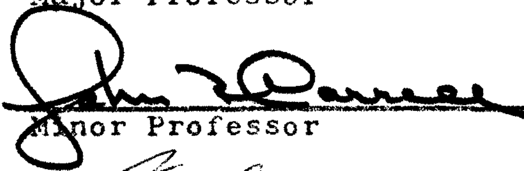
THE MULTINATIONAL CORPORATION:

A TENTATIVE APPRAISAL

APPROVED:

Major Professor



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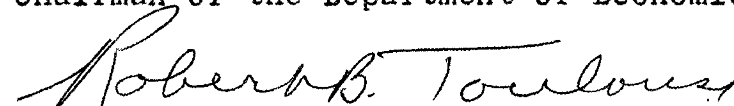

Dean of the Graduate School

Batson, Leon H., The Multinational Corporation: A Tentative Appraisal. Master of Science (Economics), May, 1972, 106 pp., 7 tables, 4 illustrations, bibliography, 85 titles.

The purpose of this investigation is to describe and document certain behavioral characteristics of the multinational corporations and to point out some of the special problems they create for economists. Theirs is a new way of organizing and controlling international business units and relatively little is known about the consequences for economics and politics. The primary area of study with which this investigation is concerned is the multinational corporations' economic power and the inability of nations to effectively control it.

The conglomerate world corporation is a recent phenomenon and as a result insightful data is limited and difficult to find. A primary source was United States government documents, particularly Senate Hearings, which provided an invaluable source of both statistical and literary data. Another United States government agency, the Commerce Department, provided aggregated statistical data, much of which cannot be broken down to identify a multinational's investment activity. Other public sources included the United Nations, European Economic Community, and the Organization for Economic Cooperation and

Development. In addition to governmental sources, a few scholars have devoted both monographs and articles to the study of this organizational phenomenon and these sources are extensively used as reference material for this study.

Four chapters outline the framework for this investigation. The first chapter has an introductory type format with heavy emphasis on descriptive statistics. The purpose here is to illustrate the newness, vastness, techniques, and economic importance of multinational investment. Chapter Two is devoted to a discussion of certain economic consequences of multinational corporate power. Particular emphasis is given to the power to manipulate prices, production, and credit which allows these firms to circumvent national fiscal and monetary policies. In another section of this chapter some of the more beneficial aspects of multinational corporations are discussed, such as their potential to disseminate technology which helps provide the foundation for growth that is so important to developing nations. In a third chapter evidence is presented to show the lack of international harmony in regard to public policy and the economic power of multinational firms. Differing ideologies toward competition and the role of government in relation to economic power are major sources of disunity.

Because of the limited data available and the brief history of the multination corporation, conclusions in Chapter Four are classified as tentative. However, serious questions are raised as to the adequacy of economic theory to explain the

behavior of this type organization. If economic theory is inadequate, it follows that public policy based on such theory is misguided and ineffective. After more conclusive research is done on the behavior of these firms, will nations then be able to insure that this world-wide conglomerate power is used to benefit the public interest?

THE MULTINATIONAL CORPORATION: A TENTATIVE APPRAISAL

THESIS

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CHAPTER I

THE RISE OF THE MULTINATIONAL CORPORATION

The Changing Nature of the International Economy

The organization of the international economy has undergone a subtle evolutionary process in response to the industrialization of modern economies. The modern corporation is the vehicle for this evolutionary movement. International trade now means much more than the traditional "law" of comparative advantage which is based on a geographical division of labor that efficiently produces goods at their lowest costs and, therefore, prices. If there is a principle of comparative advantage in the contemporary world, its foundation is based on superior technology rather than geographic location.[1]

Accompanying this change in the international economy is the recent pursuit of markets, *i.e.*, populations with purchasing power, rather than the traditional search for raw materials used by international companies. This heavy postwar expansion has taken the form of direct foreign investments, *i.e.*, the creation or purchase of local companies as foreign subsidiaries. Figure 1 illustrates that this movement has been largely a post World War II phenomenon. Sidney E. Rolfe and also Mira

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[1]Howe Martyn, *International Business* (London, 1964), pp. 13-17.

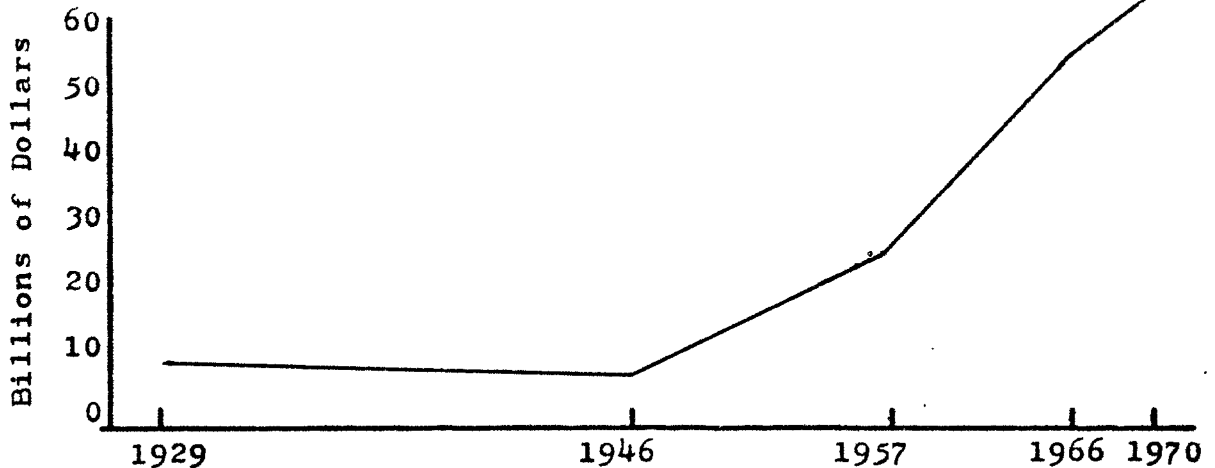

Fig. 1--The growth of direct United States investment abroad, 1929-1970. "U. S. Business Investment in Foreign Countries," United States Department of Commerce (1960); _Survey of Current Business_ (September, 1967); _Survey of Current Business_ (March, 1970) .

Wilkins believe international production was well on its way at the turn of the century.[2] However, the emergence of cartels, price setting agreements, and divided markets retarded the movement. In addition, the depression, autarky, and World War II all helped to slow the trend toward direct foreign investment and cartelization. Meanwhile, tougher antitrust legislation and enforcement was being pursued by the United States government. After World War II, businessmen, fearing any connection with cartels, began to seek another method to reach foreign markets.[3] As Raymond Vernon notes, "In the years following World War II, before the prewar international cartels could

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[2]Mira Wilkins, _The Emergence of Multinational Enterprise: American Business Abroad from the Colonial Era to 1914_ (Cambridge, 1970).

[3]Sidney E. Rolfe, "The International Corporation in Perspective," _The Multinational Corporation in the World Economy_, edited by Sidney Rolfe and Walter Damm (New York, 1970), p. 24.

effectively regroup, American businessmen rediscovered Europe; at the same time Europeans began to discover one another and the American markets."[4]

Licensing of patents, trademarks, and technological expertise, which was such a vital tool of the cartel era, is still an important part of corporate strategy. However, a recent National Industrial Conference Board survey indicates a steady trend away from licensing agreements. The preferred method is toward jointly or wholly owned subsidiaries. Table I gives statistical support to this survey. Put differently, the conventional idea that goods move internationally but that the factors of production do not has been in the process of being disproved for nearly half a century.[5]

Approximately one-third of United States' foreign investment is in Canada. Oddly enough, after winning her political freedom from Britain, Canada gradually became an economic dependent of United States-based corporations. The country served as a "proving ground" for many multinational companies. The success of these subsidiaries in Canada sparked "parent companies" to seek expansion into other parts of the world.[6]

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[4]Raymond Vernon, "Economic Sovereignty At Bay," Foreign Affairs, XLVII (October, 1968), 112.

[5]New York Times, "U. S. Tires of Exporting Patents," July 22, 1969, p. 50.

[6]A. Litvak and C. J. Maule, "The Multinational Corporation: Some Perspectives," Canadian Public Administration, XIII (Summer, 1970), 129-139.

TABLE I

TOTAL NEW FOREIGN ACTIVITY AND OWNERSHIP PATTERNS OF UNITED STATES BUSINESS ABROAD, 1961-1968*

Ownership Patterns	1961	1962	1963	1964	1965	1966	1967	1968	Total
New Establishments:	560	584	718	761	685	588	545	573	5014
Wholly owned subsidiary	293	258	383	398	375	330	316	374	. . .
Majority financial interest	63	61	82	101	74	68	65	73	. . .
Minority financial interest	63	52	62	57	58	36	39	26	. . .
Unknown	129	197	177	187	162	137	123	95	. . .
Expansion of Existing Establishments:	255	276	202	168	188	113	60	71	1333
Wholly owned subsidiary	214	238	178	142	170	96	49	59	. . .
Majority financial interest	12	6	8	7	6	6	2	6	. . .
Minority financial interest	10	3	4	4	3	4	4	1	. . .
Unknown	11	13	8	8	8	5	3	4	. . .
Licensing Agreements:	340	247	304	282	259	174	139	133	1878

*Business Abroad (May, 1969), pp. 13-16.

*The expression "multinational" is often used interchangeably with such terms as international, global, world, or transnational in an effort to describe this new type of arrangement. However, according to many experts, a genuine multinational corporation has significant foreign production subsidiaries around the globe; derives a large part of its sales and earnings from these subsidiaries; has an international dispersion of corporate ownership; and views its operations as transcending national boundaries.[7] * This is quite different from the traditional exporting and importing firm. In fact, this type of business organization comes close to lacking a precedent in economic history.

Obviously, a considerable amount of "grey area" exists in such a classification scheme which in turn suggests an evolutionary organizational process. H. Pearlmutter gives a behavioralistic example of the necessary maturation process.

> Three primary attitudes among international executives toward building a multinational enterprise are identifiable. These attitudes can be inferred from the assumptions upon which key product, functional and geographic decisions are made.
> These states of mind or attitudes may be described as ethnocentric (or home-country oriented), polycentric (or host-country oriented) and geocentric (or world-oriented).[8]

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[7]Ibid, p. 129.

[8]H. Pearlmutter, "The Tortuous Evolution of the Multinational Corporation," Columbia Journal of World Business, IV (January-February, 1969), 11.

Adolph Berle has predicted that "the time will come when any purely national organization of economics will be regarded as a quaint antiquity."[9] This prediction has partially come true with the growth of the multinational firm. Probably the best operational definition for the purposes of this paper is as follows:

> . . .[A company is multinational when it] no longer distinguishes between domestic and international business. Domestic business is subordinated to and fully integrated with a global plan of action. The head office management staff becomes multinational in outlook and responsibility. Such a company would be moving towards both international ownership and control of the corporate structure.[10]

International Business Machines is one of a handful of companies who are truly multinational; however, even International Business Machines is reluctant to allow much foreign participation in controls or profits. Why? It is reluctant so the parent firm can "be free to make any decisions for any given [subsidiary], on manufacturing policy and the like, that are in the interest of World Trade Corporation [the parent company for I. B. M.'s overseas operations] as a whole."[11]

From its parent offices, the multinational corporation stretches across the earth to operate manufacturing subsidiaries, sales agencies, joint ventures, and other affiliates in numerous nations around the world. Frederic C. Donner of General

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[9]Adolph A. Berle, Power Without Property (New York, 1959), p. 119.

[10]Litvak and Maule, op. cit., p. 318.

[11]Robert Sheehan, "I. B. M. Abroad," Fortune, LXII (November, 1960), 166.

Motors describes this trend as "the emergence of the modern industrial corporation as an institution that is transcending national boundaries."[12]

State regulation of large corporate business in America became ineffective some fifty or sixty years ago. Today, we see each nation's ability to regulate multinational firms transcended in the same way. For example, the president of one United States-based multinational firm recognizes the transnational nature of these organizations but "would not view differences among the legal systems of various countries as a really serious handicap" to the operations of his firm.[13]

What the world is now observing is a vast internationalization of production on both sides of the Atlantic and in Japan as well, i.e., by all the major industrialized countries. In the late forties and early fifties most multinationals were European-based firms. Such names as Britian's Imperial Chemical, Switzerland's Nestle, Holland's Philips Lamps, and British-Dutch companies like Unilever and Shell were virtually alone in this type of organizational activity. The United States-based Standard Oil Company (New Jersey) could be included in the group at that time.[14] However, beginning in the late 1950's

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[12]"Multinational Companies," Business Week (April 20, 1963), p. 68.

[13]Donald P. Kircher, "Now the Transnational Enterprise," Harvard Business Review, XLII (March-April, 1964), 174.

[14]"Multinational Companies," Business Week (April 20, 1963), pp. 63-66.

United States-based multinational firms began to dominate this elite organizational cluster. The Swedish economist Gunnar Myrdal has pointed out that "there has been a strong bias in favor of direct investment through either the establishment or the development of the United States enterprise abroad."[15]

Extent of Participation by the United States

In 1950, one-third of the 37 billion dollars in foreign sales of United States firms came from export trade. By contrast, in 1964 only one-fifth of 110 billion dollars in foreign sales were generated by exports. The remaining foreign sales came from foreign subsidiaries of United States based parent firms. This fact has added significantly to the United States' balance of payments problem. Further, sales in Europe by United States subsidiaries jumped from 7.6 billion dollars in 1958 to 19.3 billion dollars in 1965.[16] By 1968 the sales figure for United States subsidiaries abroad had risen to 60 billion dollars and is estimated to be 70 to 75 billion dollars by 1970. That is three times the figure at the beginning of the 1960's![17]

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[15] Gunnar Myrdal, An International Economy (New York, 1956), p. 105.

[16] "U. S. Business in the New Europe," Business Week (May 7, 1966), p. 96.

[17] "Financing U. S. Multinational Enterprise," Business in Brief (August, 1971), p. 2.

Laying the foundation for the above trend was the number of United States affiliates abroad, which shot up from about 10,000 in 1957 to an estimated 25,000 at the present time. Uniroyal offers a good example of the trend and even justifies its recent name change by saying, "We have 28 research and manufacturing centers in 23 countries--we do business in 150 countries . . . 'Uniroyal' stands for a company that is now meeting the research and manufacturing needs of the whole polygot world."[18]

This is a shocking situation to some Europeans. In The American Challenge, J.-J. Servan-Schreiber alarmingly points out that the subsidiaries of United States based corporations in foreign countries have an annual output exceeded only by the United States itself and Russia's gross national product. This fact makes these subsidiaries the third largest industrial power in the world.[19]

Sidney Rolfe thinks that Schreiber is "calling wolf" to his European neighbors. If we accept the not too unrealistic definition that a multinational company is one with at least six producing affiliates in other countries and more than twenty-five percent of its earnings, assets, employment, or sales (excluding exports) in other countries, then the United

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[18]Richard Barber, "American Business Goes Global," The New Republic, CLIV (April 30, 1966), 14.

[19]J.-J. Servan-Schreiber, The American Challenge, translated by Ronald Steel (New York, 1968).

