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The Not So Brilliant Future of International Cartels

Alain Verbeke[1,2,3] **and Caroline Buts**[2]
[1]*University of Calgary, Canada,* [2]*Vrije Universiteit Brussel, Belgium, and* [3]*University of Reading, UK*

INTRODUCTION

Buckley and Casson (2021) (further denoted as B&C) deliver a veritable *tour de force* in their comprehensive overview of cartel characteristics and functioning. Their article is a pedagogical masterpiece that synthesizes a large number of perspectives on the motivations for cartel formation and the outcomes thereof. In essence, B&C make three points about cartels, namely that they: (1) have been very significant historically; (2) remain poorly understood (especially given the narrow scope of most studies in specialized disciplines); and (3) will gain in importance in the near future as a governance tool to overcome international political risk. The second and third points are interrelated because, as we will show, adopting B&C's proposed broad scope of what should be considered a cartel, would increase the likelihood of cartels being chosen as the preferred governance mode in international business.

The historical significance of cartels is undisputed, but it may be instructive to subject the above second and third points to a critical analysis. We will provide such analysis in the three main sections of this article. *First*, when defining cartels, it is important in our view to start from commonly used definitions and to adopt a governance lens if the purpose of the analysis is to compare the benefits of a cartel with those of alternative contractual arrangements. If scholars deviate from commonly accepted definitions, as B&C do (see below), this may unintentionally muddy the waters rather than providing needed clarity.

Second, when adopting a broad definition of what constitutes a cartel, as B&C do, it is unsurprising that one would conclude cartels will gain in importance in the future. But when defining cartels more narrowly, the standard comparative institutional assessment can be made as to when cartels are more likely to prevail as compared to other governance arrangements. Here, two alternative governance

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Corresponding author: Alain Verbeke (alain.verbeke@vub.be)

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modes merit special attention. One alternative governance mode is *conventional internalization* with dominant multinational enterprises owning and controlling cross-border operations within which their firm-specific advantages are embedded, and through which they command large market shares in specific industry niches and geographic regions. Another alternative is the *asymmetric network control* of global value chains (GVCs) directed by lead MNEs that operate as flagship firms (Kano, 2018).

Third, by potentially overstating the case for the likely future prevalence of international cartels, the attention of scholars and public policy makers may be unintentionally diverted from more realistic governance choices in the *new normal* business environment characterized by techno-nationalism and global institutional fracturing (Petricevic & Teece, 2019). This *new normal* may indeed require revisiting extant knowledge on governance choices but does not necessarily favor international cartels. In the analysis below, we address in sequence the definitional issue, the need for proper comparative institutional assessment of cartels vis-à-vis other governance modes, and governance choices in the *new normal*.

A CONTEMPORARY UNDERSTANDING OF INTERNATIONAL CARTELS

B&C argue that: '*A cartel is coordinated by an agreement or informal understanding between its member firms*', and '*an IC [International Cartel] may be defined as a cartel whose member firms, considered as a group, operate in more than one country*' (B&C, section 2). The motivation for any firm to join a cartel is to maximize profit: '*Profit-maximizing firms have no incentive to join a cartel unless they can make more profits inside the cartel than outside it. A necessary condition for this is that the cartel increases the total profits made by the membership as a whole*' (B&C, section 2). Adding an international dimension to the concept of cartel is not controversial and neither is the assumed goal of profit maximizing by cartel members, but the way B&C (2021) further distinguish between cartels and other governance forms, is debatable.

Senior executives in business, as well as policy makers and scholars, use a wide variety of concepts when discussing 'cooperative' versus 'collusive' behavior among firms. The former typically cover a broad array of institutionally supported and often legally binding cooperation mechanisms, including *inter alia*, R&D agreements, industry cluster cooperation, production and distribution agreements, and strategic alliances. In contrast, the latter covers illicit and often illegal actions such as price fixing, output restrictions, and market sharing, all of which are commonly understood to occur within cartels.

Competition policy regimes from around the world mostly prohibit and prosecute illegal behavior perceived to reduce welfare. At the same time these regimes may be hospitable to interfirm cooperation that on balance can have welfare enhancing or other beneficial effects, especially when these effects are concentrated within the regime's territory. National and regional cooperation among firms in

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the military defense sector and the large civil aircraft industry are but two examples.

