Restrictive business practices in international services industries: examples from Latin America

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While fairly extensive analyses exist on monopolistic or restrictive business practices in manufacturing and extractive industries, little work has been done on such practices in service industries. To an important extent, this is due to the less frequent occurrence of such practices in services. Most restrictive business practices in services at the international level appear to be in *intra-company* transactions among affiliates of the same parent firm. Also such practices result from the high level of government intervention in some service industries, such as commercial banking and telecommunications. This article explores the kinds of restrictive business practices found in five service industries in Latin America: advertising, commercial banking, computer software, management consulting and hotels.

Introduction

The concerns of developing countries with respect to restrictive business practices of transnational corporations (TNCs) were addressed in great detail

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in various United Nations forums during the 1970s and 1980s. In the early 1970s, the United Nations Conference on Trade and Development (UNCTAD) launched an effort to explore monopolistic practices of TNCs in developing countries, and to look for common ground for regulation by governments of developed and developing countries. This resulted in a series of intergovernmental meetings and reports, and ultimately in the adoption of a code of conduct on restrictive business practices in 1980 (UNCTAD, 1980).

This effort was followed by another UNCTAD initiative, aimed at producing a model law on restrictive business practices that would be acceptable to both developed and developing countries. This initiative had not produced a final result as of 1997, but numerous drafts of the proposed model law have been circulated, and detailed commentaries by many countries have been produced and disseminated.[1]

The kinds of activities that are generally cited as restrictive business practices were listed and analysed in detail in the UNCTAD code of conduct, entitled "The Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices". Specifically:

> " 'Restrictive business practices' means acts or behaviour of enterprises which, through an abuse or acquisition and abuse of a dominant position of market power, limit access to markets or otherwise unduly restrain competition, having or being likely to have adverse effects on international trade, particularly that of developing countries, and on the economic development of these countries, or which through formal, informal, written or unwritten agreements or arrangements or arrangements among enterprises have the same impact." (UNCTAD, 1980, p. 7.)

The United Nations has defined seven areas of particular concern as regards the joint actions of firms. They are: agreements to fix prices; collusive tendering; market-allocation schemes; allocation by quotas; concerted refusal to deal; collective denial of access to an arrangement or association; and concerted refusal to supply (UNCTAD, 1983). In addition, four kinds of

[1] See, for example, UNCTAD (1983) for a statement on the proposed model law, and UNCTAD (1990) for more recent commentaries by national governments.

practices that constitute abuses of market power have been identified. They are: global requirements to deal (with affiliates); limits on technology transfer; restrictions on exports; and mergers and acquisitions and alliances. These practices tend to be more important in the context of TNCs, when a parent firm is dealing with foreign affiliates.

While fairly extensive analyses of restrictive business practices in manufacturing and extractive industries exist, relatively little work has been done on such practices in service industries. (UNCTAD has produced some analysis of this subject, e.g. UNCTAD, 1994, section II.D.) The general result is that very few inter-company restrictive business practices are known to occur in service industries, particularly in those addressed here. Restrictiveness typically arises in dealings among affiliates of the same service parent firm, frequently because of the parent firm's interest in not having competition within its corporate systems. Additionally, restrictiveness occurs because of government policies that segment the financial services market, such as limitations on banking activities, or restrictions that are imposed to deal with natural monopolies, for example on electric power distribution or airline services.

Recent changes in government regulation of telecommunications have raised the issue of monopolistic practices of telephone companies (especially in the context of the European Union). Also, the growth of the computer software industry has led to recent concerns over acquisitions of firms in that industry (such as the bid by Microsoft to purchase Intuit, the financial services software leader, which was not allowed by the United States Justice Department Antitrust Division in 1995). The principal concern in service industries today is not inter-company collusion, or any other activity that restrains trade, but dominance of markets by individual service providers, from telephone companies, to software firms to hospitals.

This article focuses on five service industries: advertising, commercial banking, computer software, and hotel management consulting. Each of these industries is examined through case-studies of several individual TNCs in a group of developing countries. The objective is to explain the practices that occur and to evaluate policy options for governments.