States and Western Europe are not too far apart. The United States has from seventy-five to eighty companies in this category. Western Europe has an aggregate number approaching seventy-five. In addition, Rolfe points out that the European number is conservative because of the fact that data from those countries are lacking.[20]

What are the primary reasons for the recent movement toward establishing foreign subsidiaries?

Overseas earnings of United States subsidiaries were soaring during the 1940's and 1950's. Businessmen noticed that their return on investment was also more attractive in foreign markets. At the same time domestic profit margins were slipping, partly because of a saturated market. In addition, United States' antitrust laws threatened to limit growth in the domestic market. As a result, General Motors and Ford have invested over 3 billion dollars in twenty-six countries since 1950. Most of the funds came from retained earnings of the auto makers' foreign subsidiaries.[21]

Other businesses had to invest abroad in order to defend markets they had developed by export trade. Competitors began to move into foreign markets and the trend multiplied. Many times businessmen found cheaper raw materials and labor in

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[20]Sidney E. Rolfe, "The Multinational Corporation," Headline Series, No. 199 (February, 1970), 34.

[21]"Multinational Corporations," Business Week (April 20, 1963), pp. 66-77.

foreign markets, not to mention the attractive tax breaks offered by developing countries. The success of the Marshall Plan in Europe encouraged United States-based multinationals to participate in the growth of the European Common Market, and the European Free Trade Association.[22] Europe was hungry for modern technology as well as effective management and marketing techniques, and its people were earning the necessary purchasing power to support these advancements. There is little doubt that United States companies have the competitive edge in these growth areas. The advantage in Europe was expressed by one United States company official: "We make bigger profits abroad--due to less competition; in large part. . . you have to shave your prices more in this country."[23]

The successful administration of this so-called "Third Industrial Revolution" has been made possible by modern management techniques and computer information systems, i.e., elaborate planning and control systems which are the essence of cybernetics applied to management. When a multinational firm develops a large, sophisticated, and well-organized group of management experts and techniques, it must be operated at a high level of capacity. This means continuously acquiring new and integrating more operating units into this elaborate system

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[22]"The Impact of U. S. Direct Investments," World Business (November, 1966), pp. 5-7.

[23]"Big Move Abroad in Business," U. S. News and World Report, XLI (June 1, 1964), 94.

for control purposes. In effect, growth begets growth and the dynamic process has no end. This indicates for all practical purposes a declining marginal cost of management rather than the classical increasing marginal cost.[24]

Table II shows the growth of United States foreign direct investment in the last twenty years and the growth of foreign investment in the United States. United States direct investment abroad has grown much more rapidly than foreign direct

TABLE II

UNITED STATES DIRECT INVESTMENT ABROAD AND FOREIGN DIRECT INVESTMENT IN THE UNITED STATES, 1950-1969*

Year	United States Direct Investment Abroad	Foreign Direct Investment In The United States
1950	11.8**	3.4
1960	31.9	6.9
1964	44.4	8.4
1965	49.5	8.8
1966	54.7	9.0
1967	59.5	9.9
1968	64.8	10.8
1969***	69.8	12.1

*Hearings before the subcommittee on Foreign Economic Policy, July 27, 1970, p. 779.

**Billions of dollars. ***Estimated figures.

[24]David S. R. Leighton, "The Internationalization of American Business," Journal of Marketing, XXXIV (July, 1970), 4-5.

investments in the United States. In the last few years the United States' growth has approached an average of almost ten percent annually. All of this direct investment is financed partly by United States capital outflows, partly be retained earnings and depreciation of foreign subsidiaries, and partly by foreign-raised capital, especially in the Eurodollar market.[25]

The National Industrial Conference Board made a study of multinationals' direct investment and its significance. Using a 1954-1964 growth rate, the Conference Board predicted approximately twenty-five percent of the rest of the world's gross national product would come from branches and subsidiaries of the United States-based corporations by 1975, and some thirty-five percent would be "United States-tinged." Further, the Conference Board projected twenty percent of the 1975 United States' gross national product would be "European- or Japanese-tinged." These projections reveal the powerful economic importance of multinational corporations.[26]

In 1964, United States firms were operating in 102 of the 112 countries which were then members of the United Nations. A primary boost to this growth is intensive research and development conducted throughout the world economy. In this same

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[25]*A Foreign Economic Policy for the 1970's*, 91st Congress, 2nd Session, Part 4, (Washington, 1970), p. 813.

[26]Sanford Rose, "The Rewarding Strategies of Multinationalism," *Fortune*, LXXXIII (September 15, 1968), 100.

year roughly 500 million dollars of private funds plus 100 million dollars of United States' government funds were devoted to research and development by United States foreign subsidiaries. These figures do not tell the whole story. A major source of technological diffusion comes from patent cross licensing agreements between companies.[27] "Reported" money incomes flowing to United States parent firms and generated from licensing agreements are shown in Table III.

TABLE III

REMITTED EARNINGS TO UNITED STATES PARENT FIRMS*

Year End	Remitted Earnings	
	Income	Fees and Royalties from Licensing Agreements
1919	.54**	N.A.
1930	.88	N.A.
1950	1.48	.13
1955	2.17	.16
1960	3.00	.40
1961	3.56	.46
1962	3.95	.58
1963	4.16	.66
1964	4.93	.76
1965	5.39	.91
1966	5.59	1.05

*Survey of Current Business (September, 1966), p. 40.

**Billions of dollars.

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[27]Joseph Rosapepe, "American Business Abroad," Exchange, XXV (September, 1964), 10-11.

Where Multinational Investment Is Locating

Multinational subsidiaries usually dominate foreign markets in industries that require large scale production units and rapid technological change, such as chemicals, petroleum, electronics, machinery, and drugs. However, all sections of United States-based business have entered the multinational game in varying degrees, as Table IV indicates. George Cain, chairman of Abbott Laboratories, a 145 million dollar a year pharmaceutical company with subsidiaries in twenty-two countries states: "We are no longer just a United States company with interest abroad. Abbott is a world enterprise, and many major, fundamental decisions must be made on a global basis."[28] Supporting suppliers have also recognized the need to consider a multinational venture. The general attitude seems to follow the thinking expressed by one steel company executive: "If a big domestic customer goes abroad with a manufacturing operation, why not follow him and try to sell him overseas as well as here?"[29]

Representing an ever increasing number of United States-based multinationals are "business development" specialist who roam the world looking for attractive acquisitions. "We have reached the point now where we don't even make an acquisition unless it has implications that are useful in at least four

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[28] "Multinational Companies," Business Week (April 20, 1968), p. 68.

[29] "Rushing to Span the Globe," Business Week (August 8, 1964), p. 21.

TABLE IV

NEW FOREIGN ACTIVITY BY INDUSTRY, 1961-1968*

Industry	New Establishments	Expansions	Licenses	Total
Farming	8	1	2	11
Mining	232	63	23	318
Construction	39	3	10	52
Food	317	115	85	517
Textiles	119	8	86	213
Apparel	61	9	109	179
Lumber and Furniture	79	14	33	126
Paper	138	40	53	231
Printing and Publishing	75	12	16	103
Chemicals	791	254	180	1,225
Petroleum	78	29	15	122
Rubber and Plastics	103	52	51	206
Stone, Clay, and Glass	129	36	46	211
Primary Metals	250	62	84	396
Fabricated Metals	283	51	153	487
Machinery (except electrical)	637	154	343	1,134
Electrical Machinery	515	105	249	869
Transportation Equipment	377	111	206	695
Scientific Instruments	228	67	65	360
Wholesale-Retail Trade	183	43	34	260
Finance and Insurance	438	95	24	557
Transportation and Business Services	381	53	52	486

*Business Abroad (May, 1969), p. 17.

or five countries," says Beverly Warren, executive vice-president of Corn Products.[30]

[30]"U. S. Business in the New Europe," Business Week (May 7, 1966), p. 114.

16 Table p. 11+ Business week.
Table IV P. 16 Business abroad (May 1969) p 17

Some of America's best known firms are deriving fifty percent or more of their earnings from foreign operations; a partial list would include International Telephone and Telegraph, Jersey Standard, Mobil, National Cash Register, Colgate-Palmolive, H. J. Heinz, Charles Pfizer, and F. W. Woolworth.[31] Detailed data concerning the operations of most companies involved abroad is very scarce. In Table V, eight of the nineteen companies furnishing data on profits had overseas production accounting for more than half of net income. This includes only consolidated income. If the income of non-consolidated subsidiaries were taken into consideration, the totals would obviously be higher.

Foreign investment prior to World War II was concentrated in the areas of petroleum and mining. During the past two decades a shift in emphasis has been made with more interest going to manufacturing investment. This reflects the global approach of multinational firms, especially in Canada and Europe. Figure 2 illustrates this important shift toward manufacturing investments by multinationals in order to better serve the lucrative markets in developed countries.

As previously mentioned, Canada has attracted a major proportion of United States funds for foreign direct investment. However, the lucrative European markets have received

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[31] Howe Martyn, "Multinational Corporations in a Nationalistic World," Challenge, XIV (November-December, 1965), 13.

TABLE V

SOME BIG PLAYERS IN THE GLOBAL GAME[a]
1967

Company	Number of Countries with Production Facilities	Percent Total Assets Abroad	Percent Sales Abroad	Percent Net Income Abroad
General Motors	24	15[d]	14[d]	7[d]
Standard Oil (N. J.)	45[b]	56	68	52
Ford Motor	27[b]	40	36	92[f]
Chrysler	18	31[d]	21[cd]	N.A.
Mobil Oil	38[b]	46	N.A.	45
International Business Machines	14	34	30[c]	32
Gulf Oil	48[b]	38	N.A.	29
Du Pont (E. I.) de Nemours	16[b]	12	4	N.A.
International Telephone and Telegraph	60	47	47	50
Goodyear Tire and Rubber	35	22	30[c]	30
International Harvester	18[b]	21[e]	17	10
Caterpillar Tractor	14	25	14	N.A.
Minnesota Mining and Manufacturing	24	29	30	29
Singer	28[b]	58	50[c]	N.A.
Corn Products	33	47	46	49
Anaconda	9	44	32	57
Colgate-Palmolive	43[b]	50	55[c]	N.A.
National Cash Register	10	41	44	51
Massey-Ferguson	22[b]	84	90	N.A.
Heinz (H. J.)	15	55[e]	47	57
Warner-Lambert Pharmaceutical	47	32	33	33
Pfizer (Charles)	32	50	48	52
American Standard	21[b]	30	28	39
Abbott Laboratories	24	27	26	26
U. S. M. Corporation	25	50	54	57

[a]*Fortune* (September 15, 1968), p. 105.

[b]Includes unconsolidated affiliates and manufacturing franchises.

[c]Includes export sales from the United States.

[d]Excludes Canada.

[e]Percent of net assets abroad.

[f]Ford's profits in the United States were substantially reduced by the auto strike.

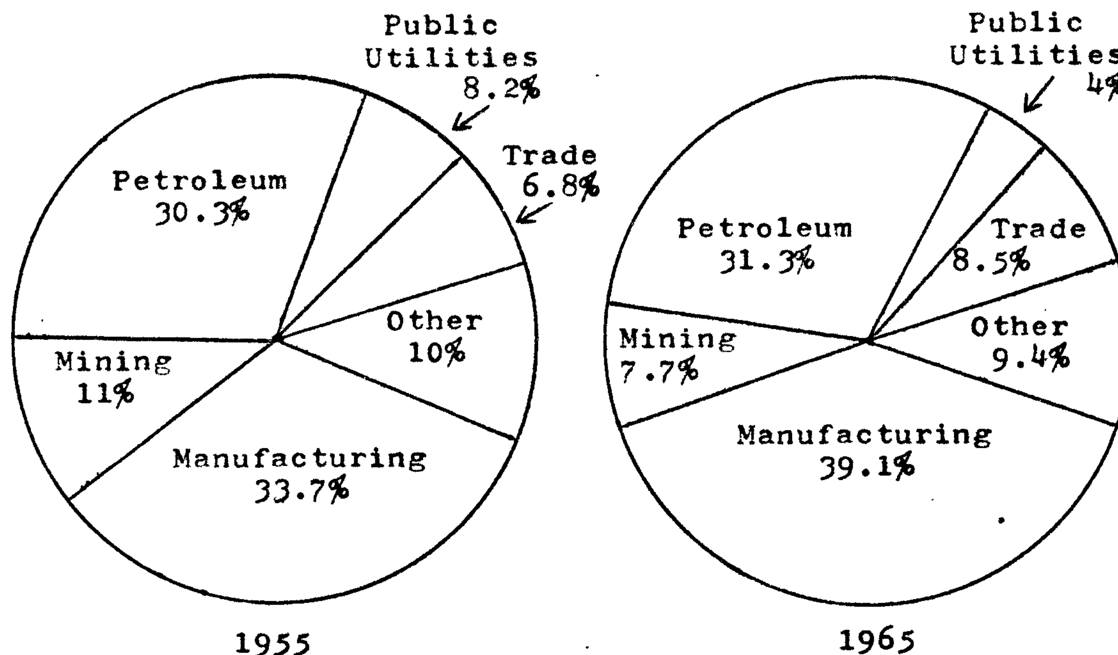

Fig. 2.--The shifting emphasis of foreign direct investment, (50 billion dollars). [World Business (November, 1966), p. 8.]

prime consideration in recent years. United States-based multinationals have had great success in both the European Economic Community (Common Market) and the Europe Free Trade Association whose members are primarily Scandinavian countries. Table VI discloses the extent of investment in Canada and the increasing significance of Western Europe as an outlet for the United States multinationals' direct investment. It is worth noting that most of the investment classified in the "other" column is concentrated in the Middle East oil fields rather than divided evenly among underdeveloped countries.

Table VII gives a detailed breakdown of the absolute number of affiliations of United States multinationals in various

TABLE VI

ANNUAL UNITED STATES DIRECT INVESTMENT--
SHARE BY REGIONS, 1950-1967*

Year	Canada Percent	Western Europe Percent	Latin America Percent	Other Percent
1950	46.2	18.8	6.5	28.5
1955	42.9	15.8	20.3	21.0
1960	26.9	57.5	5.7	9.9
1965	26.7	43.3	7.9	22.1
1966	30.7	50.9	7.8	10.6
1967	12.7	50.6	4.7	32.0
1950-1967	27.2	37.8	14.6	20.3

*Isaiah A. Litvak and Christopher J. Maule, editors, Foreign Investments: The Experience of Host Countries (New York, 1970), p. 91.

parts of developed and underdeveloped regions of the world. The heaviest activity has been in developed nations.