Many jurisdictions and competition policy textbooks have adopted their own – and usually very similar – definitions of what constitutes a cartel.[1] We find some similarities between B&C's definition and the one adopted by the OECD. For instance, the OECD's view of *international* cartels is similar to B&C's and can be found in the third segment of text below. B&C's suggestion that cooperation among firms may be efficiency-seeking and welfare enhancing, is addressed in the second segment of the OECD text. The problem, however, is that this section of the OECD text explicitly rejects the notion that efficiency-enhancing motivations (which B&C qualify as *progressive*) would give rise to a cartel.

The OECD definition, when considered in its entirety, includes: a) the definition of *hardcore cartels*, which are prohibited; b) a qualification exempting from cartel status a number of *efficiency-enhancing* collaborative arrangements and other forms of collaboration that are condoned by individual jurisdictions; and c) a qualification related to the cartel's *international status*. The three relevant segments of the OECD text are the following:

> *Hardcore cartels refer to anticompetitive agreements, concerted practices or arrangements by actual or potential competitors to agree on prices, make rigged bids (collusive tenders), establish output restrictions or quotas, or share or divide markets by, for example, allocating customers, suppliers, territories, or lines of commerce.*
> *They do not include: (a) agreements, concerted practices, or arrangements that are reasonably related to a legitimate efficiency-enhancing integration of economic activity; (b) agreements, concerted practices or arrangements that might otherwise qualify as hardcore cartels, which are directly or indirectly exempted from the coverage of Adherents' competition laws or are mandated in accordance with Adherents' laws.*
> [*And*]*…the companies involved in the cartel need to be headquartered in at least two different countries*. (OECD, 2019)

The OECD approach to cartels thus refers to illegal behavior and to expected harm to consumer welfare.[2] According to the OECD it is important to distinguish between, on the one hand, hardcore cartels, collusion, and related anticompetitive concerted practices that are illegal and directly and substantially harm consumer welfare, and, on the other hand, legal forms of cooperation between companies (such as R&D agreements) that are not cartels and are likely to have considerable beneficial effects on other parties.

B&C (2021), however, state that cartels: '*have a reputation for sustaining economic inefficiency and inequality, so it is important to know whether such allegations are well-founded. It is also important to know if they have distinct advantages, such as improving the management of political risks*' (B&C, 2021: Section 1). It is indeed widely agreed in the field of international business that international cooperation among firms can yield substantial benefits to a variety of economic actors, but as the OECD states, cartels precisely refer to agreements that should be challenged by regulators because

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they are anticompetitive and reduce welfare. Within the domains of industrial organization and competition-law and economics, there is a wide literature that addresses extensively all dimensions and effects of cartels. There is substantial scope to study cartels further, including regulatory dimensions such as optimal detection, investigation and prosecution approaches, as well as the measurement of the size and scope of specific detrimental effects, but there is also quasi-unanimity on their intrinsically harmful nature and therefore on the need to restrain them.

Anticompetitive agreements result in *allocative inefficiency*, entailing a higher producer surplus and deadweight loss (Lipczynski, Wilson, & Goddard, 2017). While most cartels fail to extract monopoly profits, price increases are considerable and have been estimated to include an average overcharge between 15 and 40% depending on the period and jurisdiction considered and the research methodology adopted (Boyer & Kotchoni, 2015; Connor & Bolotova, 2006; Martin, 2010; Smuda, 2014). In addition, the absence of competition means that companies do not pursue dynamic efficiency, thus triggering higher long-run average (and marginal) costs and hence *productive inefficiency* (Baldwin & Wyplosz, 2020; Lipczynski et al., 2017).

In short, a strong competition policy that fights anticompetitive behavior and is rigorously enforced, has been shown to foster lower prices, higher product quality, wider consumer choice, and increased innovation (European Commission, 2021; Federal Trade Commission, 2021). At the macroeconomic level, competition policy fighting cartels and similar types of anti-competitive behavior contributes to higher productivity and growth levels (Benetatou, Katsoulacos, Kyriazidou, & Makri, 2020; Cavenaile, Celik, & Tian, 2021; Petit, Kemp, & van Sinderen, 2015).