Methodology

During the spring and summer of 1991, approximately 80 interviews with foreign affiliates (subsidiaries, branches, partnerships or other kinds of

affiliates) in the five service industries mentioned above were carried out in Argentina, Brazil, Chile, Colombia, Ecuador, Peru and Venezuela. In each country, the objective was to interview two or three foreign affiliates in each industry, including at least one foreign affiliate whose parent firm was not based in the United States. Foreign affiliates were identified from lists of the largest TNCs in each industry as described in Grosse (1993). Because of the limited presence of TNCs in these service industries in three of the seven countries, almost all of the foreign affiliates in those countries were contacted in order to obtain the desired number of interviews.

The empirical data were used to examine the business practices of the foreign affiliates throughout the production process (value-added chain). Each interview was used to establish the detailed structure of the value-added chain and to explore possible restrictive business practices along it.

Initial interviews were carried out at the Miami-area headquarters for Latin American operations of several banks, computer software firms, hotels and management consulting firms. Additional interviews with Latin American staff members of three advertising agencies were carried out by telephone. All of these inputs were used to refine the questionnaire that was subsequently employed in the interviews with foreign affiliates in Latin America.

The results are presented here in aggregated form. Since the five industries had many similarities in their production processes (from purchasing to after-sale service) and business practices, a common value-added chain is described for all five industries. In addition, the peculiarities of each industry, where they appear in the production process, are noted. Selected examples of restrictive business practices by individual firms are presented and discussed in terms of the firm's view and the country's interests. Some country-specific issues are discussed below, but they are not presented separately in the text or in the tables. Before the business practices are examined in detail, some general characteristics of the firms in the sample are set out.

Broad company characteristics

An overview of company characteristics is presented in table 1. For all these firms, Latin America accounts for an average of 10-20 per cent of their global businesses. Although below North America and Europe, Latin America is well ahead of the rest of the world. These firms have been

Table 1. Characteristics of firms in the five industries

Measure	Advertising	Banking	Software	Hotels	Consulting
Number of firms	14	16	16	10	17
Average number of employees	42	172	138	658	245
Officers to staff members ratio	1:1.1	1:1.2	1:5	1:17	1:4
Percentage of global business undertaken in Latin America	10	11	14	16	17
Median ownership (Percentage)	100	100	100	100	100[a]
Average year of establishment	1954	1970	1968	1972	1956
Key technology	Experience, creativity, methodology	Experience, management skills, financial skills	Experience, management skills, computer skills	Experience, service	Experience, methodology, technical information

Source: Interviews with Latin American affiliates of service TNCs, 1991.

[a] Almost half of the consulting firms are operated as partnerships.

operating in Latin America for an average of more than two decades, with the consulting firms and advertising agencies having longer experience than the software firms, banks and hotels.

- In all the service industries, parent firms show a preference for full ownership of their foreign affiliate, though some differences are noteworthy. The consulting firms frequently prefer a partnership structure or association agreement; a significant number of hotels are locally owned franchises of TNC chains; and almost half of the advertising agencies are joint ventures or other contractual forms. These ownership structures are very similar to the structures of these TNCs elsewhere in the world.

- Hotels are by far the largest employers in the group, with more than 600 employees on average working in each hotel. Advertising agencies are the most "top-heavy" firms in staffing, with almost one manager or officer per staff member in their offices.

Empirical results

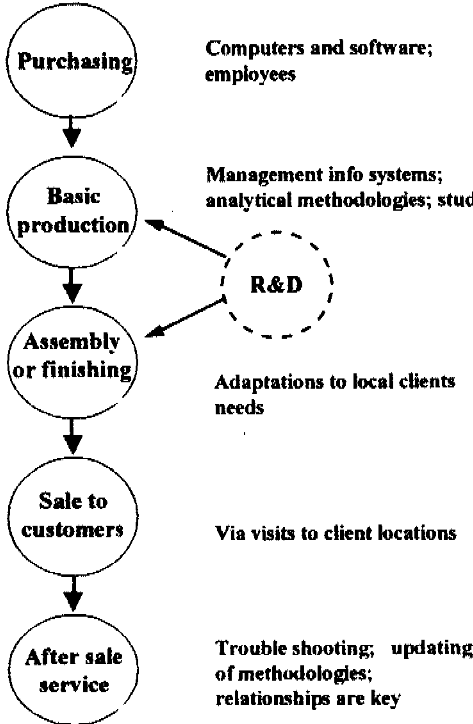
Examples of restrictive business practices in services in Latin America