The tremendous importance of the multinational corporation as the institution that is transforming the world's economy has been fully recognized by two great universities--Harvard and Columbia. Both of these schools have established special departments to study this organizational phenomenon. In addition, special research projects on the multinational corporation are being sponsored by these two universities. The results of these studies should take us a step closer to

TABLE VII

WHERE UNITED STATES BUSINESS IS LOCATING ABROAD, 1961-1968*

Location	New Establishments	Expansions	Licenses	Total
Western Europe	2,941	708	886	4,535
European Common Market	1,637	400	448	2,485
Belgium-Luxembourg	330	63	35	428
France	314	81	122	517
Italy	318	67	105	490
Netherlands	267	63	51	381
West Germany	408	126	135	669
European Free Trade Association	998	280	374	1,642
Switzerland	173	30	15	222
United Kingdom	652	206	296	1,154
Sweden	79	16	42	137
Other EFTA	90	18	21	129
Western Hemisphere	1,364	482	417	2,273
Canada	528	242	148	918
Mexico	271	79	80	430
Argentina	80	34	61	175
Brazil	71	39	33	143
Venezuela	60	17	30	107
Asia	799	98	530	1,427
Japan	336	29	412	777
India	113	17	40	170
Africa	187	30	68	285
Oceania	287	86	110	482

*Business Abroad (May, 1969), p. 16.

understanding the multifaceted aspects of the multinational enterprise.[32]

The changing nature of the international economy indicates that changes may be required in conventional economic and political thought. What will be the effect upon the economic theory of the corporation? Does traditional theory adequately explain the behavior of the multinational firm? What are the effects upon home and host countries? Can governments insure that economic benefits will accrue to them? What is the effect of a localized national policy on operations of transnational firms? What benefits does the internationalization of production provide? In what areas does the world-wide firm need to be more socially responsible?

Some of the more outstanding characteristics of the movement toward a global corporate system will be discussed in the next two chapters. These characteristics, whether new or old, must be considered if one is to staisfactorily answer the above questions.

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[32]For a synopsis of specific topics under study, see Lee C. Nehrt, et al., International Business Research Past, Present and Future (Indiana University, 1970).

CHAPTER II

SOME ECONOMIC CONSEQUENCES OF THE MULTINATIONAL CORPORATION

The impact of international investment is exemplified by the following aggregate statistics of worldwide production. Almost 400 billion dollars worth of goods and services are produced as a result of international investment. One-half of this production is created by United States-based companies who produce an estimated ten percent of the world's non-communist output. The total value of production from United States subsidiaries alone is exceeded only by the gross national products of the United States and Russia. Over the past two decades the output from international investment has grown twice as fast as overall world production. It is projected (using present growth rates) that multinational firms will be supplying one-half of the gross world production (GWP) by the end of this century.[1]

As a company expands its business operations overseas, its behavior becomes subject to a number of environmental factors. Some of these environmental factors are government taxes, customs duty rates, local licensing restrictions, antidumping requirements, antitrust restrictions, differences in cultures

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[1]Judd Polk, "The Rise of World Corporations," Saturday Review, LII (November 22, 1969), 32-33.

and customs, local export incentives, local currency devaluations, nationalistic pride, and many others. These factors often become as important to the multinational enterprise as the traditional business or commercial factors. Formulation of a corporate policy that will embrace all of these factors is a difficult challenge to all multinational firms. Nevertheless, global firms have managed to grow by becoming experts in circumventing the adverse effects of various environmental policies.[2]

In order to take advantage of these so-called "loopholes," the traditional theory of a maximum profit for each unit is often secondary to the overall corporate good. John Powers, president of Pfizer corporation recognizes that "practice is ahead of theory and policy"[3] in many areas regarding the multinational corporation.

The remainder of this chapter presents an overview of some of the economic flexibility and notability obtained by global firms. No pretense is made at an in-depth discussion of each topic. The purpose is to give exposure to a few important economic aspects with some detail.

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[2]James Greene and Michael Duerr, Intercompany Transactions in the Multinational Firm (New York, 1970), pp. 1-5.

[3]A Foreign Economic Policy for the 1970's: Hearings before the Joint Economic Committee, 91st Congress, 2nd session, Part 4 (Washington, 1970), p. 813.

The Economics of Transfer Pricing

Transfer pricing in its broadest sense includes the intra-organization sale of goods, pricing on loans to subsidiaries, research and development fees, management fees, and royalties from patents, copyrights, and trademarks. Using these various aspects of transfer pricing, a company can vary its policies in order to adjust to the previously mentioned environmental factors. For example, "a company that is attempting to crack a new foreign market, or to expand its share of a market frequently suppresses at the outset administrative, research, or other expenses in establishing 'costs' in its transfer price."[4] Such power adds a tremendous amount of flexibility which can be used to achieve the most beneficial results for the organization as a whole.

Multinational corporations are subjected to the varying fiscal policies of many national governments. "Most executives, however, do not challenge the demands of multiple taxing jurisdictions, but attempt to construct transfer pricing policies that will satisfy these jurisdictions and serve the basic goals of their companies."[5] For instance, if limits are placed on royalty fees submitted to the parent company, the parent company may adjust its other transfer prices in order to maintain

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[4]James Greene, "Intercorporate Pricing Across National Frontiers," The Conference Board Report, VI (October, 1969), 44.

[5]Ibid, p. 45.

total compensation to the parent. Or, when management fees are not tax deductable in a certain country but royalties are, such fees can be shifted to increased royalty payments. Where exchange controls or rapid inflation exist, the parent firm may maximize its export prices in order to reduce the subsidiaries' earnings that would be exposed to erosion. Conversely, when tariffs in a host country are high, or income taxes low, the parent company may attempt to maximize the profit margins of the local subsidiary by lowering transfer prices. These higher profits may then be remitted to the parent firm.[6]

Many parent company executives try to bring the product to a subsidiary, or vice versa, at the "right" price. Some observers note that the "right" price is not always directly related to the cost of producing the product. The international vice president of a machinery maker explains this policy:

> In general, we operate by setting target profits for overseas units without reference to commercial relations. . . Flexibility is mandatory to reflect local customs and/or problems of commercial restrictions and practices, marketing and manufacturing, exchange controls, and nationalism.[7]

Other executives believe the "overall corporate good" must take precedent over the subsidiaries' interest. Therefore, prices among subsidiaries are juggled in the interest of the whole organization. The vice president of a chemical company

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[6]Greene and Duerr, op. cit., pp. 2-3.

[7]Ibid, p. 8.

supports this view and explains how his company implements it:

> Our basic policy has been to establish selling prices for goods and services at a level that provides the most favorable over-all tax treatment. For example, we try to transfer raw materials from the U. S. to a manufacturing affiliate abroad at the lowest possible price, if the tax rate in the receiving country is lower than in the U. S. The actual price established becomes a compromise on what would be allowable by the I. R. S. in this country.[8]

United States taxes are levied on dividends remitted to parent companies rather than the income of a foreign subsidiary. When corporate tax rates abroad are lower than the United States' rate, companies defer taxes by reinvesting profits into the host country. Therefore, the ultimate tax burden could be halved (assuming a fifty percent tax rate) by treating accumulated profits as a capital gain rather than as dividends to the parent firm. In other cases, "shell" companies are established in low-tax countries to receive profits from subsidiaries in higher-tax countries and reinvest them or simply hold them as liquid assets. In still other cases, merchandise is shipped from a high-tax country at stated prices which represent little or no profits, and consequently marked up in the low-tax country in order to earn profits with minimal taxes.[9]

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[8]*Ibid*, p. 14.

[9]Charles Kindleberger, *American Business Abroad* (New Haven, 1969), p. 47.

The United States government has developed the most comprehensive set of guidelines for companies to follow in their transfer pricing decisions. This is true because the United States government realizes the ramifications that transfer pricing decisions will have on its tax revenues. Section 482 of the Internal Revenue Code was created especially for multinational corporations. Two basic reasons for the incorporation of Section 482 are first, to prevent potential corporate tax evasion and second, to insure that the United States gets its "fair" share of the taxes on income earned by a multinational corporate system.[10] The administration of this law is extremely difficult due to the volume and variety of prices in question. For example, pricing of semimanufactured items or components to be assembled in a foreign subsidiary for resale to other foreign affiliates or customers poses a special problem. The United States requires transfer prices to be set at "arm's length," i.e., the market price to an independent buyer. Since, in this case there is no independent buyer of the product, how can the firm establish an arm's length price? Preferential pricing of this sort is difficult if not impossible to identify by the tax authorities.

Abraham Rotstein believes the explanation of this type of pricing power requires a new perspective:

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[10]Warren J. Keegan, "Multinational Pricing Is a Complex Task: The Case of the U. S.," World Business, edited by Courtney C. Brown (New York, 1970), pp. 170-172.

I have in mind, first of all, the modern multinational corporation with its trade between parent and subsidiary (and among subsidiaries) in different countries. The prices at which goods such as parts, components, and finished products change hands are governed chiefly by taxation and accounting advantages obtainable in the various countries where the corporation is located. Prices are set accordingly and bear no necessary relation to the market prices for these goods (if indeed market prices exist for them at all). There is no doubt that these transactions are generally regarded as trade, for they are universally included in the foreign trade and balance-of-payments statistics of the respective countries. Subsidiaries, moreover, are formally incorporated in the countries in which they are located.

A second example is the trade between the state-trading corporations of Communist countries. A variety of factors govern the prices at which goods are traded here, including the political relations and national security objectives of members of the Communist bloc. Such prices bear no necessary relation to world market prices for these same goods.

These two examples differ as much from each other as they differ respectively from conventional market trade. What these examples do share in common can be described negatively: the partners to these trade transactions are not trading at arm's length, and the prices are not formed in the market. Unless we are prepared to exclude such transactions from our concept of trade (thus excluding a rapidly growing portion of world commerce), we must accept in the present period the existence side by side of market and nonmarket trade in the international economy. (Those who deny that the above examples constitute trade must of necessity provide some alternative designation for goods which are formally bought and sold and shipped across international borders by corporations which are legally discrete entities).[11]

Other Behavioral Aspects of Global Firms

International finance is affected in a number of ways by the multinational corporation. Currency is often transferred

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[11]Abraham Rotstein, "Karl Polanyi's Concept of Non-Market Trade," Journal of Economic History, XXX (March, 1970) 118-119.

from one country to another in an effort to pocket the profits from disorganized money markets. As an executive at Texas Instruments said, "We believe in working the hell out of our money. It's a side benefit of overseas operations, and it's foolish to ignore it."[12] In another case a Litton executive explains why his firm moves currency: "If we can borrow at a low rate in Switzerland and lend the funds to our operation in Sweden at the going rate of interest there, why shouldn't we keep the difference?"[13]

An interesting example of USM Corporation's financial tactics was recently described by one of its vice presidents, John Webb:

> One of our Danish subsidiaries had excess cash which it lent to another Danish subsidiary that was receiving goods from the Swedish subsidiary. The Danish company prepaid its account with the Swedish subsidiary, and this money financed the movement of Swedish products into the Finnish subsidiary. What did the maneuver accomplish? If Finland had been required to pay for its goods, it would have had to borrow at 15 percent, the going Finnish rate. If the Swedish subsidiary had financed the sale, it would have had to borrow at about 9 percent. But cash in Denmark was worth only 5 to 6 percent. Moreover, Danish currency was weak in relation to the Swedish; by speeding up payments to Sweden, we not only obtained cheaper credit, we hedged our position in Danish kroner as well.[14]

Before the pound was devalued in November, 1967, many multinational companies prepared to take advantage of the situation.

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[12]"Multinational Companies," Business Week (April 20, 1963) p. 84.

[13]Ibid, p. 84.

[14]Sanford Rose, "The Rewarding Stragegies of Multinationalism," Fortune, LXXVII (September 15, 1968), 104.

The parent firms encouraged subsidiaries in countries with relatively solid currencies to delay payments for goods sent them by their British affiliate, taking advantage of the certain fall in British export prices.

Some firms have used even more sophisticated exchange-rate planning. Ford Motor Company has an economist especially assigned to monitor possible devaluation moves in less developed countries. His job is to know where and when devaluation will take place. So far, the economist has been correct in sixty-nine of the last seventy-five financial crises.[15]

There are unique ways to lower the multinational's tax liability also. For instance, over three hundred insurance companies who are subsidiaries of various multinational firms insure their parents' foreign properties. Not surprisingly, many of these companies are located in Bermuda. Consequently, the premium income paid by parents to the insurance subsidiary is excluded from home country taxes.[16]

As currency fluctuations become more frequent and transfer prices manipulated more successfully, complications are added to the computation of a multinational's income tax liability. "Tax payments made by multinational enterprises are a matter of bookkeeping, chance, and the vigilance of national taxing

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[15] Ibid, pp. 104-105.

[16] "Business Briefs," Wall Street Journal, XLVII (September 8, 1971), 1.

authorities,"[17] says Raymond Vernon of Harvard's Graduate School of Business. Treasury Secretary John Connally has called for an international organization of tax experts from various countries to develop "international codes of conduct." Among the tax problems requiring international attention according to Mr. Connally are "border taxes" that can spur exports and retard imports, "tax holidays" offered to new exporting plants, discriminatory treatment of foreign investors, taxes on foreign investment income, various national corporate income tax structures, and conducting trade through foreign-based units. If international tax policy can be successfully created, Mr. Connally said, "we shall have taken giant steps across mountains of misunderstanding and across crevices of tax avoidance."[18]

On the other side of the Atlantic, the Economics and Finance Ministry of West Germany is considering new tax regulations applicable to German-based subsidiaries of global corporations. Under existing legislation, subsidiaries of foreign firms are required to pay fifteen percent tax on dividends and fifty percent tax on nondistributed retained earnings. This gives them a decided tax advantage over local competitors.

Under the present system the foreign subsidiary can achieve substantial bookkeeping profits by transferring surplus funds to

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[17] Business Week (December 19, 1970), p. 107.

[18] Wall Street Journal, XLVIII (October 5, 1971) 4.

the parent company at only a fifteen percent tax rate. The parent company can then retransfer some of these funds back to their subsidiary for more investment in West Germany. The proposed legislation, to take effect in 1974, will eliminate this advantage.

About twenty percent of total invested capital in West Germany comes from foreign companies. A powerful group of these companies, including German Shell, Adam Opel Company of Russelheim, a General Motors Corporation subsidiary, and Philips G. m. b. H., the Hamburg subsidiary of Philips Lamp Works of the Netherlands, have organized resistance to the West German plans. The consortium issued a memorandum saying: "It is doubtful whether in these circumstances investment in West Germany by non-German capital holders will be advisable any longer."[19] It will be interesting to see if these multinationals can bring enough pressure on the West German government to prevent the enactment of adverse tax reform.

In the field of monetary policy, a nation-state is often frustrated with efforts to curb the money supply. Multinational affiliates have access to a world-wide network of funds which they can bring in from outside the national banking system. They can borrow from lenders abroad, or they can maintain a cash position by postponing dividends and other remittances to parent

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[19] Wall Street Journal, XLVII (November 2, 1971), 8.

firms, or both. Any of these measures are more difficult to control than money supplied from national sources; and any of them can frustrate the national monetary objectives.[20]

The United States government has a policy of denying domestic corporations the benefits of trade with Iron Curtain nations. The following example illustrates a common practice that United States based multinationals use to circumvent trade restrictions. A Romanian development agency bargained with the Parsons and Whittemore Company to buy a paper mill. This bargain was vetoed by the United States government. The Romanians finally got their paper mill by dealing with a British subsidiary of Parsons and Whittemore![21]

Despite United States trade restrictions, trade with Russia jumped from ninety-nine million dollars in 1968 to 175 million dollars in 1969. Most of this increase was accounted for by an increase in machine tools for an auto plant built under contract to Fiat, S. p. A.[22]

These examples of economic aloofness from national policies have caused Business Week to show more economic enlightenment than some economists. Speaking about multinational organizations,

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[20]Raymond Vernon, Manager in the International Economy, (Englewood Cliffs, 1968), p. 184.

