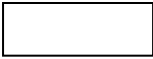


OECD

尹美京 · 金琮根 · 羅榮淑



OECD

(substantive criteria)

3가

가

가

가

(Free-riding)

가

WTO

가

)

가 , “
 (International Options
 to Improve Consistency between Trade and Competition
 Policies)” 2000

가 WTO 가 ,

가 WTO가 가
 가 . OECD
 가

가
 . 1991 EU가

OECD ,

WTO

가 .

가 .

(enforcement)

가가

.



I.	.....	9
1.	.....	9
2.	.....	10
II. OECD	.....	11
1.	.....	11
2. OECD	.....	12
가. OECD	.....	·12
.	.....	·13
III.	.....	21
1.	.....	21
가.	.....	·21
.	.....	·23
.	.....	·25
.	.....	·26
2. ‘	.....	29

IV.	.....	33
1.	.....	33
가.	(Matsushita Electric Industrial Co., LTD. v. Zenith Radio Corp.)	. 35
.	TV	.36
V.	38
1.	38
<	>	- .38
2.	42
<	>	- .45
3.	46
VI.	49
	53
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< II-1 >

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1.

OECD
OECD 가
OECD
WTO
가WTO
WTO
OECD 가
OECD
WTO
가
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II

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OECD

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II. OECD

1.

GATT UN (Inter-
national Trade Organization: ITO) (Havana
Charter)

가 , , , ,
, . .

ITO ITO 가 .¹⁾

가
가

, R&D , ,

1997 WTO
WTO, OECD, UNCTAD

가 WTO
가 WTO
WTO

1) Scherer. 1994. pp. 38-42.

OECD 1991 1990
 가
 가 1990
 ,
 가
 가
 .
 OECD
 ,
 . OECD

2. OECD

가. OECD

OECD (CLP)
 . CLP 3 (working party)
 . 1 . 1996
 OECD CLP
 (mandate)

1
1998 , 1998
2 2000 2)
2 OECD
3
, OECD
, (positive comity)
CLP (conference, seminar),
(Roundtable) (
), 가 .
OECD 1996 4
가
1996 5

3) OECD. 1998d.

WTO

3)

1) (): (substantive criteria)

3가

- :
- :
- [; ()] [; , ,]

2) :

3) : WTO

3) OECD. 1996.

4) 가 : 가

가 11
 < II-1 >
 OECD

1)

2) 가

3)

3

1)

2)

3)

a) ()

- b) (, ,)
- 4) :
- 5) , :
- 6) ,
- a)
- b)
- 7)
- a) ()
- b) WTO ()
- c) ().
- 8) ()
- 9) ,
- 10) 가

가 1994
OECD

. 가
가 .
, 가
가 .

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가 , OECD

,
2000

가 “ ” “ ” ()가 ,

OECD

(V 1.)

-
가

(Free - riding) ,

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가

가 ,

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BIAC , BIAC

BIAC 가 , , 가

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CLP 3

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가

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3 가 .

“

(International Options to Improve Consistency between Trade and Competition Policies)”

2000

. WTO 가

가 ,

. 1999

6

. (, ,)

< II-1 >

1 (96. 7. 8)	-
2 (96. 10. 25)	- 가 () - 가
3 (97. 2. 14)	-
4 (97. 6. 20)	- -14
5 (97. 10. 22)	- 가 (BIAC) - -
6 (98. 2. 18)	- 가 : , , , - 가 , , , - -

<p>7 (98. 6. 10)</p>	<p>-BIAC : , BIAC - - OECD - (,)</p>
<p>8 (98. 10. 28)</p>	<p>- - -</p>
<p>9 (99. 2. 18)</p>	<p>- WTO - WTO</p>
<p>10 (99. 5. 4)</p>	<p>- 가 - 가 - 가</p>
<p>11 (99. 10. 19)</p>	<p>- WTO - WTO 가</p>

: .

III.

1.

WTO가 가
가 . OECD

가 OECD 가
(OECD ,)

가.

OECD 가

(best practice)

'peer review'

가 .

OECD

OECD 「

OECD 』⁴⁾

(V 3.) .

(

) . ,

가 가

. OECD

. 가

가 .⁵⁾

.

가

가 가 .

OECD

.

4) "Recommendation of the Council Concerning Co-operation between Member Countries on Anticompetitive Practice Affecting International Trade." 1974 , 1995 .