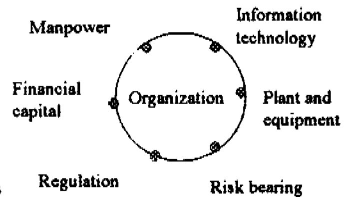
On the basis of the interview responses and aggregating across all five industries, four types of restrictive business practices were found in Latin America. They are: market-allocation schemes, including restrictions on exports; a concerted refusal to supply; global requirements to buy from selected suppliers; and limitations on transfer of technology. These practices are described in the sequence of the value-added chain, including research and development (R & D), as a link in this chain. The restrictive practices are all internal to the service TNCs; no evidence of collusive activity between or among firms in these countries was found. Thus, emphasis is placed on restrictions imposed by a firm's headquarters that preclude free activity by its foreign affiliates in Latin America. The value-added chain for management consulting firms is depicted in figure 1.

A TNC's process of creating and distributing its services spans several stages, from obtaining the needed inputs to providing after-sale service. In service industries, the process of R & D applies not only to the production of the service, but also to the creation of methodologies for issues that range from operating the hotel's reservation system or designing advertisements all the way to creating methodologies for managing the client-provider relationship. Restrictive business practices were found particularly in the purchasing and distribution stages of the value-added chain of these service industries. The subsequent discussion considers in turn each stage of the production process.

A limited degree of control by parent service firms was exercised generally at the purchasing stage. At that stage, foreign affiliates need to obtain skilled people, office equipment and other inputs for the production of the services. Parent firms place few restrictions on the foreign affiliates for most of these inputs; 53 per cent of the firms reported that no restrictions were placed on purchasing by the foreign affiliate, while only 2 per cent reported that their parent firm completely dictated purchasing activity to them. The greatest degree of control by the parent firm was exercised in the purchase of computer systems and software, where 20 per cent of the foreign affiliates were restricted to buying inputs selected by their parent firms. The overall purchasing policy was standardized globally in 58 per

Figure 1. Competitive advantages in the production process





cent of the foreign affiliates. Thus there is evidence that parent firms use global requirements to buy from selected suppliers.

With regard to the purchasing function in terms of firms' competitive advantages, the single most important source of such advantages at that stage was knowledge of suppliers, of the local market, and of the TNC's own global system of services and information. That knowledge was obtained in various ways: 35 per cent of the firms obtained it from the home office, while 23 per cent obtained it mostly locally. The rest of the firms obtained key purchasing knowledge from several sources, including both

the parent firms and local sources. Skilled people were almost always hired locally, with few expatriates employed in these foreign affiliates.

Government policy had little impact on purchasing in most of the cases, except for import restrictions (import licensing restrictions, tariffs and other barriers to imports) that hindered the transfer of equipment into the country, or increased costs to the TNC service firms when they needed to bring in such equipment. The computer-software affiliates were the only ones to state that as much as half of what they purchased as inputs came from headquarters. Other service affiliates purchased almost all of their inputs locally. Hotels were the only firms to view government policy restrictions as somewhat important, probably because they are the most capital-intensive overall and import many of their inputs (such as supplies and equipment).

The degree of independence of a foreign affiliate is well illustrated at the R & D stage. More than 80 per cent of the affiliates reported developing at least one product locally during the past five years, rather than depending completely on the parent firm for innovations. Nevertheless, 79 per cent of the foreign affiliates do not sell any services different from those sold by their parent firms. (Thus, presumably, most of the local product development is adaptation of products introduced by the parent firm and then transferred to the local market by the foreign affiliate.) Almost half of all the foreign affiliates interviewed indicated that they received their key technology from their parent firms, while most of the rest said that they received their technology from a combination of their parent firms and local sources.