[21]Sanford Rose, op. cit., p. 101.

[22]Wall Street Journal, CLXXXVI (July 20, 1970), 5.

the popular business periodical notes, "they are giving new meaning to the logic of economics."[23]

The Balance of Payments Relationship to Global Conglomerates

Both home and host nations of multinational firms have an interest in the possible effects upon their respective balance of payments. In the case of the United States, exports from foreign subsidiaries receive a tariff cut at the United States border. An increase in these exports (imports to the United States) is aggravating to its balance of payments. For example, United States based Weyenberg Shoe Manufacturing Company is building a plant in Ireland which will export all its output (750,000 pairs of shoes annually) to the United States market. Two other firms, Rockwell Manufacturing and Cummins Engine Company, each produce engines in Germany and England, respectively. This output is also shipped to the United States market.[24] If this trend continues to multiply, it will cause even more problems for the trade account of the United States balance of payments.

The production of United States-based foreign subsidiaries causes other types of depreciation to the long standing trade surplus enjoyed by the United States. For instance, South Africa

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[23]"U. S. Business in the New Europe," Business Week (May 7, 1966), p. 114.

[24]Russel Boner, "U. S. Affiliates Abroad Challenge Firms Here by Expanding Exports," Wall Street Journal, CLXXIV (July 10, 1969) 1.

used to import United States built cars from Detroit. Now, General Motors and Ford maintain giant plants in that country which produce autos for domestic sales and exports.[25] These trends have prompted the United States Government to apply pressure to certain industries to produce at home. In addition, restrictions have been placed on the amount of capital which can be exported, and also on the amount of foreign capital that may come into this country.

Critics of this policy point out that United States parent firms receive more revenue from their subsidiaries in the form of profits, royalties, and fees than they export in the form of capital, the net effect being positive. For example, as Figure 3 illustrates, the flows of interest, dividends, and branch earnings on direct investments sent back to the United States have increased from 2.4 billion dollars in 1960 to 6 billion dollars in 1970. Added to this, fees and royalties sent back from overseas affiliates more than tripled from .6 billion dollars to 1.9 billion dollars in this same period. In sum, that is almost 3.5 billion dollars more than the outflow of capital for new direct investments.[26] It should be pointed out that the potential problem is the output created from this capital, and not the absolute amount of capital itself.

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[25]Ibid, p. 1.

[26]"Financing U. S. Multinational Enterprise," Business in Brief (August, 1971), p. 2.

Fig. 3.--Profits of United States based foreign subsidiaries and income remitted to the parent firms (in billions of dollars). [Business Week (December 19, 1970), p. 60.]

Host countries are anxious to see foreign based subsidiaries export as much as possible. However, a subsidiary may balk at exporting into a market where its parent or another affiliated subsidiary is operating. In addition, many foreign subsidiaries simply serve as outlets for the parent corporation's output and, consequently, can only deteriorate the host country's balance of payments. An example is the Burroughs Corporation which in 1963 was deriving almost all its profits from foreign operations. Burroughs' president Ray Eppert explains, "that's

because our overseas subsidiaries serve as captive markets for the parent corporation." Eighty percent of Burroughs' exports goes to its subsidiaries, mostly in the form of parts for fabrication.[27] On the other hand, some subsidiaries cause a reduction in the necessity of the host country to import and, therefore, improve its balance of payments position. In order to insure at least some benefits, Japan and France have demanded guarantees that some of the goods produced by foreign-owned subsidiaries will be exported.[28]

Localized restrictions by a country upon a multinational affiliate in order to enhance the nation's balance of payments can be futile. For example, a country may refuse to allow dividends to be remitted abroad. As we have already seen, the parent firm could simply "take out" its dividends by raising prices on intracorporate sales to the affiliate.

In the United States, the Office of Foreign Direct Investment is charged with the responsibility of seeing that no private investments are made overseas that will adversely affect the balance of payments. Official controls on direct foreign investments have had very little effect on foreign investment decisions of United States-based multinationals. Businessmen responding to a McGraw-Hill survey said they were trying to

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[27]"Multinational Companies," Business Week (April 20, 1963), p. 75.

[28]Raymond Vernon, op. cit., p. 184.

increase exports in order to help the balance of payments in the United States. However, they indicated foreign direct investment plans would not be shelved. In order to comply with the law, businessmen intended to simply use retained earnings of their foreign subsidiaries and borrow "Euro-dollars" in order to finance the expansion of foreign facilities![29]

Figure 4 illustrates the increasing trend of multinationals to finance foreign expansion with internally generated funds and foreign raised capital. This is just another example of the multinational organization's insulation from the effects of national restrictions.

To add additional sources of funds, multinational firms from all over the globe have joined together and created their own financial corporation. The Private Investment Company is a joint venture composed of major banks and industrial firms in Europe, the United States, and Asia. Its purpose is to finance multinational investment in Asia. United States investors in this venture include First National City Bank and Chase Manhatten Bank, both of New York City, plus International Business Machines.[30]

This tremendous amount of flexibility demonstrated by the multinational organization has prompted Samuel Pisar to make the following observation:

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[29]"World Markets Are Still a Lure," Business Week (August 7, 1965), pp. 26-27.

[30]Wall Street Journal, CLXXVI (November 12, 1968) 12.

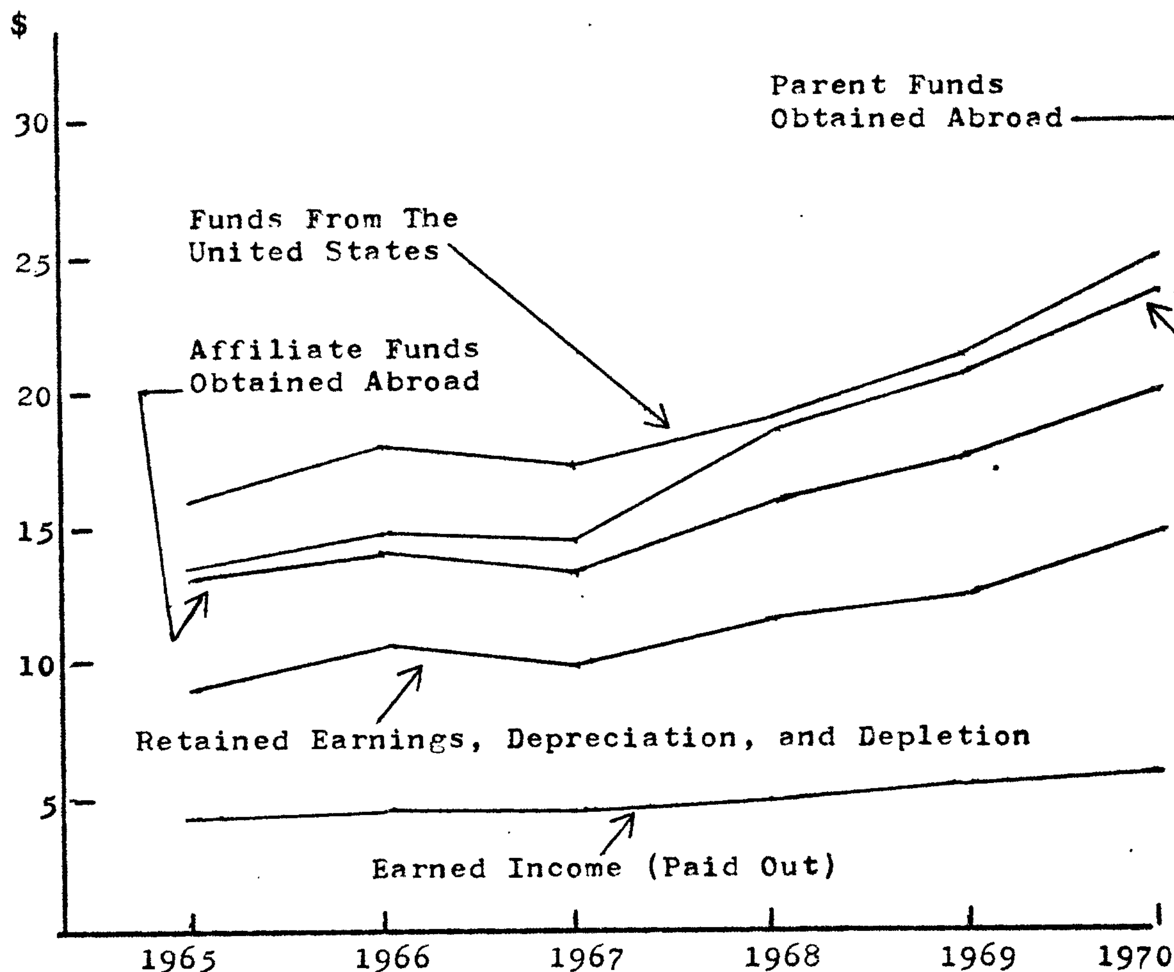

Fig. 4--Sources of funds for financing the expansion of United States based foreign affiliates (in billions of dollars). [Business in Brief, "Financing U. S. Multinational Enterprise," (August, 1971), p.2.]

Traditional tools of national policy cannot cope with the unprecedented intensity of international business life that characterizes our era. The state itself is no longer a meaningful economic entity, capable of mastering the new opportunities and risks which have come upon the horizon. Everywhere, West and East, inexorable forces are pushing toward a unified global economy, in virtual disregard of political frontiers and ideological boundries.[31]

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[31]Samuel Pisar, "Toward a Multinational Economy," Wall Street Journal, XLVIII (September 20, 1971) 8.

The Multinational Firm and Host Countries

The global enterprise is in a position to provide the spark to growth needed in many young nations. These firms are oriented toward growth situations because they recognize the potential profit opportunities created by developing new markets. At the same time, most host countries can be expected to derive economic benefits from their relationship with the multinational firm. The fact that these firms invest seventy-five to eighty percent of their capital in developed nations should not overshadow the challenges and potentials that under-developed nations hold for the multinational enterprise.

The multinational's subsidiaries should fit into the host country's national economic development plan. Since all developing nations are short of capital, the host country encourages congenial multinational firms to locate in their country. If they are successful they can look forward to higher local incomes and standards of living; additional tax revenues to the host government; added skills to native employees; and improved technology in production, management, and marketing. As an example, Sears in Mexico buys most of its merchandise from local producers rather than from United States suppliers.[32] In fact, purchases of domestic materials in Latin America by

[32] "The Impact of U. S. Direct Investment," World Business (November, 1966), p. 6.

United States-affiliated firms during 1955 totalled about 1.8 billion dollars. Of this amount, manufacturing enterprises spent nearly 700 million dollars, or 40 percent of the value of their sales; petroleum companies spent over 400 million dollars; and agriculture, mining and smelting, and public utilities another 400 million dollars.[33] In addition, the 1957 census of investments overseas (including Canada) showed purchases of domestic materials and services by just United States-based multinational firms in all foreign countries to total 17 billion dollars, of which 11 billion dollars (65 percent) was by manufacturing companies.[34] Obviously, these sums constituted sizable additions to demand for domestic resources which improved the health of the local economy.

John Dunning estimated in his study that United States-based affiliates in Britian had saved the British consumer about 100 million pounds in 1954 which would otherwise have had to be spent on imports if the same goods had been consumed. The imported cost of the same goods would have been 600 to 650 million pounds, or 4 times the 1954 imports of manufacturers from the United States. This was 15 percent of the total import bill of the United Kingdom for that year.[35]

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[33]Samuel Pizer and Frederick Cutler, _U. S. Investments in the Latin American Economy_ (Washington, D. C., 1957), p. 16.

[34]_U. S. Business Investments in Foreign Countries_ (Washington, D. C., 1960), p. 122.

[35]John H. Dunning, _American Investments in British Manufacturing Industry_ (London, 1958), p. 291.

Multinational affiliates in host countries can improve the host's balance of payments position by adding to exports. For example, as early as 1954 exports of United States-based firms in the United Kingdom equalled 275 million pounds, or 12 percent of the total manufacturing exports for that country.[36]

The most promising markets for new products are often found in developing nations. Long established products in advanced countries are still considered "new" in other countries. Many of these new or improved products are capable of stimulating far-reaching growth effects in more primitive economies.

For example, one of the most basic conditions for growth is a population that is at least partially freed from using all of its time supplying enough food for existence. The global firm can and has provided improved farming techniques and tools such as chemical fertilizers and tractors. Other improvements developed by these firms include machines for irrigation, hybrid seeds, breeding stock, insecticides, and the personnel able to train the local people to use these techniques and implements.

Another aspect of the requirement for more food with less manpower is the improvement in food processing. In many countries food loses much of its nutritional value during

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[36] *Ibid*, p. 293.

traditional methods of processing. In still other countries food spoils in vast quantities from exposure to sun, air, water, bacteria, or rodents. Some large food processors like H. J. Heinz Company are prominent in bringing new bottling, canning, freezing, and drying techniques to the developing areas.

To complicate this seemingly simple development are the social changes necessary to win acceptance of foods that may taste, smell, or look different.[37] The social acceptance will be slow in coming and will result only from continuous educational activities. The multinational firm can benefit by encouraging and helping this transition to become a reality.

Arthur K. Watson, the chairman of the 1964 Advisory Committee on Private Enterprise in Foreign Aid, recognizes the potentials of multinational companies to provide a basic foundation for integrated growth:

> While capital is scarce in the less developed countries, the more subtle and difficult shortcoming is human and institutional. The most basic problem in the whole development effort is that of transfering skills and technology, and to some degree attitudes, to individuals and institutions in the less-developed countries.[38]

Modern food growing and processing techniques are desirable because an agriculturally-based economy is handicapped

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[37]Howe Martyn, International Business (London, 1964), pp. 90-91.

[38]Foreign Aid Through Private Initiative (Washington, D. C., 1965), p. 23.

in the race for economic growth. Integration of other basic industries into the developing economy is necessary for growth to take place. Production increases concentrated in a few export commodities do not provide true economic development unless they lead to industrial diversification. The multinational corporation can offer many of the necessary technological advancements necessary to build the desirable "infrastructure." As progress becomes apparent this will encourage even more firms to locate in the new market. The foundation for the development of a well-rounded economy was described by Gunnar Myrdal: "In all the underdeveloped countries the economic development problem is primarily a problem of seeking national integration in its necessary combination with economic progress, the one being both the result and the condition of the other."[39]

In a growing world, technology is the top prize. It is the life blood of a growing economy. In his study of United States-based affiliates in Britian, John Dunning measured the economic impact of the entrance of new companies armed with modern technology on market shares, profits, and productivity. He concluded that "the evidence, such as it is, would strongly suggest that the U. S. firms are more efficient than their competitors--and particularly so in the foodstuffs, tools and

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[39]Gunnar Myrdal, An International Economy (New York, 1956), p. 167.

cutlery, and pharmaceutical industries. In only six cases out of fifty-five were their indications directly contrary to this hypothesis."[40]

Dunning also concludes that British firms have benefited in many ways from the spillover effects of foreign subsidiaries with superior know-how:

> . . . the trans-Atlantic associations enjoyed by such firms have brought very considerable advantages in the form of technical and managerial knowledge [to British firms]. As far as can be judged, these benefits show themselves in terms of rising market shares of the total market, favorable comparative productivity figures and higher income-asset ratios. We know, too, that such industries are amongst the most dynamic and productive of all within the U. K. economy; that their rate of productivity and capital growth is well above average; that they are amongst the most successful export industries; and that their attention is particularly directed to those variables making for rapid technological progress.[41]

Because of these advantages developing countries compete for the technology offered by multinational corporations. They compete by offering lucrative tax breaks, signing trade treaties with the home governments, and making other concessions to the global firm. One of the major reasons developing countries desire modern technology is to secure a loan from the World Bank. The World Bank offers loans only to countries who have

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[40]John H. Dunning, op. cit., pp. 179-187.

