remains highly limited.

[15] World Intellectual Property Organization. (1970). *Patent Cooperation Treaty*. https://www.wipo.int/wipolex/en/treaties/ShowResults?start_year=ANY&end_year=ANY&search_what=C&code=ALL&treaty_id=6

[16] Hague Convention on the Civil Aspects of International Child Abduction. (1980, October 25). Article 14.

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In the context of Mongolia, the most realistically implementable option is (e), namely, sustained technical assistance projects aimed at strengthening expertise and methodology, particularly in investigative techniques, economic analysis, and digital evidence capabilities.

In addition, (f) establishing a legal framework to recognize "factual findings of international cartel conduct determined by foreign decisions" as a special evidentiary source in domestic proceedings, subject to defined criteria also represents a feasible solution.

In the context of Mongolia, it is important to effectively open the pathway for damages claims by combining (g) private rights of action with a follow-on litigation model. In addition, as noted earlier, it is necessary to develop mechanisms within corporate law to hold parent companies liable and to ensure that the relevant doctrines are recognized in practice. In this regard, specific provisions could be amended to the Law on Competition.

The proposal advanced by Michal S. Gal offers Mongolia the opportunity to rely on foundational facts already established by competent foreign authorities or courts, rather than engaging in the costly process of independently detecting and fully proving international cartel conduct. This would enable a greater focus on assessing domestic harm, awarding compensation, and implementing injunctive measures. As a result, enforcement costs could be reduced, the risk of political influence mitigated, and broader benefits achieved, such as the development of a competition culture.

From the author's perspective, the seven proposals advanced by scholars have been examined with Mongolia as a case study, accompanied by contextual observations and commentary. However, in the absence of universally accepted international norms governing cartel enforcement, the most viable approach for a small and developing economy such as Mongolia to combat the "supreme evil" lies in coordinated institutional action.

In particular, it would be appropriate for the ministry responsible for external economic relations, currently functionally divided between the Ministry of Foreign Affairs of Mongolia and the Ministry of Economic Development of Mongolia to work jointly with the Antimonopoly Authority to incorporate provisions on combating unfair competition and cartel conduct into platforms of international cooperation, including bilateral and regional trade and economic partnership agreements.

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This proposal is supported by two key legal foundations. First, under Article 15.1.14 of Mongolia's Law on Competition, the competition authority is expressly empowered to cooperate and exchange information with foreign and international counterparts in matters related to competition conditions, inspections, and enforcement of competition law. Second, Chapter 3 of the agreement implementing Article 1.12 of the Mongolia–Japan Economic Partnership Agreement establishes a framework for promoting competition, ensuring adherence to competition principles, and facilitating cooperation and mutual assistance between the respective competition authorities. It also provides that enforcement activities should be conducted in a fair, transparent, and non-discriminatory manner. As a result, the provisions of Mongolia's competition law, including those set out in Article 3, acquire a clear legal basis for application within the context of Mongolia–Japan economic relations.

This approach is consistent with the findings of Lee JS, whose analysis of larger developing economies such as Mexico, South Africa, China, and South Korea demonstrates that effective cartel regulation depends not only on formal legal rules but also on sustained institutional coordination and international cooperation.[17] In this regard, Mongolia's status as a developing and landlocked country may attract supportive engagement from developed partners, as evidenced by the Mongolia–Japan Economic Partnership Agreement, and can be strategically leveraged to strengthen cooperation in combating international cartels.

CONCLUSION

In conclusion, due to conflicting political and economic interests among states, the regulation of international cartels has not been successfully incorporated within the framework of the World Trade Organization. As a result, it is evident that no binding international mechanism for combating international cartels currently exists.

The analysis demonstrates that, although the literature offers several institutional and legal responses to international cartels, many of them depend upon levels of international consensus that

[17] Lee, J. S. (2016). The regulation of cartels in developing countries. In *Strategies to achieve a binding international agreement on regulating cartels: Overcoming Doha standstill* (pp. 193–251). Springer.

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remain unlikely in the foreseeable future. Consequently, for a small and developing economy such as Mongolia, the most viable path forward is not reliance on a future global regime, but the development of coordinated domestic institutions supported by targeted international cooperation. In this regard, it is unrealistic to treat international cartel regulation as an issue that will be resolved solely within the WTO framework. Instead, Mongolia should pursue pragmatic national-level solutions that integrate competition law with trade defense instruments. At the same time, international practice demonstrates that unless the distinctions and overlaps between anti-dumping measures and cartel regulation are clearly defined both theoretically and legally, trade defense instruments themselves risk being misused as tools of cartel strategy.

Accordingly, a key priority lies in strengthening institutional coordination. In particular, the ministry responsible for external economic relations—currently functionally divided between the Ministry of Foreign Affairs of Mongolia and the Ministry of Economic Development of Mongolia—should work jointly with the Antimonopoly Authority to incorporate provisions on combating unfair competition and cartel conduct into bilateral and regional trade and economic partnership agreements.

This approach is supported by existing legal foundations. First, Article 15.1.14 of Mongolia's Law on Competition explicitly empowers the competition authority to cooperate and exchange information with foreign and international counterparts. Second, Chapter 3 of the agreement implementing Article 1.12 of the Mongolia–Japan Economic Partnership Agreement provides a concrete model for embedding competition cooperation, mutual assistance, and principles of fair, transparent, and non-discriminatory enforcement within international economic relations.

Finally, to ensure effective enforcement, Mongolia must also continue to develop its institutional and analytical capacity - particularly in detecting international cartels, assessing evidence, and quantifying harm - while aligning domestic legal tools with the realities of cross-border anti-competitive conduct.

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