Interestingly, R & D was seen as distinct as between product R & D and market R & D, and between parent-firm R & D and foreign affiliate R & D. Both kinds of technology creation were viewed as very important to the parent firms: 95 per cent of them saw R & D as "very important" or "important" to their business. However, foreign affiliates rated their own R & D "very important" in only 42 per cent of cases (versus 55 per cent of the cases rating the R & D of the parent firm "very important"). Respondents rated product R & D more important than market R & D for both parent firms and foreign affiliates. Product R & D at the parent-firm level was rated mostly highly ("very important" in 66 per cent of cases), while market research at the foreign-affiliate level was rated low ("very important" in only 42 per cent of cases.) All this tends to confirm the strong technological dependence of foreign affiliates on their parent firms.

The production of services was often jointly carried out with the parent firm through shared methodologies and computer systems (e.g. reservation systems for hotels, accounts for bank clients, advertisement-creation methodologies for advertising agencies). As noted above, most of the Latin American affiliates produced services no different from those offered by the parent firm. In many instances, the foreign affiliates' managers pointed out that their clients were served jointly by the parent firm and the affiliate; service provision was directly shared by both. Thus, service production was not heavily restricted by the parent firms, but it was often dependent on joint activity at both parent and affiliate level.

In selling the service, foreign affiliates were often limited in their marketing efforts to serving clients only in the host country (50 per cent of the time).[2] The issue of market allocation was the most notable restrictive practice at this stage of the value-added chain. The pricing strategy was sometimes coordinated with that of the parent firm (in 28 per cent of the responses), though more often it was independently determined by the foreign affiliate. This is an interesting finding, since manufacturing TNCs tend to place greater emphasis on uniform pricing among foreign affiliates (to preclude buyers from playing off one foreign affiliate in one country against another elsewhere). Apparently, service TNCs do not face the same possibility of rivalry among foreign affiliates in different countries (for example, a hotel in Peru cannot readily compete with a hotel in Argentina).

Because personal contacts are so central to these foreign affiliates, after-sale service is a major part of their overall business. This follow-up occurs primarily in the form of visits to clients to determine whether the services have met the clients' needs and to look for additional sales opportunities. In computer software, additional follow-up was needed to ensure that the software developed for clients worked properly so that updates and new software could be offered to them in the future. Similarly, consulting firms used after-sale visits to clients to provide troubleshooting and additional guidance to users of their services. Parent-firms' influence at this final stage of the value-added chain was mainly limited to skills transferred to their affiliates' employees through training programmes, use of manuals and various other methods. Respondents in hotels noted particularly the use of personal communications between hotel managers in foreign affiliates and managers in the parent firms to transfer key technology at this stage.

[2] All of the hotels sold their local services to clients from other countries. This strategy differs markedly from that in the other industries, but, naturally, it is not surprising since the users of lodging services are typically foreign visitors to the location of the hotel.

Table 2. Location of decision-making for Latin American affiliates of service TNCs

(Percentage)

	Location				
Type of decision	Primarily in the foreign affiliate	Shared between foreign affiliate and parent firm	Primarily in the parent firm	Primarily in a regional office	Not relevant
Use of funds in the foreign affiliate	47	19	9	19	6
Advertising budget	47	19	4	17	13
R & D budget	44	19	6	17	13
Selection of channels of distribution	67	0	0	15	17
Selection of suppliers	78	2	0	17	4
Provision of legal service	65	11	6	17	2
Local pricing strategy	58	21	6	15	0
Intra-company pricing	38	22	12	12	16
Choice of products to sell locally	58	13	11	17	0
Capital budget	25	38	23	9	6
Use of profits generated locally	37	27	23	12	2
Provision of technical assistance to clients	58	19	2	15	6
Choice of markets to serve	44	30	6	15	6
Management of foreign exchange risk	44	31	15	8	2

To provide an additional view of the control over foreign affiliate activities exercised by the parent firms a series of questions was asked about the location of decision-making on key issues. The answers to these questions are presented in table 2 above.

It is quite noteworthy that, across the board, decisions were assigned primarily to the foreign affiliates, with the exception of the decisions on the capital budget. Foreign affiliates were quite independent in decision-making on almost all issues, including supplier relations, investment in R & D, market selection, pricing and client relations.

The above general observations apply to most of the firms interviewed here. Next, some attention is paid to the idiosyncrasies of each industry.