[41]Ibid, p. 194.

adequate "project preparation" in their development plans. This technology usually comes from the multinational business operating in the countries under consideration.[42]

Technology comes from research and development. The basic requirements for research are adequate facilities and talented personnel. Multinational firms usually have the financial means to provide the facilities. In addition, it can better search the world for gifted persons who can provide the necessary talents.

Most multinational organizations consider centralized research and development the most effective. There are several reasons:

1. Research is best conducted where scientists can work in close proximity and inter-communication is easy.
2. The problem of coordinating research and development increases with distance and costs are often duplicated.
3. Foreign subsidiaries usually rely on technology developed by the parent firm for use in the domestic market.[43]

The vice-president of a leading food products multinational summarizes the opinions of many executives who believe that the best place to conduct research is in a well-staffed central laboratory.

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[42]Howe Martyn, "Multinational Corporations in a Nationalistic World," Challenge, XIV (November-December, 1965), 13-15.

[43]Michael Duerr, Research and Development in the Multinational Company (New York, 1969), pp. 2-6.

> We firmly believe that by maintaining a central research laboratory we are able to provide to a very major extent the quality of technical sophistication which would not be provided if the total effort were splintered into a number of smaller units.[44]

This is not to say that multinational firms are totally disinterested in decentralized research efforts. Companies often share discoveries and developments with each other. For example, one consumer products manufacturer reports:

> Through constant contact and, we hope, good communications, attendance at trade shows, etc., we are kept abreast of foreign design innovations in our industry which might have applicability in our organization. As a matter of fact, our design group makes frequent trips to Europe and Japan where the major innovations do occur.[45]

Further, the modern method of research cost sharing in the multinational organization is to allocate the cost to all member companies of the group. This has the dual advantage of reducing taxable income to host countries while aggregate contributions to the parent firm yields funds for research that are beyond the capabilities of most one-country firms.

The diffusion of this technology to host nations has been a healthy situation for their economic improvement. For example, Altos Hornos de Mexico, S. A. is the leading steel producer in Mexico. It is an integrated mill, built during World

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[44] *Ibid*, p. 3.

[45] *Ibid*, p. 8.

War II and in 1961 was supplying about one-third of the total national production of steel ingots. It has plans to increase its capacity by 50 percent which will increase production some 600,000 tons.

Armco International bought 7.5 percent of Altos Hornos's initial stock offering and has since supplied her with invaluable technical assistance. Armco provided assistance in obtaining equipment in the United Stated during the difficult war years, installed and initiated its operation, and provided technicians to supervise and train operators. The chief technician supplied by Armco has remained as general manager and Armco has placed one of its executives on the board of directors of Altos Hornos.

Although Armco contributed some money capital, the major benefit has been through technical assistance in conformance with the licensing agreements between the two firms.[46]

In another example, American Cyanamid was requested by a leading Indian industrialist and financier to help establish a new dye industry in India. Cyanamid, like Armco, purchased only a few shares of the new company Atul Products, Ltd.

The major contribution of Cyanamid is through its licensing agreement. Cyanamid furnished Atul with technical data and information on plant layout and construction and helped

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[46]Wolfgang G. Friedmann and George Kalmanoff, editors, Joint International Business Ventures (New York, 1961), pp. 281-286.

purchase and install the initial machinery. Cyanamid also provided production specifications and necessary technical staff. It trains technicians at "cost" to Atul, and Atul pays for the services of each engineer and chemist furnished by Cyanamid on a temporary basis. Cyanamid receives 2.5 percent of the net sales value of each initial product manufactured and sold by Atul over a ten-year period. Cyanamid also permits use of its name in advertising.

Atul also contracted with CIBA of Switzerland to obtain manufacturing rights for certain chemical products and pharmaceuticals. In addition, Atul joined with Imperial Chemicals in a fifty-fifty venture to produce dyes in India.[47] Thus, the diffusion of technology is achieved by many effective methods. Atul has engaged in practically all forms of international business ventures, with minority foreign interest, a fifty-fifty joint venture, partial government interests, and licensing contracts with three different companies.

The interchange of ideas, which American- and European-based firms have used in the past, can proceed to developing nations through the abilities of the multinational corporate system. Judd Polk believes this will require some basic changes in economic thinking. "The state of industrial technology--very much including world electronic communications and

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[47] Ibid, pp. 380-385.

computers--has created the situation in which, for the first time, men are in a position to treat the world itself as the basic economic unit."[48]

Even though multinational organizations are a major source of growth for most host countries, serious conflicts still develop:

> For most nation states, the hundred odd multinational corporations that constitute the contemporary aristocracy of economic power are objects of an erratic love and hate affair. They are ardently courted for their unmatched capacity to create jobs, to develop effective management and to pay sizable tax bills. They are vhemently despised for their propensity to overwhelm local competition, to make crucial decisions anonymously and from afar, and to remain faithful only to the logic which furthers their own growth on a universal scale.[49]

Sidney E. Rolfe, discussing the local fears about a multinational based economy says, "there is no supranational organization capable of overcoming national fears and parochial interests in the name of economic progress. Today, whole nations are threatened with obsolescence as industry expands without reference to national boundries."[50]

One major complaint is that some global firms invest in such a way as to stifle economic development in host countries.

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[48]Business Week (December 19, 1970), p. 107.

[49]Samuel Pisar, "Toward a Multinational Economy," Wall Street Journal, XLVIII (September 20, 1971), 8.

[50]Business Week (December 19, 1970), p. 58.

Most investment in low-income countries has been concentrated in the extractive industries. Such a country's resources are usually sold in a buyer's market while it purchases finished goods in a seller's market aggravated by high transport prices set by maritime cartels.[51] The existence of such an unpopular dichotomy is partly responsible for the powerful Organization of Petroleum Exporting Countries, a union of developing countries in the Middle East.

Further aggravation occurs when the parent company assigns a different priority to the expansion of a foreign facility than the host country would prefer. Each is seeking his own self interest and such a conflict can easily result. In cases like this the multinational firm usually gets its way and the host country must accept the inferiority of its bargaining power.

Problems also arise as a consequence of a multinational's control over key sectors of the host's economy. An important factor to the host country is the extent by which the foreign firm will tend to reduce the host's imports, and establish an export base. Once this problem is solved the host country may possibly find itself vulnerable to the flexibility exercised by the multinational organization.

For example, the multinational corporation may take depreciation charges out of one country and invest them in

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[51] Richard Barber, "American Business Goes Global," The New Republic, CLIV (April 30, 1966), 17.

another with a more promising market. Or, in the event of a recession, a multinational may reduce production in countries where it receives more harassment from various national institutions, e.g., unions, governments, publics, etc., rather than cutting back high-cost units first so as to lower the marginal cost of production.[52] This production balancing act among subsidiaries adds to the instability of host countries, and gives multinational organizations an effective political lever over host governments.

International economic development is subject to the separateness of political authority. Sometimes, problems that would be dubbed "economic" in the context of a national economy are made "political" by the nature of international investment. For example, when an eastern United States company undertakes a project on the west coast, the changes induced in both regions are primarily economic. If the same company undertakes a project in Canada, or any other foreign country, the questions raised are politically tinted.[53]

The current situation in Canada offers perhaps a preview of what multinational corporations can expect in the future from more advanced host countries. Measured by assets, foreigners control 58.1 percent of all manufacturing in Canada

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[52] Charles Kindleberger, American Business Abroad (New Haven, 1969), p. 5.

[53] Judd Polk, "The Rise of World Corporations," Saturday Review, LII (November 22, 1969), 34.

ranging from 99.7 percent of the petroleum and coal products industries to 18.8 percent of the furniture industry.

A federal government task force studying foreign ownership and control in Canada has recommended that Canada set up a powerful review board to "screen" all foreign investment in the country to make sure the investment is "in the best interest" of the Canadian economy. The board views foreign-based companies, particularly if they are part of multinational corporations, as being "insensitive to Canadian needs."

The report recommends that the government should first establish an "industrial strategy" so that Canada can determine the areas in which it wants Canadian-based industry to specialize. The proposed review board could block foreign investment deemed "unfavorable" for Canada and could "bargain" with existing foreign-owned enterprises to "get a better deal" by, for instance, forcing these companies to expand research and development in Canada and to loosen their ties with the parent company.

More specifically, the report says direct government involvement via a screening process is needed for the following five reasons: "the protection of industrial priorities; bargaining for a better deal; blocking of foreign investment which adds nothing of value; bargaining with foreign proprietors of technology, or other valuable inputs for arms-length transfer to Canada; selectively protect Canadian entrepreneurship." The report is quick to point out that the review board should be

guided by "a more flexible approach," rather than by "any predetermined set of rules." "It is important that rigid rules don't cut Canada off from new developments abroad which aren't available in forms other than direct investment."[54]

Developing countries like chances for economic advance, but detest the fact that capital is foreign controlled or influenced. Their people find it difficult to compete with advanced production and marketing know-how, thus, they are relegated to low-profit, static industries. To make matters worse, host country investors have little opportunity to share in the control of foreign-based subsidiaries by purchasing stock.[55]

Multinational corporate executives often publicly push for broader stock ownership of the _parent_ firm on an international basis. They do this because it is good publicity and they are fully aware that ownership is no longer synonymous with control.[56] If it were detrimental to the perpetuation of management, they obviously would not sponsor broader ownership. In fact, with ownership spread over the entire earth, there is virtually no chance to overthrow the control of present management. The host countries equate this situation to a private world government administered by professional managers.

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[54] "Domestic Control of the National Economic Environment," _Canadian Forum_, LI (December, 1971), 1-72.

[55] Lee Model, "The Politics of Private Foreign Investment," _Foreign Affairs_, XLV (July, 1967), 644-647.

[56] Adolph A. Berle and Gardiner Means, _The Modern Corporation and Private Property_ (New York, 1933).

Many host countries have encouraged foreign controlled subsidiaries to promote native managers to positions of authority in the local subsidiary. The host countries have been disappointed and complain that when a national is promoted he often lacks equal authority with his parent company counterpart.[57] The following quote is an example of the centralization of control that characterizes many multinational organizations:

> Geneen eliminated much of the autonomy of I.T.T.'s operating managers, and replaced it with a control system tautly run from New York headquarters. From what was once described as a kind of holding company in which, at one point, managers were literally instructed to ignore New York directives and "just send earnings back home," I. T. T. became a tightly centralized organization.[58]

The parent company's home government may also exercise control over the multinational firm that will conflict with host country desires. For example, under the Trading With The Enemy Act, the United States government forbids United States-chartered firms to trade with Communist countries. Oftentimes, the host country government has no such policy and actually encourages trade with everyone so as to enhance its economic welfare. To which government does the firm comply?

Also, the multinational firm is placed in a dilemma when its home government urges the firm to step up the remittance of profits, to export more to foreign subsidiaries, and to

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[57]Model, op. cit., pp. 644-647.

[58]Stanley H. Brown, "How One Man Can Move A Corporate Mountain," Fortune, 74 (July 1, 1966), 82.

import less from them.[59] No wonder many countries complain that guidelines are designed to improve home country balance of payments by worsening theirs.

Nations emerging from colonialism have a tendency to suspect the agencies of advanced countries. They all want industrialization, but they want it customized with control over business firms coming from within their borders. Growing nationalism is causing foreign ownership of productive facilities to be resisted. However, the shortage of know-how in developing countries continues to exist. It has been speculated that in the future many host countries will demand and get local ownership while multinational firms provide the skills and technology. Already, more and more firms specializing in the international sale of management services, continuing research and development, technical skills, and other economic services are opening their doors. Technology is now being seperated from production as management was from ownership earlier in the century. One student of the multinational corporation offers this description of the evolving role expected for the multinational enterprise:

> The highest net return on investment is likely to be generated by the firm that invests principally in research and development, in the international recruitment and training of skilled technical and managerial personnel, in the organization of interrelated global markets which result in marketing

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[59]Model, _op_. _cit_., p. 650.

> economies, and in the capability of engineering and starting up modern plants, farms, mines, fisheries, schools, hospitals--whatever is needed, so long as ownership is not a precondition. It will probably sell its technology, its skills, and its distribution services on a contractual basis to largely locally owned firms. Whether the latter are owned by a government entity or a private group may be wholly irrelevent. (An interesting recent development along this line is the international joint venture in Yugoslavia which involves foreign capital and managerial-technical skills in return for a share of the profits.)[60]

The case of Yugoslavia is unique in that it is the first Socialist country to pass a foreign investment law. The law, passed in July, 1969, is an attempt to attract foreign investment from countries where private ownership is permitted, to one where it is forbidden. The law is written in such a way as to allow Yugoslavian authorities the freedom to interpret and administer the law in an effort to attract much-needed Western technology.[61] This could be a sign of things to come in East-West economic relations. In the words of one expert in international economic relations, "Communist state firms and capitalist private firms are forging joing ventures for mutual profit in a dogma-shattering development which raises the promise of transideological enterprise."[62]

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[60]Richard D. Robinson, "Who Needs Equity," _World Business_, edited by Courtney C. Brown (New York, 1970), p. 276.

[61]Isaiah A. Litvak and Christopher J. Maule, editors, _Foreign Investment: The Experience of Host Countries_ (New York, 1970), p. 23.

[62]Samuel Pisar, "Toward A Multinational Economy," _Wall Street Journal_, XLVII (September 20, 1971, 8.

Other experts feel the internationalization of production will have a tendency to equalize wages, interest, technology, products, and managerial skills on a worldwide basis. This is not now a reality; nevertheless, Charles Kindleberger is certain the future multinational corporation will do just that. His reasoning and analogy is as follows:

> . . . a case may be made that the development of the large international corporation in the 20th century will prove in the long run to be a more effective device for equalizing wages, [and what about prices?] , rents and interest rates throughout the world than trade conducted in competitive markets by small merchants. The analogy is with the national corporation which in the United States after about 1890 helped to equalize wages, interest rates, and rents within the country's borders, by borrowing in the cheapest market (New York) and investing where it was most productive in terms of cost and markets. The resultant movement of capital and shift in demand for labor was probably more effective, in, say, raising wages in the South and lowering interest rates there than either trade by local companies or the limited direct movement of factors.[63]

In order for this projection to become a reality, the multinational organization must overcome some serious obstacles. These obstacles include adverse environmental factors, the firm's own lack of altruism, and most importantly, the popular rise of nationalism which seems to be an evergrowing menance. The adjustments in perspective necessary to insure the viability of the global enterprise is exemplified by Judd Polk:

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[63]Charles Kindleberger, International Economics, 4th edition (Homewood, 1968), p. 400.

