

International Antitrust Law

Benjamin N. Cardozo School of Law
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Hanno F. Kaiser
(hanno.kaiser@lw.com)

Syllabus

Date	Class	Reading Materials
1/24/05	<p>#1 Introduction to the course Themes and topics of international antitrust Antitrust in the context of economic Globalization. (Is it true that "all politics is local, and all trade is global?") How the economy works, and what (if anything) antitrust has to do with it.</p>	<p><i>Kaiser</i>, Antitrust Primer (download latest version from www.drhfk.com) <i>Held & McGrew</i>, A Global Economy? in, Globalization / Anti-Globalization (2002). [A] <i>Friedman</i>, Free to Choose"(1990) [A]</p>
1/31/05	<p>#2 U.S. antitrust law Overview of U.S. antitrust law and antitrust enforcement, with a focus on horizontal agreements. Is antitrust really the "Magna Carta" of free enterprise?</p>	<p><i>First</i>, Antitrust Law (Excerpts) [A] <i>U.S. v. Socony Vacuum</i>, 310 U.S. 150 (1940) [A] <i>U.S. v. Brown Univ.</i>, 5 F.3d 658 (3rd Cir. 1993) [A] <i>DiLorenzo</i>, The Antitrust Economists' Paradox. [A]</p>
2/7/05	<p>#3 EU competition law Overview of EU competition law and enforcement after the modernization The evolution of the goals of EU competition law from the 26th Report on Competition policy to the Art. 81(3) notice. Introduction to the treatment of horizontal practices under Art. 81</p>	<p><i>Motta</i>, Competition Policy (Excerpts) [A] Reports on Competition Policy 1996-2000 (Excerpts) [A] <i>Van Gerven</i>, The Application of Art. 81 in the New Europe [A] Commission Decision, Case IV/34.456 O.J. L 131/15 (May 26, 1994) -- <i>Stichting Baksteen</i> (Excerpts) [A] <i>Weber Waller</i>, A Comparative Look at Failing Firms and Failing Industries, 64 Antitrust L.J. 703 (1996)</p>
2/14/05	<p>#4 International Cartels (I) An inside look at the Lysine cartel. How international cartels work. ADM and the FBI investigation. Price and volume agreements. Trade associations and joint ventures as covers for cartels.</p>	<p><i>Griffin</i>, An inside look at a cartel at work [A] <i>U.S. v. Andreas</i>, 216 F.3d 645 (7th Cir. 2000) [A] <i>Evenett, et al.</i>, International Cartel Enforcement [A]</p>

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2/21/05	<p>#5 International cartels (II) Scorecards, audits, compensation schemes. The "Vitamins, Inc." cartel. ("Does crime pay? If so, how much?") Game theory in action: Fighting cartels with leniency programs.</p>	<p>Case COMP/E-1/37.512 – Vitamins. (Read ¶¶ 1-21, 76-97, 160-226, 551, 568-69, 588-89, 652, 655, 659, 712, 718, 738-42, 755.) [A] Connor, Extraterritoriality of the Sherman Act and Deterrence of Private International Cartels, Staff Paper 04-08, Purdue University (2004). [A] U.S. Corporate and individual leniency programs. [A]</p>
2/28/05	<p>#6 International cartels (III) Student presentation: Closing arguments in <i>U.S. v. Andreas</i>. International law and sovereignty Extraterritoriality of U.S. antitrust law, from <i>American Banana</i> to <i>Hartford Fire</i>. International reactions to the extraterritorial application of U.S. law. Claw-back statutes as responses to "legal imperialism?"</p>	<p><i>American Banana Co. v. United Fruit Co.</i> 213 U.S. 347 (1909) (Excerpts) [A]</p>
3/7/05	<p>#7 Extraterritoriality (I) Extraterritoriality of U.S. antitrust law, from <i>American Banana</i> to <i>Hartford Fire</i>. Extraterritoriality of EC competition law.</p>	<p><i>U.S. v. Aluminum Co. of America</i>, 148 F.2d 416 (1945) [Read intro and III.] <i>Hartford Fire Insurance Co. v. California</i>, 509 U.S. 764 (1993) (Excerpts) [A] <i>Wood Pulp – A Ahlström OY et al. v. Commission</i> (C-89, 104, 114, 116, 117 & 125-129/85), 27 Sept. 1988. (Excerpts) [A] <i>Gencor Ltd. v. Commission</i> (T-102/96), 25 March 1999. (Excerpts) [A] (optional)</p>
3/21/05	<p>#8 Extraterritoriality (II) Cutting edge developments in the extraterritorial application of U.S. law. Dealing with a drafting disaster, §6a of the Sherman Act, a.k.a. the FTAIA. Should foreign buyers, harmed by a global cartel, get access to U.S. courts for treble damages lawsuits?</p>	<p>§6a of the Sherman Act (FTAIA). <i>Hoffman-La Roche v. Empagran</i>, 124 S. Ct. 2359 (2004). [A] Davis, Empagran and International Cartels – A Comity of Errors (2005) [A].</p>
3/28/05	<p>#9 Cross-border mergers (I) Law and economics of merger law; make or buy decisions. Classification of mergers (horizontal, vertical, conglomerate). Pre-merger notifications and forward looking merger jurisprudence. Introduction to merger law in the U.S. (Structural presumption.)</p>	<p><i>U.S. v. Philadelphia Natl. Bank</i>, 374 U.S. 321 (1963). [A]</p>

Date	Class	Reading Materials
4/4/05	#10 Cross-border mergers (II) From the structural presumption to a modern merger jurisprudence. Market definition, market concentration, CR4 and HHI. The 1992 Merger Guidelines framework – a methodological roadmap not only for the U.S.	<i>U.S. v. Baker Hughes</i> , 908 F.2d 981 (D.C. Cir. 1990). [A] 1992 Horizontal Merger Guidelines [A]
4/11/05	#11 Cross-border mergers (III) Anatomy of a cross-border merger – Boeing/McDonnell Douglas. Horizontal mergers under the new EU merger regulation standard.	Boeing/McDonnell Douglas (US/EU) [A] Kovacic, et al., on Boeing/McDonnell Douglas [A] <i>Aerospatiale-Alenia/de Havilland</i> , Comm. Decision 91/619, O.J. L 334/42 (Dec. 5, 1991) [A]
4/15/04 Friday	#12 Pre-Merger Notification (I) Pre-merger notification as ex ante regulation. Overview of notification models. Pre-merger notification in the EU and in the U.S.	HSR Rules [A] EC Merger Regulation [A] German ARC [A]
4/18/05	#13 Pre-Merger Notification (II) and General Policy Questions The practice of pre-merger notification. Antitrust at the WTO? Bilateral v. multilateral cooperation. The role of the ICN. Antitrust in large and small economies.	HSR Rules [A] EC Merger Regulation [A] German ARC [A] Owen, Imported Antitrust (2004). [A]
5/2/05	#14 Review Session: Putting it all together. Basics, Cartels, Extraterritoriality, Cross-Border Mergers.	
5/20/05 Friday	Final exam	Open book. Good luck!!!