Advertising agencies

Interviews with foreign affiliates of 14 advertising agencies in six of the countries were included in the sample. The agencies were mostly United States-based, with the exception of one firm from the United Kingdom. They have established fairly large operations in each of the Latin American countries. Average employment was 142 people per firm, and total employment across the 14 firms ranged from 40 to 450 employees. The advertising agencies had the highest ratio of officers to staff members, at approximately one to one. Their offices in Latin America, as well as elsewhere in the world, were extremely skill-intensive.

About half of the advertising-agency affiliates are 100 per cent owned by the parent company. According to the interviews, this is due to the fact that the agencies serve many international clients whose accounts originate in the United States or in other developed countries. To maintain control over the Latin American affiliates' dealings with these international clients (e.g. to ensure consistency of advertisements for the same company across countries), many of these agencies have chosen to take full ownership positions. It should be noted that a strong countercurrent also exists, with several of the agencies operating as joint ventures.

Advertising affiliates saw as their key competitors primarily other international advertising agencies in Latin America. In almost every country, the top two competitors identified by these firms were developed-country advertising TNCs. Since the affiliate managers replied that often half or more of their business came from TNCs operating in Latin American countries, it stands to reason that their competitors would be other advertising agencies that compete for the same customers' business in other countries. Interestingly, the key competitors were identified as other foreign-based TNCs, whereas in manufacturing and extractive industries, a few large local firms generally figure among the main competitors in these countries. No collaboration or restrictive agreements were identified between competitors in this industry. On the contrary, the agencies could be viewed as jealously guarding their own methodologies for creating, producing and distributing advertisements and dealing with customers as core capabilities—and they refused to share these methodologies with outside firms, thus producing a concerted refusal to supply this desired knowledge to outside firms.

Commercial banking

A total of 16 commercial banks was included in the sample. These banks came from three source countries (listed in terms of importance): the United States, Canada and the Netherlands. Most of the banks are United States-based money centre banks with extensive global operations (e.g. some presence in an average of 53 countries). The size of the banking affiliates ranged from a four-person group operating under a management contract to a joint venture employing 810 people. The average affiliate employed 251 people (about one-third officers and two-thirds staff). Three-quarters of the banks operated as wholly owned affiliates (branches, subsidiaries, representative offices). The others operated as joint ventures (with only one bank operating under a management contract). The joint ventures were either minority-owned or share partnerships (fifty-fifty). Most of the foreign affiliates had begun as new businesses, with only one acquisition among the 16 operations.

The commercial banks were operating in Latin American countries similar to their operations in their home countries, with commercial banking their main business (see box 1). Two exceptions were banks engaged primarily in investment banking, although they provided some commercial banking services as well. While specific financial services were not covered in detail in the interviews, it appears that there is a strong orientation towards wholesale commercial business (such as commercial and industrial lending, trade financing and cash management), as opposed to consumer-oriented retail banking. One of the bank affiliates noted that it provided brokerage services locally, even though the parent bank was not engaged in that business in the home country.

Because banking is such a highly regulated industry, until very recently banks had been able to establish only fairly limited activities in most countries. For example, foreign ownership of more than 20 per cent of local banks was prohibited under Andean Pact rules during 1971-1987. After that time, the regulatory structures began to permit more foreign bank activity, although still often limited to specific kinds of businesses (such as investment banking, commercial lending and trade financing). Brazil has maintained a limit on the number of financial institutions even into the 1990s. The affiliates in the sample were established mostly in the 1960s and 1970s (two were begun in the 1980s and one in 1920).

Box 1. Defining the scope of activities

One commercial bank has chosen to follow a strategy of pursuing only corporate, wholesale banking activities in several Latin American countries. This decision was taken as part of the global bank's global strategy, but it meant that some local business had to be sacrificed in order to conform to the bank's overall strategy. This strategy thus limited the scope of activities permitted to the Latin American affiliates. Specifically, the bank chose to pull out of private banking, a highly profitable business for Latin American affiliates. Despite the fit of this business into the foreign affiliate's range of activities, it was discontinued as a result of the shift in the bank's global strategy. The ability of local decision makers to direct the bank's development was clearly quite limited. This limitation on the activities of foreign affiliates in Latin America is restrictive in the sense that it reduces their independence. At the same time, however, it is strategically crucial to the global firm to be able to direct the broad scope of its activities, since the global integration of its affiliates constitutes one of the bank's key competitive advantages.