Though the international company may have stumbled into its role as direct allocator of resources and equalizer of factor returns on a world-wide basis, its ultimate health depends on the degree to which we see the world as an international economy instead of seeing it as a group of national economies.[64]

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[64]Judd Polk, "The Rise of World Corporations," Saturday Review, LII (November 22, 1969), 34.

CHAPTER III

PUBLIC POLICY TOWARD INTERNATIONAL MARKET POWER

The unique forms of economic power put together by the multinational corporations supersede the abilities of national governments to control them. Much of this power is obtained via concentration within an industry which is generally characterized by a rapid growth rate. Economic power is also a derivative of rapid improvements in technology which can be patented in most major industrialized countries.[1] Other forms of a multinational corporation's economic prowess were discussed in chapters one and two.

In 1965, Twentieth Century Fund made a study of the concentration of ownership and control in the Canadian economy. In the results of that study a description is given of a situation that is becoming more typical in many national economies.

> A very large and strategic part of Canada's industrial assets are owned and controlled by non-residents, much of them being directly controlled via the foreign parent-domestic subsidiary relationship. In addition such concentration tends to be in the larger enterprises and in industries whose growth prospects appear to be among the most dynamic in the whole economy. Indeed, the

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[1]For detailed statistical evidence of concentration, restrictive contractual agreements, interconnections between firms, and market shares of firms in various industries in Europe and Japan, see: U. S. Senate, Economic Concentration, Hearings before the Subcommittee on Antitrust and Monopoly, 90th Congress, 2nd session, Parts 7, 7A (Washington, 1968).

> concentration is extremely heavy in various key export sectors as well as important sectors of domestic manufacturing industry both of which tend to be prime movers of the Canadian economy.[2]

This same concentration trend is evident in Europe, also. John Dunning conducted a study of British industry and found that "the fifty largest American financed firms [some of which are multinational corporations] in Britain account for more than four-fifths of the total capital stake and about three-quarters of this is directed to four industries, oil refining, motor cars, chemicals, and electrical engineering, which also happen to be the most research-intensive industries."[3]

The accumulations of economic power can be used in many beneficial ways. Unfortunately, the term economic power connotes abuse to many people. This is true because of the history of restrictive trade practices associated with economic power groups. Roy Blough, professor of international business at Columbia University, says, "It is not realistic to expect that either business or government will refrain from using the economic power at their disposal to promote what they deem to be their interests."[4] Multinational corporations, as one

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[2]U. S. Senate, Foreign Economic Policy for the 1970's, Hearings before the Subcommittee on Foreign Economic Policy, 91st Congress, 2nd session, Part 4 (Washington, 1970), 915.

[3]Ibid., p. 796.

[4]U. S. Senate, International Aspects of Antitrust, Hearings before the Subcommittee on Antitrust and Monopoly, 89th Congress, 2nd session, Part 1 (Washington, 1966), 75.

type of economic power group, have special ways to practice restraint of trade around the globe.[5]

One example of restraint was illustrated by the Canadian Commission on Farm Machinery Prices. Their study showed that under British law the domestic farm machinery industry could refuse to sell directly to Canada, making it impossible for Canadian farmers to purchase the less expensive Britich machinery. Thus, the Canadian farmers were forced to deal with their domestic outlets which charged an extra 1,400 dollars for the purchase of a combine.[6]

This type of business practice inspired one student of the multinational corporation to make the following observation:

> The vulnerability of a country to restraints of trade that are executed beyond its borders differs only in degree, not in kind, from the vulnerability of a state in the United States to trade restraints that are executed in other states. As international trade has increased in volume and importance and as international firms have become more important in that trade, this vulnerability has increased.[7]

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[5]For an articulate discussion on the potential dangers of the multinational corporation in regards to restrictive business practices see the testimony of Stephen Hymer in U. S. Senate, International Aspects of Antitrust, Hearings before the Subcommittee on Antitrust and Monopoly, 89th Congress, 2nd session, Part 1 (Washington, 1966), 20-24.

[6]U. S. Senate, Foreign Economic Policy for the 1970's, p. 761.

[7]Corwin D. Edwards, "The World of Antitrust," The Atlantic Community Quarterly, VII (Winter, 1969-1970), 560

Many national governments, and even regional trading blocs, have adopted policies or passed legislation designed to control, prevent, or correct the restrictive trade practices that they find harmful to their economic interests. By 1964, some type of government antitrust policies existed in twenty-four countries, including three in North America, three in South America, thirteen in Europe, and five in other countries of the world.[8]

Even though many countries have adopted measures to prevent restrictive business practices, they have various meanings, apply to many different types of restraint, are judged by a varying set of criteria, and are enforced by either judicial or administrative agencies in each country.[9] In addition, most developing countries have no formal laws against restrictive trade practices. Many of these nations have decided to control economic power within their borders via socialistic control of industry. These nations are primarily interested in national economic benefit and only secondarily, or possibly not at all, in the principle of competition. This ambiguous situation has prevented much progress from being made in the area of international harmony concerning restrictive business practices.

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[8]U. S. Senate, International Aspects of Antitrust, p.300.

[9]Endel J. Kolde, International Business Enterprise (Englewood Cliffs, New Jersey, 1968), pp. 40-41.

The following is a practical example of the lack of international coordination in the attempt to control restrictive business practices. If a multinational company has subsidiaries in each Western European country, North America, and Japan, its restrictive agreements must be registered in seven different countries. In addition, the European Economic Community requires the restrictive agreement to be registered with it. The extent of the information that must be supplied varies with each governing body's interpretation of "agreement" and "restrictive." Five of these countries require the firm to report if it has a dominant position in the industry or if it individually engages in restriction. Any mergers or acquisitions must be reported in three countries if the acquirer is "large" (by a definition that is different in each country).[10]

This lack of coordination in efforts to control the abusive use of economic power by a multinational corporation takes away the efficacy of such controls. Fragmented efforts by single national governments cannot prevent restrictive trade practices in a world economy. In testimony before a Senate committee investigating world-wide restrictive business practices Roy Blough said, "With respect to private business competition, national rules vary widely and no single national government is able to deal effectively with the great

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[10]Edwards, op. cit., pp. 562-563.

multinational corporations that are rapidly developing around us."[11] That is the central theme of this chapter.

No exhaustive or legally-precise treatment of such a complicated subject is attempted. What is intended here is to illustrate some of the policies toward economic power and international restrictive business practices in the more industrialized parts of the world economy. Also, an effort will be made to point out some of the special problems presented in this area by the multinational corporation.

European Concepts and Policies Toward Economic Power

Following World War II nearly all of the major industrialized countries adopted some type of antitrust legislation.[12] Later, the Treaty of Rome, which created the European Economic Community, formulated policies designed to prohibit the adverse effects of market power. These policies, which were born from supranational legislation, rule over the laws of member states in the Common Market.

Article 85 of the Treaty prohibits "agreements," all "decisions" of associations, and all "concerted practices" that are capable of affecting commerce between the member States and which have as their effect the prevention, restriction or distortion of competition within the Common Market.

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[11] U. S. Senate, International Aspects of Antitrust, p. 76.

[12] A discussion of the reasons for rapid expansion of this post war legislation in Europe can be found in Corwin D. Edwards, Control of Cartels and Monopolies, (Dobbs Ferry, New York, 1967), pp. 8-13.

A number of particular practices are listed by way of illustration; including the fixing of purchase or selling prices or trading conditions, the limitation or control of production, markets, technical development or investment, the sharing of markets, and tying agreements.[13] In order to apply these policies, the Community has required all such restrictive agreements to be registered with it regardless of the national origin of the agreement. There are now more than 35,000 such agreements under study in Brussels.[14] Under Article 85 (3), the Community may grant exemptions to firms whose agreements are judged to be beneficial to the Community.[15] This quasi-extraterritorial principle is a logical reaction to the contemporary business organization. Multinational firms can make decisions in one part of the world that will significantly affect economies in other parts of the world.

Article 86 prohibits a firm from taking any improper advantage of a dominant position within the Common Market, or within a substantial part of it, so as to affect trade between member States. The particular impositions prevented are

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[13] U. S. Senate, Antitrust Developments in the European Common Market, Hearing before the Subcommittee on Antitrust and Monopoly, 88th Congress, 1st session, Part 1 (Washington, 1963), 50.

[14] Business Week (May 7, 1966), p. 113.

[15] G. W. Haight, "Antitrust in Great Britain and the European Common Market," Doing Business Abroad, edited by Henry Landau (New York, 1962), p. 310.

similar to those in Article 85.[16] It should be noticed that no general power to prohibit mergers is provided by either Articles 85 or 86. The Brussels Commission has the authority to deal with restrictive practices which adversely affect the Community, but not to prevent a dominant position from coming about.[17] This situation is very similar to British law which says market restraints *per se* are not in violation unless the practice provides no benefit to the British nation.

In Britain any restrictive practice under question by the courts must be proven beneficial by the company itself. The British Restrictive Trade Practices Act of 1956 stipulates the following:

> A restriction accepted in pursuance of any agreement shall be deemed to be contrary to the public interest unless the Court is satisfied that the removal of the restriction would deny to the public as purchasers, customers or users of any goods specific and substantial benefits or advantages.[18]

By 1963, British courts had ruled on only two dozen restrictive agreements. Six of these cases were deemed to be not contrary to the public interest.

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[16] U. S. Senate, *Antitrust Developments in the European Common Market*, p. 50.

[17] For a detailed discussion of the "dominant firm" concept and the vagueness of its application in the Common Market see Dr. Eberhard Gunther's report in U. S. Senate, *Antitrust Developments in the European Common Market*, pp. 81-95.

[18] As cited in James Cairns, "Benefits From Restrictive Agreements: The British Experience," *The Canadian Journal of Economics and Political Science*, XXX (May, 1964), 228.

Under these circumstances the British court must render a judgement on the economic merits of the restrictive agreement. In order to do this the court must apply some sort of economic theory to determine, for example, potential effects on prices, output, profits, employment, and expenditures on research. In addition the court necessarily has to apply value judgements when deciding whether the public would be worse off or better off if it let the restrictive agreement stand.[19] The underlying assumption is that it is possible to have excessive competition in certain situations. Therefore, in Britain as in most other European countries, the performance of firms is the major yardstick used to gauge the desirability of a particular economic operation. In practice, even the United States has adopted this method *de facto*, if not *de jure*.

The European Economic Community has developed policies designed to deal effectively with concentrations of economic power. The application of these policies are of a regulatory nature rather than competitive. Even so, because of a new type of nationalism, there has been strong pressure within the Community to create an atmosphere which would hasten industrial concentration, and therefore larger firms that supposedly could compete more effectively with United States

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[19] *Ibid.*, pp. 229-230.

based multinationals in Europe.[20] This is most obvious in the auto, steels, and chemical industries.

The United States based firms dominate the highly technical areas such as computers and other electronics. This is to be expected when American businesses contemplating a European operation have been told, "Unless you can bring your research and development here, do not come."[21] The Europeans have never opposed oligopoly as vigorously as official United States policy; in fact, in order to get the desired technology they are now trying to emulate United States oligopoly. This attitude toward technology and the multinational corporation is accurately summarized by Sidney Rolfe.

> As the Rome Conference concluded, the international corporation has been a key factor in the virtual elimination of the so-called "technological gap;" indeed the best way to establish such a gap would be to restrict international investment.[22]

Most European governments, in contrast to the United States government, encourage mergers when the result will be to stifle the growth of foreign subsidiaries without sacrificing their sources of technology. For example, Britain created the Industrial Reorganization Corporation in late 1966

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[20] D. Swann, "Concentration and Competition in the European Community," The Antitrust Bulletin, XIII (Winter, 1968), 1473-1474.

[21] U. S. Senate, International Aspects of Antitrust, p. 81.

[22] Sidney E. Rolfe, "The International Corporation in Perspective," Atlantic Community Quarterly, VII (Summer, 1969), 263.

in order to spur mergers complementary to British interest. This organization also acts to prevent "undesirable" foreign firms from acquiring British companies. The result has been that Britain has created some of her own multinational enterprises.[23]

In nationalistic France, the state planning agency has encouraged concentration in the nation's largest industries. As a result, two French companies now account for two-thirds of France's steel production. Further, Renault and Peugeot, the only surviving all-French auto companies consistently adopt parallel policies. In an effort to salvage some French interest in the electrical industry, the two larger firms have absorbed 60 percent of this industry. Acting hurriedly, the French planning agency merged several chemical companies but saved only a third of the industry for French control.[24]

Germany followed this same trend, as has Italy with its I. R. I. and E. N. I. which control the chemical, oil, and electronics industries. In order to further support European participation in world-wide business, five large banks formed a syndicate to promote European investment in the United States market.[25]

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[23]Philip Siekman, "Europe's Love Affair With Bigness," Fortune, LXXX (March, 1970), 96-98.

[24]*Ibid*., pp. 96-98.

[25]D. Swann, *op. cit*., p. 1475.

In order to achieve an oligopoly industrial structure it was necessary for leading European nations to relax enforcement of antitrust policies. More accurately, "it has been recognized that the existing antitrust powers of the Rome Treaty do not really empower the Brussels Commission to prevent undesirable concentrations from taking place."[26] With this in mind, most governments have given legal authority to trade associations who regulate various aspects of commerce and industry at the national level. Membership in such associations is compulsory in Germany.[27]

Although not officially adopted, a report on technical progress in the Common Market at the end of 1960 expressed the qualified extent of many Europeans' loyalty to the principle of competition:

> Competition is not an end in itself. The objective to be attained is not a predetermined market structure, but economic progress. Other structures than the competitive one seem capable of assuring the realization of this objective.[28]

Another European trading bloc, The European Free Trade Association, included procedures in its treaty necessary to correct adverse restraints of trade against one or more of

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[26] D. Swann, op. cit., p. 1475.

[27] Howe Martyn, International Business (London, 1964), p. 68.

[28] U. S. Senate, Antitrust Developments in the European Common Market, p. 21.

its member countries. When such a restraint occurs, the interested governments will negotiate informally and the injured nation may seek a remedy either administratively or judicially. Any action taken under the agreement is kept confidential; but in a general report, the Association acknowledged that use of these provisions has occurred only in a few cases.[29] Obviously, the Association believes its members are receiving many benefits from regulated markets.

Prior to the formation of the Common Market, the European Coal and Steel Community adopted a policy of trying to control undesirable mergers by requiring advanced approval. So far, they have not used these policies to disapprove of any mergers.[30] In addition, the Court of Justice ruled that the European Coal and Steel Community had no authority to forbid price discrimination against outsiders.[31] The reason for the difficulty of enforcing these policies is explained in the following quote:

> The experience of the High Authority of the Community with enforcement of what Jean Monnet called "the first antitrust law of Europe" demonstrates that it is one thing to pass antitrust legislation but quite another to enforce it

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[29]Corwin D. Edwards, "The World of Antitrust," World Business, edited by Courtney C. Brown (New York, 1970), p. 306.

[30]U. S. Senate, Antitrust Developments in the European Common Market, p. 16.

[31]Charles Kindleberger, American Business Abroad, (New Haven, 1969), p. 65.