5) OECD. 1999d.

가 . 1991

EU가

1999 5

-EU

(positive comity) 가

(comity)

(self restraint)

가가

OECD

1973 「

OECD (1995) .⁶⁾

가

1)

6) OECD.1999a. . 1999b.

2) (sympathetic) 가

가 ' (,) 가가

가 OECD

. OECD (investigatory assistance)

(MLAT: Mutual Legal Assistance Treaty) 가

(criminal)

MLAT (1988)

.⁷⁾ 20 MLAT

International Antitrust Assistance Act (1994 : IIAA)

MLAT

가

-EU (1991)

MLAT

가

가

NAFTA, EU,
(ANZCERTA)

, NAFTA

, EU ANZCERTA

가

가

. EU (1957)

7) Barutciski. 1998.

가 APEC

. APEC ‘ ,

. APEC APEC

, APEC

, (prescriptive)

.

. 8)

.

가

가 가

. WTO WTO 가

.

가

GATT/WTO 가

()

. GATT

(2) (3) ,

, (8,9). 가

8) APEC. 1999.

(VER) (OMA)
(11).

TRIPS

(40), .⁹⁾
WTO

WTO , 1996 12
가 .
2 1998
12 8 , , ,
,

WTO .
.¹⁰⁾
WTO 가
. , EU

9) OECD. 1998a. 外. 1998. pp. 328-339.
10) WTO. 1998.

가 ,
 가 . , , , 가 ,
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 WTO ,
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 ” 가
 .¹¹⁾
 EU
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 가 ,
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 WTO 가
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 OECD
 OECD .
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 WTO가 .

11) . 1999a. pp. 292-304. WTO. 1999.

가

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가

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가 가

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가

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가

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가

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가

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2. ‘

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1999 6 29 30

가

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WTO

OECD

가 .

OECD (BIAC) 가 (convergence), (Klein) (minimum standard) 가, WTO (TPRM), OECD 'peer review' .¹²⁾ EU (Leon Brittan) 가

12) Klein. Joel J. 1999.

.13)

1) WTO
(, MFN)

2)
가 가 , ,

3)
가 가

WTO

4)
, , 가

(notification)

가

(co-ordination)

13) OECD. 1999d. pp. 12 -13. Leon Brittan. 1999.

‘
,
EU , 가
. 가
,
.’

IV.

.
.
.14)

WTO

, 가
가 .

1.

가 가 가

.15) 가 ,

가 가

가 .

14) OECD. 1999b.

15) WTO
(1996) .

가 가 . 가 ,
 . 가 . ,
 , 가 가 가
 .16) , 가 가
 가
 (predation)
 가 .
 WTO 가 ,가
 . 가
) 가 . (가
 . 가 ,
 가
 .17)
 가

16) OECD. 1998b. pp. 12-16.

17) Chae. 1996. pp. 17-24.

(Matsushita Electric Industrial Co., LTD. v. Zenith Radio Corp.)¹⁸⁾

가.
(Matsushita Electric Industrial Co., LTD. v. Zenith Radio Corp.)

가

(Zenith)

,

.

가

,

가

가

(predatory

pricing)가

.

가

.

가

,

가

가

가

가

가

.

20

가

,

18) Louis B. Schwartz., John J. Flynn. and Harry First. 1993. pp. 10 -26.

가 , 가 20 가 ,

가 . , 가 , 가 ,

가 , 가 가

가 . 가

TV

1982 6 (OMA) 가 , 1983

TV ,

1983 5 2 TV 30% (COMPACT) 가

가 TV가

¹⁹⁾

가 TV 1984

2 15 ,

19) . 1999. p. 81.

가 가

TV

(scope ruling) ,

, TV

가

1986

4

9

, 1991

.²⁰⁾

OECD

가

(

WTO

가

)

.²¹⁾

WTO

TV

가

가

WTO

가 , ,

가

WTO

20) p. 83.

21) OECD. 1998b.

V.

1.

(downstream market) (upstream market)

. 가 ,

가 가 , 가 . OECD

. , 가

가 가 가

(Kodak-Fuji)

< > -

社 가

. 社 , 社

社

, 社

가

301 (the United States Trade Representative) ,

301 (unreasonable practice)

.²²⁾

社 , 社 . 1996 8

(JFTC)

社 ,

社

.²³⁾

301

가

WTO

1996 10

WTO

가 , ,

.²⁴⁾

22) Frank J. Schweitzer. 1996.