In contrast to the other two industries examined so far, commercial banking was subject to a great degree of market control by State-owned financial institutions. Many restrictive business practices characterize the commercial banking industry in Latin America; and these practices often result from government support of State-owned banks. In addition, the policy of subsidizing lending to the agriculture sector, or lending for residential construction (through savings and loan associations), creates biases in favour of the institutions permitted to operate in those business segments. The main recipients of these subsidies historically have been State-owned firms, although in the early 1990s a wave of privatizations reduced the State's participation in commercial banking throughout the region.

Price restrictions exist in the form of government-imposed interest-rate limits on both the lending and depositing sides of the banking business. The government's degree of intervention in commercial banking far exceeds that in the other two industries examined so far, and it contributes to a segmentation of banking institutions according to the functions permitted to each segment (e.g. savings and loan, retail commercial bank, wholesale commercial bank).

Computer software

Sixteen computer-software affiliates in six countries were included in this survey. These firms were mostly United States-based, two were European and one was Japanese. Most of them also sell computer hardware, which typically accounts for a greater portion of their sales. The firms ranged from highly focused producers of software exclusively for personal computers to diversified producers of large and small computers and software. The software affiliates had been established mostly since the late 1960s (though the first one was set up in 1930). Four of them were established in the late 1980s and one in 1990. They employed from 10 to 400 people, with an average of 138. Employees were divided, broadly speaking, into about 80 per cent staff members and 20 per cent officers, a division similar to the management consulting firms' division of personnel.

Two thirds of these firms operated wholly owned affiliates in the countries under study. The other firms had formed joint ventures; there are also two licensees and two other contractual forms. For the most part, these affiliates are sales offices that sell software developed in the parent firm or elsewhere. Virtually all the firms noted that they operated strategic alliances with other computer firms, using forms such as joint marketing arrangements and joint research ventures. This degree of collaboration is much higher than that found in the other industries (except in the case of banks' correspondent relationships among themselves, which are very numerous).

The software used to solve client needs (the basic focus of this industry) is produced by the integrated computer company, or its production is contracted out to a specialist software firm that works in conjunction with the major company. A number of restrictive practices occur at that stage, as the software producers join with other firms through exclusive dealing agreements, joint ventures and other strategic alliances to help produce solutions that are sought by the client. The alliances reduce the total number of potential suppliers available at the same time as they enable the software firms to serve better the specific client needs.

Almost all the competition faced by these software vendors came from other software TNCs. A few local firms competed with them, but they sold mainly imported software from other software producers in developed countries. Most of the competitors produced both computer hardware and software.

Hotel chains

Ten hotel affiliates in five countries were included in the survey. Their parent firms are mostly located in the United States; three are located in Europe. These hotels operate primarily lodging facilities in Latin American countries, but also provide additional services, such as food and beverages, convention services and tourist services. The hotel affiliates are the largest employers of all the industries examined here. The average hotel employed more than 650 people, and all of them together employed more than 10,000 people. The largest hotel in the sample employed more than 1,000 people. The division of jobs within the hotels shows much greater numbers of staff positions relative to officers in comparison with other industries. The ratio is about one officer per 17 staff members, versus one officer per three staff members in the other industries.

All hotel affiliates in Latin America, with one exception, were wholly owned by their parent firms. The exception was a locally owned hotel that obtained reservation services from one of the transnational hotel chains. These hotels were established between 1950 and 1983, and thus predate many of the affiliates in the other industries examined here. All of them were established as new ventures; that is, none began as joint ventures or franchises. None of the hotels had major alliances with other competitors in Latin America (although some contracting with local firms was done for the rental of facilities and for the provision of peak-time temporary employees).

For the production of basic hotel services the TNC chain may own and operate the hotel itself, allow its name to be used in a franchised hotel, or operate the hotel through a management contract. Even though these differences do not alter the intended service to be delivered to guests, they do alter the actual provider (i.e. the chain or a local operator). In most cases, room and food services were produced at the location itself, while the reservations system covered all affiliates worldwide. The hotel chains generally dictated methodologies for producing room and food services to their affiliated hotels.