Cartels and Efficient Governance

According to B&C, international cartels could arise for three reasons: predation, precaution, and club-good creation.[3] In contrast, as explained above, the commonly understood definition of cartels systematically includes B&C's first motivation only, in the sense of collusion to reduce competition and to take advantage of the consumer. But let us assume, for the sake of argument, that 'predation' is not always the main motivator of international cartel formation. In that case, from a micro-level governance perspective, efficiency-considerations could prevail to serve precautionary and club-good goals, when multinational enterprises select their international operating modes. An international cartel would then represent one governance alternative with costs and benefits that should be weighed carefully against other foreign operating modes, especially wholly owned operations, conventional alliances and joint ventures, and finally global value chain (GVC) governance.

It is not production costs but transaction costs that drive the selection of governance structures. The standard considerations prevail: Which governance

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approach will be more conducive to economize on bounded rationality and bounded reliability, while also contributing to an organizational context instrumental to value creation in its entirety? Part of this contribution is making sure that irreversible investments or investments which cannot be 'reassigned' except at a considerable economic loss (which B&C refer to as sunk costs and Williamson, 1996 as asset-specificity) are safeguarded against unreliable contracting partners.

An international cartel could in principle meet the above requirements. Because the issue at hand is really successful international entry and operations, the agreement made among cartel members would be to avoid cross-entry via disruptive foreign direct investment, and it could involve accepting less threatening licensing agreements in each other's markets and working together in the realm of securing inputs at the upstream side or coordinating actions at the downstream side of their supply chains. An international cartel could then be the optimal governance structure, especially if all participants would need to make high resource commitments to expand internationally, produce similar commodity-like products in a low-growth industry and with a static technology and have high fixed and sticky costs, so that the incentives for each firm to cheat or to be otherwise unreliable would be low (Casson, 1985). International cartels could also arise in the sphere of standard setting. Here, industry growth could be considerable, and the technology adopted rapidly evolving, but common standards would be 'market-making' for firms facing high upfront capital expenditures. Such standards could improve interoperability and interconnectedness in industry, thereby helping all existing firms to cope with demand uncertainty and volatility, while also raising entry barriers against outsiders if dynamic scale economies and learning effects are present.

But we now arrive at B&C's main argument in favor of international cartels, which is the presence of political risk. In the absence of rapidly increasing internal governance costs with increased size, internalization of all activities in a single multinational enterprise might be preferred (a type of 'winner-takes-all' scenario), but this indeed assumes low political risk in terms of governments discriminating against foreign firms. Received knowledge suggests that with high political risk, multinational enterprises will set up joint ventures and alliances with local partners who could mitigate such risks. This prediction is one of the cornerstones of the modern international business literature on operating mode choice (Hillemann, Verbeke, & Oh, 2019). However, a wide variety of operating restrictions imposed by host countries, such as limits to foreign ownership levels and access to local partners and resources, or the forced sharing of technological knowledge could discourage joint ventures and alliances. Would a cartel then provide the most efficient governance alternative?

Surprisingly, B&C do not consider the option of asymmetrical GVC governance, whereby lead MNEs can easily take on board political risk considerations in their strategic decisions via relocating fine-sliced activities (including offshoring and

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reshoring decisions) and changing the ownership status of these activities (from more to less internalization via outsourcing and vice versa). Lead-multinational enterprises can make such adjustments to their GVCs as a function of market considerations, conventional political risks, or stakeholder exigencies to maintain a social license to operate (Verbeke, Hutzschenreuter, & Pyasi, 2021). In the next section, we explore in more detail the relative benefits of cartels versus GVCs as governance choices.

A NOT SO BRILLIANT FUTURE OF INTERNATIONAL CARTELS?

As explained in the previous section, we do not dispute the possibility that international cartels could become more important in the future under carefully defined conditions. We are doubtful, however, even when accepting B&C's broad definition of this governance mode, that international cartels will gain ground more generally, vis-à-vis other forms of governance in international business, when multinational enterprises face increased political risk.

A key element, and perhaps a surprising one, explaining our doubt about the bright future of cartels is four clear trends in cartel regulation that are now creating significant political risk for international cartel members (admittedly not covering B&C's benevolent cartels). *First*, competition policy is now a priority for policy makers around the world, as reflected in the progress made in detecting, investigating, and prosecuting cartels (OECD, 2020; OECD, 2021b). Recently published data indicate that 68% of global cartels (with members from at least two different continents) have been prosecuted by multiple jurisdictions, with average cartel fines being very high at €19.3 million (OECD, 2020).