23) Raj Bhala. 1998. p. 9.

24) "Japan - Measures Affecting Photographic Film and Paper." *First Submission of the United States of America*. 1997. Feb. 20. p. 145.

(General Agreement on Tariffs and Trade) 23 1 (b)
(non-violation nullification or impairment)

.²⁵⁾ ,²⁶⁾ 가
, ‘ (exclusive single-brand
wholesale distribution system)’

.²⁷⁾ 가

.²⁸⁾ ,

.²⁹⁾

가 , WTO
가 , WTO

25) , p. 146.
26) “Japan-Measures Affecting Consumer Photographic Film and Paper.” *First Submission of the Government of Japan*. 1997. April 3. p. 19.
27) , p. 38.
28) Bhala. 1998. p. 14.
29) , p. 14.

가

,

30)

OECD

1)

; 2)

가

가

; 3)

; 4)

; 5)

30) WTO
WTO

1)

가

, 2)

가

,

3)

가

3가

WTO

가

(1997)

가

,

,

가

,

가

.³¹⁾

가

가

.

2.

가

,

,

가

.

가

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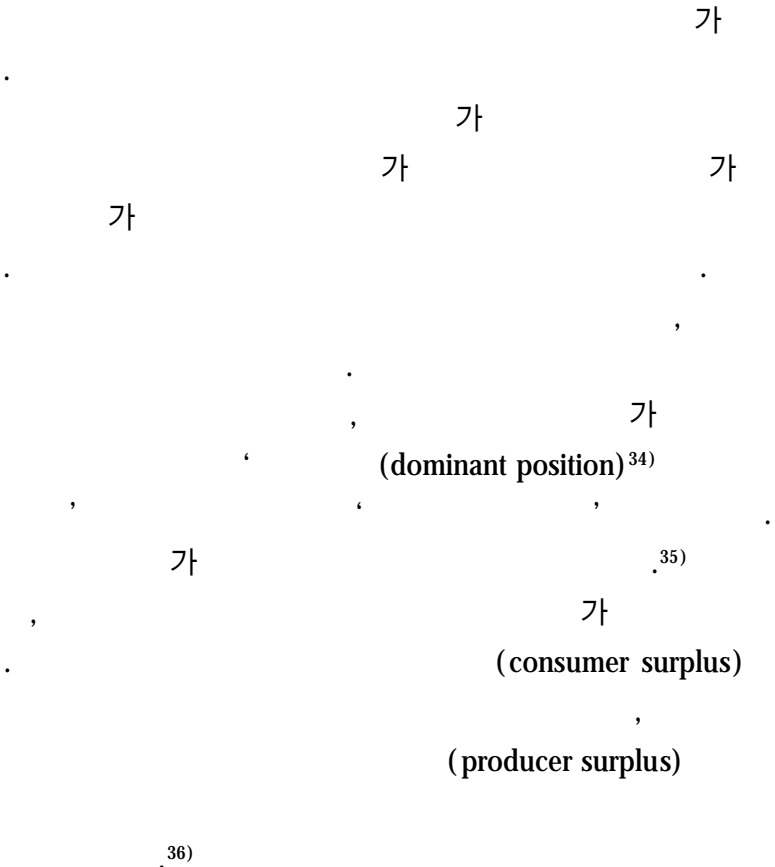
가

.³²⁾

.³³⁾

31) OECD. 1999e.

32) OECD. 1988. pp. 17-20.



33) . 1997. pp. 95-96.

34)

35) OECD. 1999f. pp. 1-2

36) , pp. 1-2

가

가가

가

,

가

.

(, ,)

, 가

가 .³⁷⁾

-

(Boeing-

McDonnell Douglas)

가

.

.³⁸⁾

가

가

37) , p. 3.

38) , p. 3.

OECD

가

< > -

39)

(Boeing)

(McDonnell Douglas,

MD)

가 400

MD

가

EU

3

2

MD

가

(FTC)가

MD

EU

. EU

, EU

10%

MD 가

1997

가64%,

가33%, MD 가 3%

MD 가

39) -

prnews/971025

<http://biz.yahoo.com/>

가 ,
 .
 .
 3 (, ,)
) 20
 , MD .