> effectively against cartels which are heavily entrenched in economies with climates strongly favoring cartelization.[32]

In 1960, the multi-nation organization General Agreement on Tariffs and Trade (GATT) adopted a policy against restrictive trade practices which allows the injured nation to consult bilaterally or multilaterally with other members and, if all agree that restraints have taken place, corrective action can be taken. No such action has yet taken place.[33] It would be difficult to believe that no restraints have taken place, but not difficult to believe that nations with different ideas toward free markets have not been able to agree on the proper action to take.[34]

In its latest efforts to cope with the multinational corporation, the European Economic Community is trying to develop a single company law which would give a Community charter to those companies wishing to operate in the trade region. In explaining this course of action, Raffaello Fornasier, legal advisor to the Secretariat of the Councils of the Community, says that a

> uniform law would make it possible for companies to combine to achieve optimum size, move freely

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[32]Grant W. Kelleher, "The National 'Antitrust' Laws of Europe," Doing Business Abroad, edited by Henry Landau, Vol. I (New York, 1962), 298.

[33]Edwards, op. cit., p. 306.

[34]An excellent comparison of American and European policy toward restrictive practices is made in Corwin D. Edwards, Control of Cartels and Monopolies (Dobbs Ferry, New York, 1967), pp. 201-208.

> to the best production location, rationalize their research and distribution networks through common efforts, and have access to available sources of finance in the country of their choice.[35]

This regional charter is designed to provide for three types of integration: mergers across national frontiers, establishment of common subsidiaries of companies with different nationalities, and establishment of holding companies on the European level.[36]

This idea of a new European charter simply reflects the efforts of a political framework trying to catch up with the practicing realities of an already existing economic order. As Corwin Edwards has pointed out, "The view that competition was the road to efficiency was inconsistent with certain deeply rooted European attitudes."[37]

United States Policies Toward International Restraints of Trade

> In my judgement, we have in America suffered very gravely over the years from a failure to construct an adequate theory even of the largely domestic corporation--let alone of the multinational corporation. . . .The construction is not merely an intellectual desideratum, it is absolutely essential in a practical sense not only to the most effective use of the corporation,

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[35]U. S. Senate, Foreign Economic Policy for the 1970's, p. 926.

[36]Ibid.

[37]Corwin D. Edwards, Control of Cartels and Monopolies (Dobbs Ferry, New York, 1967), p. 11.

> national or multinational, in advancing the human situation, but also to the accomodation of the corporation to general human values.[38]

The problem described above is one of the basic reasons why the United States has not been able to develop a consistent and effective policy in regards to restraints of trade by the multinational corporation. The futility and frustration of United States policy as applied to businesses engaged in world-wide restraints of trade are exemplified by the following situation:

> It is particularly significant, perhaps, that in some areas like banking, somewhat archaic United States laws, a residue of the Populist movements, forbid commercial banks to organize branches outside a county but have no provision to prevent their spreading all over the rest of the world.[39]

Nevertheless, there have been a few instances when the United States has tried to vigorously apply its antitrust laws to an international situation. The Restatement of the Foreign Relations Law of the United States, in section 18, allows the government to pursue extraterritorial jurisdiction if a business activity causes an effect within its borders. However, the jurisdiction is justified only if it "is not inconsistent with the principles of justice generally recognized by states that have reasonably developed legal systems."[40]

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[38]Authur B. Tourtellot, "Forward," World Business, edited by Courtney C. Brown (New York, 1970), p. xxii.

[39]Kindleberger, op. cit., p. 63.

[40]U. S. Senate, A Foreign Economic Policy for the 1970's, p. 926.

The Restatement rule is based on the Alcoa case[41] dealing with an aluminum cartel which regulated the world market. By using special methods the cartel had an impact on imports to the United States. Judge Learned Hand concluded that these methods "would clearly have been unlawful, had they been made within the United States; and it follows. . .that both were unlawful, though made abroad, if they were intended to affect imports and did affect them."[42] The cartel was deemed to be illegal.

The desire of American courts to extend jurisdiction to foreign subsidiaries of multinational corporations has sharpened the issue of national sovereignty. For example, a United States court demanded the record books of some Canadian pulp and paper companies accused of collusion in their export policies. In other cases, the goverment of India allowed Mobil Oil and Standard Oil of New Jersey to create a joint Indian subsidiary which was subsequently broken up by the United States courts; likewise, the Canadian government allowed DuPont and Imperial Chemicals to do the same thing in Canada and this was also dissolved by the same courts.[43] This type of world antitrust policing did not last very long.

There can be conflicting opinions resulting from the concurrent jurisdiction of different nations. For example, the

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[41] U. S. v. Aluminum Co. of America, 148 F. 2d, 416 (1945).

[42] Kolde, op. cit., pp. 40-41.

[43] Martyn, op. cit., pp. 67-68.

1951 Imperial Chemicals-DuPont case[44] was based on a licensing agreement which in the opinion of the American court involved an illegal division of markets. In this classic case, the United States court ordered compulsory licensing, while the British court ordered its subject, Imperial Chemicals, to fulfill the original contract. The British Court of Appeals commented, "There is raised a somewhat serious question, whether the order of [the United States court], in the form it takes, does not assert an extraterritorial jurisdiction which the courts of this country cannot recognize, notwithstanding any such comity."[45] Fortunately, the United States decree contained a saving clause which exempted action taken which did not conform to foreign laws to which the company was subject. This precluded a serious jurisdictional dispute.

There is still no clear distinction where the jurisdiction of United States antitrust laws end, and the point at which some other nation's jurisdiction begins. Overlapping and conflicting regulations for controlling economic activity are the result of differences in tradition and ideology. Eugene Rostow, Yale University professor of law and public affairs, warns that "the attempts to enforce our own antitrust laws against American and foreign companies with respect to

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[44] _U. S. v. Imperial Chemicals Industries, Ltd._, 100 F Supp., 504 (1951).

[45] Kolde, _op. cit._, pp. 40-41.

transactions abroad has produced a good deal of most undesirable friction between our Government and the government of friendly nations."[46]

Many foreign governments have already lodged strong protest with the United States for its attempts at an extraterritorial application of antitrust laws. The protesting governments include Canada, Denmark, Finland, France, Germany, India, Ireland, Italy, Japan, the Netherlands, Norway, Sweden, Switzerland, the United Kingdom, and even Yugoslavia. Some of these governments (mostly European) have actually enacted legislation to prevent its businesses from complying with any type of order originating in a foreign state. Others forbid foreign courts from acquiring documents from domestic businesses, and still others protect specific industries, namely, the shipping industry.[47]

These protest forced United States courts to incorporate saving clauses into their decisions. The effect has been to remove any extraterritorial application of United States antitrust laws to multinational corporations. For instance, in the General Electric case,[48] the court included the following in the final decree:

> Philips [a multinational firm] shall not be in contempt of this Judgement for doing anything outside

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[46]U. S. Senate, International Aspects of Antitrust, p. 8.

[47]J. J. A. Ellis, "The Legal Aspects of European Direct Investment in the United States," The Multinational Corporation in the World Economy, edited by Sidney E. Rolfe (New York, 1970), p. 70.

[48]U. S. v. General Electric Co., 115 F. Supp., 835 (1953).

> the United States which is required or for not doing anything outside of the United States which is unlawful under the laws of the government, province, country or state, in which Philips or any other subsidiaries may be incorporated, chartered or organized, or in the territory of which Philips or any such subsidiaries may be doing business.[49]

The court went even further in a consent decree with certain members of the international oil cartel. United States based firms that are members of the cartel were exempted from certain injunctions if participation in the cartel was made

> pursuant to request of official pronouncement of policy of the foreign nation or nations within which the transactions which are the subject of such combinations take place. . .and where failure to comply with which request or policy would expose Jersey to the risk of the present or future loss of the particular business in such foreign nation or nations.[50]

Other evidence points to even more limitations on the effectiveness of antitrust enforcement. According to the former antitrust director Thurman Arnold, most departments of the United States federal government are in practice unsympathetic to vigorous enforcement of the antitrust laws.[51] In fact, an official of the Commerce Department says that vigorous application of antitrust laws could "substantially increase

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[49] Ellis, _op_. _cit_., p. 71.

[50] _Ibid_.

[51] U. S. Senate, _Foreign Trade and the Antitrust Laws_, Hearings before the Subcommittee on Antitrust and Monopoly, 88th Congress, 2nd session, Part 1 (Washington, 1964), 129.

competition from abroad and could therefore cut domestic profits and jobs and adversely effect our balance of payments."[52]

The existence of varying attitudes among agencies of the federal government toward the application of antitrust laws was documented by Peter Chumbris, chief counsel for the minority, during a Senate hearing on the application of these laws to international situations:

> And as you read the statement of Mr. Berman of the Commerce Department, and Mr. Johnson from the State Department, and Mr. Loevinger from the Department of Justice, and Mr. Dixon on behalf of the Federal Trade Commission, as they testified in previous hearings, whether on foreign trade or the Common Market, you can see how various departments and agencies do not see eye to eye on the antitrust application. There is a variance. Each is looking at it from his own particular field--whether it is State with foreign policy, or Commerce trying to improve business throughout the world, or the antitrust position enunciated within the Department of Justice and FTC."[53]

Does the State Department overrule the Antitrust Division of the Justice Department on matters involving international restrictive business practices which are believed to be in the "national interest"? If the State Department agrees with businessmen (which it frequently does) that the national interest is involved and they need to join an international cartel, what does the Department of Justice do? Lee Loevinger, former assistant attorney general in charge of the Antitrust Division, states, "I have had consultations with high officials of the

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[52]Wall Street Journal (July 30, 1970), p. 1.

[53]U. S. Senate, International Aspects of Antitrust, p. 31.

State Department, and we have always cooperated and assured them that as far as the Department of Justice was concerned, that the particular activities in question would not be challenged in view of the State Department's attitude."[54] That statement needs no interpretation.

To further complicate the problem, some United States officials do not seem to recognize the fact that there are differing ideologies toward competition. For example, in a speech before the National Industrial Conference Board, Richard W. McLaren, who heads the Justice Department's Antitrust Division, invited foreign firms into the United States market and suggested this would be a way to increase competition without the use of antitrust laws to break up large domestic businesses. In further rhetoric, he stated that the antitrust department "will be alert to challenge barriers to entry erected by private corporations by means of unduly restrictive patent, know-how, and technology licenses, as well as by outright cartel-type arrangements."[55] Mr. McLaren may have trouble attracting foreign enterprises since they are accustomed to this type of restrictive behavior, and he further states that "doing business in the U. S. does contemplate acceptance by foreign firms of our basic national policy of competition and of the scheme of antitrust enforcement."[56]

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[54]U. S. Senate, Foreign Trade and the Antitrust Laws, p. 119.

[55]Wall Street Journal (March 6, 1970), p. 14.

[56]Ibid.

How do these antitrust laws affect the recently developed multinational corporation? For one thing, internal expansion is generally considered by United States courts to be normal and permissible. Under antitrust laws it takes two parties to form a "conspiracy in restraint of trade." If a multinational firm has branches, divisions, departments, or other unincorporated units working abroad, it may legally divide territories, fix prices, regulate output, and avoid competition between and among its various operating units. It may do so because it has centralized management control within the structure of a single corporate enterprise. Most legal authorities say there should be no difference in antitrust application between a multinational enterprise and one using a single corporate organization.[57] In other words, where business enterprises in various countries are under the same corporate roof, market restrictions may be based on a management decision, rather than an intercorporate agreement; the economic effects are the same in the two cases.

The above situation prompted Howe Martyn, a well-known student of the multinational corporation, to suggest that United States antitrust laws actually promoted the growth of these organizations. He says, "American antitrust regulations appeared at first to be an obstacle, but later were discovered

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[57]Leo M. Drachsler, "Antitrust Laws and American Business Abroad," Business Abroad, Vol. 94 (May, 1969), p. 20.

to permit and require completely controlled foreign operations."[58] Now the laws are merely another parameter within which the companies operate without significant constraint.

For the multinational firm the greatest areas of uncertainty are licensing and joint ventures. Most litigated cases in the United States that have international connotations pertain to collusive activities carried on partly in the United States by two or more separate firms and designed to restrict trade within the country or imports into it. Corwin Edwards, professor of economics at the University of Oregon, believes these cases give very little indication that United States antitrust laws are applicable to the multinational corporation which relies upon joint sale, patent licensing, exclusive dealings, or participation in mergers or joint ventures.[59] A survey of United States antitrust history shows there are no cases involving the acquisition of a foreign firm by a United States based corporation, and there are no cases involving a joint venture located outside the United States boundary.[60] One of the reasons for this fact is evident in the following quote:

> Unfortunately there is today no coherent enforcement policy at the Antitrust Division which can be

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[58]Martyn, op. cit., p. 37.

[59]Edwards, Cartels and Monopoly, p. 309.

[60]U. S. Senate, International Aspects of Antitrust, p. 467.

> discerned by the outside observer. Businessmen interested in combination mergers and joint ventures must engage in what is little more than a lottery. It is well known that the Antitrust Division does not have sufficient funds or personnel resources to apply the laws equally to all combinations of this kind. While much has been made of the Division's attack on mergers, for example, it is significant that it has actually proceeded against only 49 mergers out of a total of 4,960 recorded in the past four fiscal Government years. Many mergers like those attacked went scot-free. One can confidently expect that a similar condition will exist as to joint ventures. Some joint ventures, both past and present, will be attacked, while many similar joint ventures involving unquestionably the same basic factual situations will go unchallenged.[61]

But what about licensing agreements which are becoming so important to the multinational organization. When a United States-based multinational firm licenses its technology to a foreign firm, and certainly its own overseas subsidiary, there is likely to be an understanding about sales in the market of the licensor. In practice, can the United States government control the activities of a corporation that engages in agreements abroad which would restrict sales to the United States and probably lessen import competition? Two surveys revealed the feelings of businessmen in regards to this problem. A 1959 survey by the Department of Commerce showed that less than 10 percent of the responding corporations were concerned about the adverse impacts of the antitrust laws on foreign investment. However, a similar survey by the Patent, Trademark, and Copyright Foundation of George Washington University

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[61]Gerhard A. Gesell, "Joint Ventures in the Light of Recent Antitrust Developments," The Antitrust Bulletin, X (January-April, 1965), 34-35.

revealed that some 40 percent of United States companies licensing abroad felt that the antitrust laws in this area were constraining.[62]

At the present time, many licensors are de jure extending nonrestrictive licenses but de facto extending restrictive ones. Charles Kindleberger, professor of economics, Massachusetts Institute of Technology, made the following accurate observation of this situation:

> There is little that the United States can do about conspiracy abroad to restrict sales to the United States market, especially if it is not really conspiracy, but approaches more nearly "conscious parallel action," or silent threat and equally silent receiving and acting on the message.[63]

This realism frustrates the court philosophy in the United States which seems to be that competition is good *per se*. From the standpoint of economics such a view is much too narrow, and in a world economy, it is unrealistic. As yet, however, no homogeneous criteria of "reasonable" restraints of competition in the international economy have been provided by either economist or lawyers. The primary reason for this is that there has been

> . . .insufficient theoretical inquiry into the nature, as it emerges, of the multinational corporation, with all the sensitivities it must cope with, all the misconceptions it must contend with, and all the inevitable hostilities it must face--not

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[62]J. N. Behrman, "Clarification of U. S. Antitrust Policies," *U. S. Investments Abroad*, edited by Raymond F. Mikesell (Eugene, 1962), p. 215.