Second, the consequences of being caught as a cartel member have gradually become more severe and far-reaching, both for the orchestrating and the participating companies, and for the employees involved (Ordóñez-De-Hano, Borrell, & Jiménez, 2018). Depending on the jurisdiction, a wide array of sanctions is now being deployed, including personal fines, trade prohibitions, and prison sentences (these have increased sevenfold over a recent five-year period, OECD, 2020). After a finding of cartel-behavior from the competition authority, the legal battle usually continues in the form of lawsuits for damages whereby victims file claims and may also coordinate their actions, e.g., to recover cartel overcharges (Burke, 2019).

Third, cartel investigations have also become more sophisticated. Leniency policies – providing immunity from fines for the first player who admits to the existence of a cartel and discloses information on its functioning – are on the rise. This powerful tool serves both detection and deterrence purposes in the realm of anticompetitive behavior (Margrethe & Halvorsen, 2020; Marvão & Spagnolo, 2018; Miller, 2009). It incentivizes cartel members to become whistle blowers. Companies will be less likely to join a cartel if they know that its members may be enticed to disclose cartel operations, (Brenner, 2009; Vanhaverbeke & Buts, 2020).

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A larger number of agencies than before now also have the mandate to conduct 'dawn raids', in order to collect evidence of cartel behavior and they can even enter private premises of employees during their search for incriminating material. In addition, sophisticated econometric analyses have become standard practice to provide evidence of coordinated conduct in industry and to calculate cartel overcharges (Parcu, Monti, & Botta, 2021).

Fourth, competition authorities have invested more in outreach, communicating competition rules through dedicated events, online campaigns, and competition networks. Compliance programs have also been on the rise with an increasing number of mainly large companies investing in compliance training to abide by competition rules (De Stefano, 2018).

The increased efforts to fight anticompetitive agreements in industry are now deterring and destabilizing cartels. Following a substantial increase in the number of cartels that have been 'caught', the average life span of these cartels is now going down rapidly (OECD, 2020). The fight against illegal, anticompetitive behavior will intensify further in the near future, rather than governments shifting their focus to contemplate potential benefits. At the same time, the beneficial effects have been widely acknowledged of international collaboration forms that are legally allowed by various competition policy regimes (and are therefore *not* considered cartels), see for instance Martínez-Noya and Narula (2018) on international R&D cooperation.

Given the above trends, the question arises whether new political risks related to de-globalization, techno-nationalism, and institutional fracturing could still give renewed prominence to cartels. Discriminating against outsiders makes for a compelling argument in favor of cartels, in the sense that important societal interests such as domestic employment, domestic value added, national security, national technological superiority, etc., are supposedly promoted. And at the industry level, decision-making power and capabilities for long-term survival, profitability, and growth are kept at home.

Domestic, cartel-like behavior among digital companies such as internet platforms can further contribute to monitoring and muzzling citizens, and can be part of powerful collusive action between technology firms and the political establishment, as well as other non-market stakeholders (Verbeke & Hutzschenreuter, 2020). But cartel-like behavior, for instance by US-based internet companies, is unlikely to contribute much to their competitive position outside of North America, and there is little incentive for large rivals from other regions to make any agreements with these US companies to form a global cartel.

However, B&C propose that higher political risks associated with foreign activities will make international cartels more attractive than other forms of governance in international business, especially foreign direct investment. B&C also predict that cartel-joining multinational enterprises will rely less on foreign subsidiaries than firms operating outside of cartels. We respectfully suggest that these two predictions are unlikely to materialize in practice. We make very different

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predictions. *First*, we propose the absence of a positive relationship between political risk and international cartel formation. In fact, we predict the opposite: higher political risk abroad will reinforce the role of the lead-multinational enterprise in GVCs. At the same time, we also do predict that higher political risk abroad might strengthen cartels and other types of cooperative behavior at home, whether in the home nation or at the home-regional level, as a logical outcome of global institutional fractures. As one recent example of such institutional fractures to benefit home-region companies, the European Commission adopted a proposal for a regulation on May 5, 2021 to address distortions caused by foreign subsidies, if those could support non-EU firms to acquire EU companies. It is difficult to imagine how international cartels could help to counter such policy, in contrast to agile GVC-management by lead-multinational enterprises.

