

Japan adopts effects doctrine in antitrust law

For a long time, Japan refused to extend application of its antitrust laws to foreign cartels, even those with an impact on the Japanese market. Following a 1990 Study Group Report recommending adoption of the effects doctrine, the Japanese Fair Trade Commission has increasingly applied Japanese antitrust law extraterritorially, as Marek Martyniszyn reports in a helpful recent article. Now the Japanese Supreme Court has upheld a series of judgments from the Tokyo High Court, thereby effectively adopting the effects doctrine. The doctrine appears to go very far: according to the report, the cartel had reached its price-fixing agreement in Southeast Asia, and affected products had been purchased by Southeast Asian units and subcontractors rather than the Japanese companies themselves.

An earlier article, including more detailed comment on the decision by the Tokyo High Court is Tadashi Shiraishi, Customer Location and the International Reach of National Competition Laws, (2016) 59 Japanese Yearbook of International Law, 202-215 (published 2017) (SSRN). The author of the article was involved in the litigation.