3.

가 , ,
 , .
 가
 가 . 가
 ,
 .

(Wood Pulp)

(export association)

(European Union)

– (Webb -Pomerene Act) ,

.⁴⁰⁾ EU , 1973

, 가

.⁴¹⁾ EU

가 EU

1998 OECD 가 ‘
(Recommendation of the Council Concerning
Effective Action Against Hard Core Cartels)’

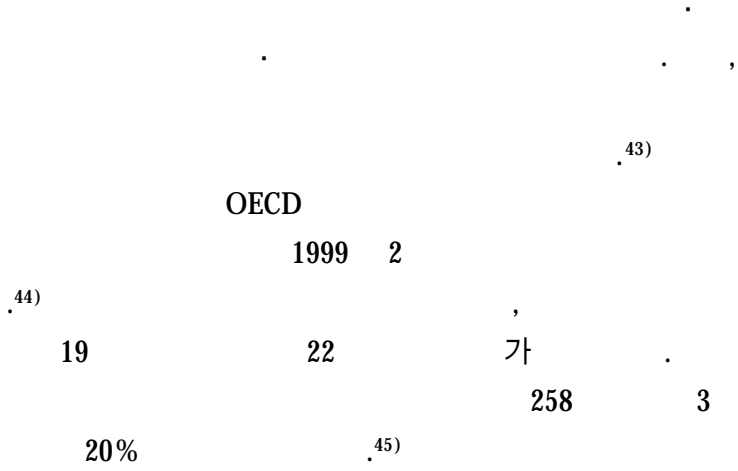
‘가 , , . ,

가 .⁴²⁾

40) George A. Bermann., Roger J. Goebel., William J. Davey. and Eleanor M. Fox. 1993. pp. 692-698.

41) . 1997. p. 38.

42) . 1997. p. 17. OECD. 1998e. p. 3.



43) , p. 3.

44) 5815 .(1999. 2. 5)

45) . 1999c.

VI.

OECD

가

가

WTO

가

, WTO

WTO

WTO

1990

가

(1987

98

)

2.4%

57

(11

;

2.4%)

가

6.4%

152 (3

)

가

()

가

가

가

OECD

가

가

(per se illegal)

가

가

WTO

가

가

가 ,
가 ,
WTO
가
EU WTO 가
OECD OECD
가 .
MLAT
20 MLAT
'International Antitrust Assistance Act (1994)'
(FTC) MLAT
가 .
가
OECD
WTO

가 .

가 .

(enforcement)

,

가가

,

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外. 1998. 『 .』 .
 . 1997. 『 .』 .
 . 1997. 『 .』 .
 . 1998. 『 M&A .』 .
 98-03. .
 . 1997. 「 WTO 가
 」 外(1997). 『 WTO .』 4 .
 97-13, .
 外. 1999. 『 .』 .
 . 1999a. 『 .』 .
 ———. 1999b. 「 OECD/CLP 」 .
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- . 1998c. “International Options to Improve Coherence between Trade and Competition Policies.” Joint Group on Trade and Competition. (COM/TD/DAFFE/CLP (97) 85/REV2).
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Executive Summary

OECD Issues on Trade and Competition Policy and Implications for Korea

Mikyung Yun · Jongkeun Kim · Yongsook Na

The OECD has pronounced competition policy to be an important trade issue of the 1990s and by establishing a specialized working group, has been a forerunner in providing a forum to discuss the relationship between trade and competition policy. This report examines salient aspects of the discussion – multilateral agreement and other forms of international cooperation with respect to competition policy, effects of anti-dumping measures, vertical restraints, mergers, and international cartels on market access – that took place in the OECD and elicits implications for Korean policy makers.

The report pays particular attention to real world examples to help explain the conceptual issues. The study concludes that the focus of the OECD discussion has shifted from particular anti-competitive issues such as vertical restraint or anti-dumping to rights of firms under local competition laws, the merits of bilateral agreements, and application of WTO principles such as transparency and non-discrimination to bilateral agreements. This leads the authors to

predict that whether a multilateral agreement is concluded or not in the new round of the WTO, pressure from developed countries to conclude bilateral agreements will take on a greater force.

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Sung Yim

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- 98-08 : (98. 12) / 金完仲
- 98-09 : (98. 12) / 朴英鎬
- 98-10 : (98. 12) / 金琮根
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