[63]Kindleberger, *op. cit.*, p. 65.

> to mention the staggering day-to-day problems of diverse accounting systems, varying ethical concepts and disparate corporate-governmental relationship. . . .[64]

Japan and Competitive Ideology

It is significant to briefly survey the views of Japan, the most powerful economic nation in the Eastern Hemisphere, toward restrictive market behavior. Prior to World War II, Japan was a country of large cartels in the form of the *zaibatsu*, or great family trusts. These organizations had worldwide operations. After the war ended, the United States occupation forces were determined to create anti-monopoly laws in Japan similar to those in the United States.

As Japan began to regain her position in commerce throughout the world, she gradually returned to aggregated economic units. This was a necessary and natural way for the Japanese to gather large amounts of capital and take advantage of other economies of scale. And so even though the laws are there, as a practical matter, enforcement has not been very energetic whether in conducting investigations of complaints, or enforcing the provisions of the United States imposed anti-monopoly laws.[65]

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[64]Tourtellot, *op. cit.*, p. xxiii.

[65]George Yamaoka, "Antitrust in Japan," *Business Abroad*, edited by Henry Landau (New York, 1962), pp. 332-333.

An example will serve to illustrate Japan's lack of commitment to classical competition.[66] In 1971, Japan's Ministry of International Trade and Industry advised the country's six largest steel producers, which control 80 percent of the supply, to form a cartel. The purpose is to reduce production of Japan's crude steel output in an effort to stabilize steel prices which have shown weakness in the prior few months.[67] This close alliance between government and business in Japan has been very successful and cannot be expected to be discarded in favor of a competitive ideology.

International Supervision Over the Multinational Corporation

The evolution of business organizations into the multinational enterprise is evident in practically all parts of the world. In many cases this evolution has been promoted by both national governments and regional trading blocs. In addition, policies that are designed to constrain the multinational corporation have been timidly applied by many nations, and have not been very successful where more vigorous application was undertaken. An example of this trend toward multinationalism and the resulting control problem was described

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[66]For more detailed information on the restrictive business practices used in Japan, see the testimony of Dr. Eleanor M. Hadley, U. S. Senate, _Foreign Trade and the Antitrust Laws_, Hearings before the Subcommittee on Antitrust and Monopoly, 88th Congress, 2nd session, Part 1 (Washington, 1964), 147-155.

[67]_Wall Street Journal_ (November 8, 1971), p. 2.

by Seymore J. Rubin in testimony before a Senate subcommittee investigating the multinational corporation.

> If one follows the company reports through the pages of such a publication as Business International, one may note recently a merger of operations between the French and German chemical giants, Rhone Poulene and Bayer; the acquisition by Cutler-Hammer, an American electrical equipment manufacturer, of the assets of its former Australian licensee; the formation of a jointly owned tractor corporation by Ford of the United States and Hokkai Jidosha Koggo of Japan; the formation of a consortium between American, Japanese, Dutch and German interests, with some Australian participation, to develop a bauxite-alumina complex in Western Australia; and so forth. Neither the political nor legal obstacles, such as they are, seem to affect adversely this tendency toward internationalism.[68]

Then, of course, there are a good many international cartel agreements which cannot be reached by traditional anti-trust policies.[69] The international shipping cartels are a good example. The United States is virtually the only country that has developed legislation designed to prevent abuses by these cartels. They have operated with more freedom than any other type of restrictive organization. An evaluation of the social responsibility shown by shipping cartels indicates that they have acted responsibly in many areas, but abuses have occured. Most nations feel the secure operation of this

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[68] U. S. Senate, Foreign Economic Policy for the 1970's, p. 925.

[69] Cf. Corwin D. Edwards, Cartelization in Western Europe (Washington, 1964).

industry is vital to a healthy economy, and therefore allow steps to be taken that reduce hazardous competition. As a result, the maritime cartels remain as one that has had as long a formal life as any other cartelized industry.[70]

The forecast that the future world economy will be ruled by the multinational corporation, and that formalized cartels will all but disappear is supported by the following dialogue between two prominent economist:

> Mr. Barber: In the last few years, as you know, many corporations, a large number of them American, of course, have gone abroad. They have through a process of direct investment and through acquisitions, and some joint ventures, tended to increase the degree of concentration internationally in a fashion not unlike that that occurred at the turn of the century nationally.
>
> What we may be witnessing, though, is really a scheme of international oligopolization in markets like autos and others which move in international markets, controlled by a fairly small number of firms operating multinationally.
>
> Do you see this as a major dimension of the international economic situation now?
>
> Mr. Edwards: I think it is in an early stage, and I certainly see it as one of the very substantial probabilities.
>
> Indeed, if we project the trend 50 years ahead and assume no change in public policy, it seems to me likely that half a century hence cartel will be obsolete except in the less important parts of the international economy, that we will have great international firms and a substantial reduction of international trade through the actions of these firms.[71]

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[70]Abe Skiold, "Antitrust Problems in International Trade," The Antitrust Bulletin, X (May-June, 1965), 449-458.

[71]U. S. Senate, International Aspects of Antitrust, p. 315.

As the nature of business organizations evolves, it will be necessary to develop more effective methods of controlling their activities. The adequacy of the traditional market power concept to deal effectively with the multinational corporation has been questioned by Corwin D. Edwards. He maintains that three developments in the modern business organization have made the traditional concept of market power obsolete. First, oligopoly is the typical form of big business and the diversity of oligopolistic patterns makes it much more difficult to identify the effects on competition and, therefore, specific policies to cope with effects which may be unwanted. Secondly, markets are no longer rigidly defined; instead, interaction among buyer or seller relations has reduced clear boundaries. This change has focused more attention on the importance of potential competition. Lastly, the traditional pattern of competition has been changed by the diversification that characterizes multinational operations. The effect here is on the traditional process of business decision making and competitive interaction.[72]

Edwards concludes that because of these developments

> the concept of monopoly is inadequate to cover the phenomena of business power and the concept of oligopoly is inadequate to replace it. Different kinds of power can be derived from (a) control of a preponderant share of a single segregable market;

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[72]Corwin D. Edwards, "The Changing Dimensions of Business Power," cited in Organization for Economic Cooperation and Development, Market Power and the Law (Paris, 1970), pp. 193-194.

> (b) position as one of a few competing firms; (c) possession of a large aggregate of resources in comparison with one's competitors; and (d) diversity of activities across fields of operations. The first is properly called monopoly (though effects partly due to the third are sometimes attributed to it). The second is properly called oligopoly. The third can be called bigness, and the fourth diversification. Business power structures today contain blends of all of these, and hence are hard to describe, analyze, or appraise on the basis of a single one of these concepts. Discussion of such power structures gives monopoly an emphasis that it no longer deserves; attributes to oligopoly a significance greater than it probably has; and makes little serious effort to cope with bigness and diversification. Yet these are the forms in which business power is growing most rapidly, is subject to least legal curbs, and is hardest to appraise as to the elements of good and bad.[73]

There is no international law applicable to multinational organizations because there is no supranational authority to issue and enforce it. This situation was the central topic at an international conference on restrictive business practices sponsored by the Organization for Economic Cooperation and Development in September, 1969, and attended by 100 officials from nations around the world.

Thorkil Kristensen, Secretary-General of the Organization, emphasized the difficulties concerning economic power brought on by the growth of the multinational business organization. He said that national authorities find it almost impossible to effectively control the multinational firm's operations. Kristensen further discussed some of the obstacles to such

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[73] *Ibid*.

control which included the imperfect information available about the operations of the multinational enterprise, the possibility that nations may compete in providing safehavens from restrictions, and the possibility that a multinational enterprise may place its operations in a country where market power is weakly controlled. Kristensen concluded that since economic organizations were becoming more and more international, control itself will have to be progressively internationalized.[74]

The section of this conference that discussed international aspects of restrictions managed to agree on certain important points:

> 1. International firms may have both beneficial and harmful effects, which clearly will increase in importance as such firms continue to grow.
> 2. Certain features of such firms need special attention, notably instances in which a firm with a strong market in one country can support that power by its activities in other countries, and instances in which particular firms have economic power on an international scale, for example by control of a large part of the supply of a basic material or an essential technology.
> 3. Special difficulties are encountered by governments in applying their domestic legislation to international firms when the activities of such firms are partly beyond their reach and when action by one country would affect the interests of other countries.
> 4. The establishment of a procedure of intergovernmental consultation and cooperation to deal with any possible restriction of competition in international trade by multinational firms. The working group expects that the governments of O. E. C. D.

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[74] The Antitrust Bulletin, XIV (Winter, 1969), 865-866.

> member countries, through their representatives on the O. E. C. D. Council, will give the necessary political impetus to this work.[75]

Groups devoted to global economic integration such as the Organization for Economic Cooperation and Development, the European Economic Community, General Agreements on Tariffs and Trade, and others, will fail to be totally effective until private power groups are properly supervised. In the words of Kurt E. Markert:

> It is obvious that without sufficient safeguards against private restrictive business practices affecting international trade the results expected from the reduction and eventual abolition of public trade barriers, such as tariffs and quantitative restrictions, might be frustrated by continued or newly established private trade barriers.[76]

The nations of the world, inspired by the United States government, have twice seriously proposed some type of international trade organization to curb restrictive business practices among giant international firms. Following World War II, the International Trade Organization was proposed

> . . .to prevent business practices among commercial enterprises which restrain competition, restrict access to markets or foster monopolistic control in international trade, and which thus have the effect of frustrating the purpose of

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[75] Ibid.

[76] Kurt E. Markert, "Recent Developments in International Antitrust Cooperation," The Antitrust Bulletin, XIII (Summer, 1968), 356-357.

> the Organization to promote expansion of production and trade and the maintenance in all countries of high levels of real income.[77]

After much debate and revision, a final proposal was adopted and sent to member nations for ratification. However, the International Trade Organization did not materialize because the United States Congress would not ratify the proposal.[78]

Subsequently, the United States Department of State proposed to the United Nations Economic and Social Council that a program be established to police restrictive business practices. The Council developed such a program but the United States government, under the leadership of the new Eisenhower administration, withdrew its support because of strong pressures from business interests, especially the Chamber of Commerce, and the program was never adopted.[79]

Some businessmen apparently have no desire for a vigorously competitive economic system. Security and stability is apparently a much more satisfactory goal. Robert Platt, president of Magnovox Corporation, senses the potential danger to orderly markets if stiff antitrust enforcement is pursued. He says, "If the Justice Department's effort is successful, we

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[77]Department of State, Suggested Charter for an International Trade Organization of the United Nations (September, 1954), pp. 25-26, cited in Corwin D. Edwards, _Control of Cartels and Monopolies_ (Dobbs Ferry, 1967), p. 230.

[78]Edwards, _Control of Cartels and Monopolies_, pp. 230-232.

[79]_Ibid_., pp. 233-235.

are all in jeopardy. The consequences would be an undisciplined international scramble for markets."[80] Nevertheless, many people feel that some sort of uniform global supervision of market power is desirable. Roy Blough is one of these:

> I think in the course of time that this is something that inevitably has to come. Because if we are really going to have large multinational corporations of many nationalities engaged competitively in international trade, we are somehow or other going to have to get the rules made more comparably than they have been.[81]

The prestigious Commission on International Trade and Investment recently made its report to President Nixon. The business dominated group, called the "Williams Commission," recommended an eventual elimination of all barriers to trade and capital movements. One would hope this means private as well as public barriers. Increased trade with communist countries was another important proposal. Most importantly, the panel strongly urged that a "new realism" be added to policy alternatives in order to cope with a world economy in which multinational corporations are beginning to dominate.[82]

This is sound advice for other countries of the world as well. For, as Samuel Pisar has noted, "If political power is unable to lead, it will have to follow economic power in the

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[80] Wall Street Journal, July 30, 1971, p. 1.

[81] U. S. Senate, International Aspects of Antitrust, p. 77.

[82] Wall Street Journal, September 14, 1971, p. 4.

creation of a supranational system of rules and institutions without which the emergent world market cannot thrive."[83]

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[83]Samuel Pisar, "Toward a Multinational Economy," Wall Street Journal, September 20, 1971, p. 8.

CHAPTER IV

CONCLUSIONS: A TENTATIVE APPRAISAL

Multinational corporations, as a method of organizing and operating business activities, are relatively new in the world economy. These firms are acting more and more as a substitute for the market as a method of allocating resources throughout the world society. Even though they do represent a step forward in the "efficiency" with which the world could use its economic resources, serious social and political, not to mention economic, problems were created by their genesis. This study of the multinational corporation is based on the limited amount of information currently available to researchers. Such a situation probably means only the tip of the iceberg has been exposed and as a result the conclusions of this study are classified as tentative.

Multinational corporations have definite beneficial effects as well as creating difficult problems for the world society. Their most desirable aspect is the potential to transfer and implement technology to those areas of the world that desire it. So far, these corporations have been very uneven in exploiting and distributing the benefits of their skills and innovations. More diffusion of technology is desirable and publically supervised cross-licensing agreements would be a positive step toward this goal.

On the other hand, the rapid growth of this organizational phenomenon left single nations unable to cope with their economic, social, and political consequences. In short, the brief history of the multinational corporation reveals the power and importance of this organization and the danger of leaving it uncontrolled.

The evidence documented in this study raises many more questions than it answers. As is pointed out in Chapter II, national monetary and fiscal policy can be frustrated by the operating flexibility of these businesses. Does this mean that contemporary macro theory's efficacy may be outdated in respect to the emerging world economy? If so, will it be necessary to give some global institution the responsibility and authority to develop and administer an effective world-wide macro theory? How extensive is the power of multinational corporations to control prices, production, and the allocation of resources? Another mysterious situation is the types of relationships which exist between multinational corporations and international cartels. Only more revealing research will lead to a satisfactory answer. If they are complementing each other, this would be a power problem beyond any current perceptions.

Several scholars believe some type of international institution is needed to control these giants. As is pointed out in this study, the United Nations has not been able to take positive action in this area. This organization now has the world-wide framework necessary, and eventually could be given the authority to charter and supervise these giant businesses. The

major dilemma seems to be arriving at a harmonization of behavioral criteria, with the major antagonists being those whose ideology favors competition as a regulator and those whose ideology favors regulation by administration. It will be interesting to see how socialist and capitalist economies harmonize their attitudes towards this form of economic power. At the present time, most developed nations are too preoccupied with neo-mercantilistic policies, and as a result very little progress has been made in the area of international cooperation toward restrictive business practices.

Another major reason for the lack of international harmony in respect to public policy and the multinational corporation is the paucity of data concerning the actions of these firms. Many government policy-makers have based their decisions on limited empirical data plus conflicting economic theory and policies (or the lack of them) developed to control the multinational corporations have been ineffective. Much more interdisciplinary research based on strategic empirical evidence is needed to adequately explain the behavior of the multinational organization. Once their behavior is understood, we will learn whether nations can create intelligent policy that will effectively cope with multinational corporate power.

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