Second, predicting that MNEs taking part in international collaborative agreements will operate fewer foreign subsidiaries abroad flies in the face of reality. International alliances that are legal do exist among large firms engaged in multi-market competition. But in such instances, scholars should avoid confusing correlation with causation, if it is observed that participants in international alliances appear to have few(er) foreign subsidiaries. For example, most large airlines in the world are members of global alliances such as Star Alliance and OneWorld. Why do such alliances exist? Extensive intervention by national regulators, for instance by controlling the allocation of landing slots in airports, can make it difficult for even the largest carriers to operate abroad via conventional subsidiaries. There is no classic political risk or uncertainty here, only restrictions to normal business operations if conducted through foreign direct investment and equivalent entry modes. The affected firms that want to do business in each other's markets need to forge international alliances, and they might indeed have fewer conventional subsidiaries than would be expected in a regulation-free environment. But it is not de-globalization forces nor increased political risk that are responsible for such global alliance formation. It is the long-lived preferences of many governments to provide some level of protection to their national airlines and airports that reduce the involvement of foreign carriers through conventional foreign direct investment, and thereby the number and size of their foreign subsidiaries. Our prediction in these circumstances is one of increased investment in intelligence gathering and in nurturing relationships with reliable partners, not to counter political risk but to find creative ways of increasing market share and profitability in a heavily regulated global environment.

What is B&C's rationale for the suggestion that higher political risk will increase the likelihood of cartel membership? Their conclusion is based on the classic, stylized comparison of alternative entry modes to transfer knowledge internationally. For instance, with higher political instability, foreign direct investment may be discouraged and replaced by licensing, and therefore, the authors argue, also cartels. So, when faced with political risks, large firms from different markets would penetrate each other's home market through licensing agreements

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rather than foreign direct investment and would then engage in collaborative cartel-like agreements. This argument is not plausible in our view. In the past, licensing agreements were typically the preferred mode of entry for older technologies, but in 2021 technology can be diffused almost instantaneously across the world, and the trade-offs between licensing and FDI are therefore different from a few decades ago. In addition, much technologically advanced knowledge is either not patentable or it is patent-circumventable (Teece, 2018), so that licensing is often not a viable option for international expansion by technology-intensive firms.

When faced with higher political risk, a variety of alternative governance options to greenfield foreign direct investment become more plausible. An international joint venture works well when the foreign partner can help to reduce political risk, e.g., because it has a firm-specific advantage in government relations, as Buckley (2021) acknowledges. The joint venture may also allow the multinational enterprise to reduce its level of asset-specific investments and to focus on transferring mobile, intangible know-how to the high-risk country. This option assumes access to a reliable joint venture partner with the requisite complementary resources, as well as the possibility of equity investment in a host country (Hennart, 2009).

When an alliance or joint venture is also made difficult by a host government, the multinational enterprise can perform the role of lead firm in a GVC. This role allows a level of control normally associated with internalizing multinational enterprise activities, but in this instance, it also confers agility in terms of outsourcing and offshoring. It is possible not only to reduce the level of requisite, irreversible investments abroad, but also to maintain substantial flexibility in regularly reassessing what activities should be performed inside the firm versus by external partners and whether the location of each activity is still optimal.

Political instability could still lead to an existential threat to a firm's international operations, but it is doubtful as a general prediction that a lead MNE in a GVC would therefore align itself with other lead firms who are at the centre of competing GVCs. One key feature of a GVC is that it consists of many partners who are typically insiders in their home country and region, thereby eliminating any highly asset-specific investments and associated political risks for the lead-multinational enterprise. The GVC is of course not a cartel itself, even though it typically has features of a vertical alliance. There is no need to invoke the notion of cartel here, because a GVC is not a federation of equals.

A GVC is often the outcome of a single, lead-multinational enterprise making continuous assessments on whether narrow activities in a fine-sliced value chain will be internalized or conducted by external economic actors, and whether these activities should continue to be performed in their present location as compared to an alternative location. This type of decision-making by a lead firm on how to govern its own GVC keeps the multinational enterprise in control of a

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wide range of economic activities and it does not involve other *independent* producers looking to reduce the cost of inputs, or to maintain prices or to constrain capacity at the output level.

Buckley (2021) has argued, albeit without discussing lead firms, that 'systemic contract allocation' could occur *across* GVCs, whereby participants in a 'ruling cartel' (supposedly lead firms) could engage in 'bid rigging', both upstream vis-à-vis suppliers and downstream vis-à-vis customers. But the ruling cartel hypothesis assumes that power can only be exercised over suppliers or downstream actors through a cartel, whereas in practice many lead firms in GVCs experience little difficulty in selecting and orchestrating GVC participants with whom they would like to entertain longer-term relationships. They do not need competitors to facilitate these relationships with suppliers or buyers.

A wide array of efficiency-driven governance mechanisms typically permit the lead-multinational enterprise to prevent the dark side of business-to-business relationships from materializing (Verbeke et al., 2021). Here, standard-setting and certification within GVCs are often realized without involving other lead firms in trade-regulating behavior, as the examples of IKEA and Nestlé show. In those cases where international certification initiatives are pursued at the industry level, beyond individual GVCs, these initiatives often serve societal and corporate social responsibility purposes, and can hardly be considered cartel-like behavior in the face of political risk from global institutional fracturing. Such initiatives can be related to subject matter as diverse as child labour and greenhouse gas emissions. Some of these initiatives are required for industry participants to maintain their social license to operate. But these instances are mostly far removed from the context of political risk, as commonly understood. When faced with techno-nationalism and institutional fracturing, GVCs can focus on internal protection mechanisms to safeguard the intellectual property rights of the lead firm, e.g., by building in redundancies and making sure that no single GVC partner gains access to the lead firm's entire technology base (Gooris & Peeters, 2016; Verbeke, 2020).

CONCLUSION

In accordance with mainstream thinking on the functioning of the multinational enterprise, one could hypothesize that cartels allow firms to overcome trade and investment barriers resulting from techno-nationalism in a fractured global economy. Technology would thereby be transferred across borders, possibly via covert cartels rather than via multinational enterprise subsidiaries. In reality, the immediate impact of techno-nationalism is to stimulate alliances between national or regional governments and domestic companies. With the increased global fracturing of the world economy, firms from different nations and regions of the world will be pitted against each other, rather than form global cartels that would go against the techno-nationalistic goals of their home governments.

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Petricevic and Teece (2019) discussed the conflicts between companies from rule-of-law regimes and rule-of-rulers ones. This distinction could be viewed as too sharp and too simple, but the point is that both types of regimes are likely to be imbued with strong sentiments of moral righteousness and entitlement to create trade and investment barriers against outsiders, while fostering cooperation among insiders. Paradoxically, precisely because much technological knowledge has characteristics of a public good, national and regional governments are likely to focus on protecting such knowledge developed by domestic firms from being diffused to outsiders. National and regional governments may also become increasingly reticent to allow domestic incumbents accessing and integrating technology-based complements from related firms in hostile regimes.

Could protectionism in the realm of the internet, and digital economy more broadly, foster 'cross-fracture' internet cartels? This is unlikely. There is substantial animosity in many countries, including the European Union, against the dominant role of US-based digital companies, and even though (as noted above) some of these companies have engaged in cartel-like behavior domestically, these firms' strategic behavior and the outcomes thereof are presently closely monitored by host-region regulators. As one example, the European Union would like to see the development of equivalent European digital companies to compete effectively against US-based ones. And countries such as China and India have introduced strong policies to reduce the reach and influence of US digital companies. There are few incentives for any of these non-US companies to bridge institutional fractures via cartel formation, with such cartels having the capability to cross the dense, osmium-like new curtains presently being set up or contemplated by a large number of governments.

Our predictions – assuming higher political risk that results from global institutional fracturing – are very different from those of B&C (2021). We predict increased investments in intelligence and contracting safeguards by individual lead-multinational enterprises in GVCs; lower levels of irreversible investments in hostile environments; higher product and industry diversification to counter the possible impacts of instant and uncontrollable government restrictions when a crisis occurs, whether health-related, national-security-related or for urgent economic reasons; and finally increased sophistication of relational contracting and *ex post* governance in GVCs (Verbeke, 2020).

When faced with sharply increased VUCA-conditions (referring to volatility, uncertainty, complexity, and ambiguity), the efficient governance response for most multinational enterprises will not be to engage in cartel-formation, considered as a *dark* governance form by competition authorities around the world. Rather, their response will be to become more efficient and effective stewards of the GVCs they lead, thereby eliminating dark-side elements in their own GVCs' functioning.

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NOTES

[1] For example, for the EU we find the legal basis and definition of anticompetitive agreements or cartels in Article 101 TFEU (Treaty on the Functioning of the European Union). For the US, we find equivalent information in the Sherman Act.
[2] For the latest version, see OECD (2021a).
[3] We should note that the concepts of 'predation' and 'predatory' behavior are typically used in competition law to indicate abuse of dominant position, as outlined in Article 102 TFEU.

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