Most of the key competitors identified by the hotels in the sample were other TNC hotel chains, but some local hotels were noted as well (the hotel business in each Latin American country was dominated by locally owned hotels). No collaborative or restrictive agreements were identified between competitors in the industry. The principal type of restrictive practice was the hotel chains' requirement that affiliates purchase many inputs from designated suppliers (see box 2).

Box 2. Applying the hotel-chain methodology

The hotel chains in the sample were competing vigorously among themselves and with local hotels. No evidence of collusive practices was discovered either during the interviews or when searching the antitrust literature related to the Latin American countries. The principal area of restrictive business practices that is likely to concern governments is the parent firms' imposition of rules on their affiliated hotels in Latin America. Each hotel chain establishes a methodology for operating hotel facilities in Latin America that binds its affiliates to follow numerous specified practices. Some of the practices used in one hotel chain are described here.

The required methodology for carrying out hotel activities in this example ranges from inputs that may be purchased to customer surveys that must be carried out after services are provided. This chain specifies the computer software to be used in record-keeping, reservations and in the full management information system. Each affiliated hotel is permitted to buy inputs, such as food, supplies and services, but quality standards are imposed and reviewed by the parent firm on a regular basis. A large percentage of the inputs is purchased from suppliers selected by the parent firm.

Production of hotel services is subject to strictly defined standards that are imposed by the parent firm. Detailed guidelines on issues such as operation of the reception desk to cleaning of individual guest rooms are imposed on all hotels in the chain. Obviously, these standards are established to maintain the same quality of service across all hotels in the chain, but equally obviously the standards greatly limit each hotel's autonomy.

Pricing is an issue that is not controlled by the home office. It is indirectly affected by each hotel's need to achieve profit performance standards, but room and other service prices are determined largely by local competitive conditions. The only prices specified by the home office were discounts for tour packages, in which the discounts were themselves percentages based on the prices used in the local hotel (rather than fixed prices).

After-sale service is tightly controlled by the parent firm, with specified follow-up practices such as questionnaire surveys and visits to corporate clients. For after-sale service, as well as other stages, control by the parent firm is maintained primarily through manuals that specify the practices to be followed and the quality standards to be maintained.

In sum, the hotels belonging to this chain are constrained to comply with service-provision standards set by the parent firm and to follow detailed practices that are set by the parent firm and standardized throughout the chain. Latin American affiliates are not able to pursue new business directions readily under these conditions.

Management consulting

Seventeen management consulting firms in six Latin American countries were included in the sample. These firms are all headquartered in the United States. Most of the affiliates are related to the largest accounting firms (the former "Big 8"), and they provide both management consulting and auditing services in Latin America. A few firms are purely consulting firms with no accounting divisions. Most of the affiliates offer general management consulting, although one of them specializes in systems consulting and another in marketing research.

These affiliates, for the most part, have long experience in Latin America. They average 35 years of operation in each Latin American country. They employ an average of 234 people, of whom 46 are officers and 188 are staff members (a ratio of about 1 to 4). This pattern is fairly similar to that in the other industries (except for hotels, where greater numbers of people per affiliate and a higher ratio of staff members per officer exist).

The majority of consulting-firm affiliates have some kind of partnership or association agreement with their United States-based parent firms. Four of them operate as wholly owned affiliates. This arrangement is quite different from that in the other industries examined here in which wholly owned affiliates are the rule and other legal forms are the exception. Since the major accounting and consulting firms tend to be organized as partnerships in the United States, this form has spread to the Latin American affiliates. This ownership structure emphasizes the people-based nature of the business of the consulting firms, which depends on their officers' abilities to deal with clients and to offer useful managerial advice.

The consulting firms almost all identified other transnational competitors as their main rivals in the Latin American countries. Two of the firms noted that small local companies were among their two most important local competitors; all of the rest were TNCs. Not only were no examples of collusive or restrictive business practices found among competitors in that industry, but also the consulting firms were quite strong in viewing affiliates of their own firm as alliance partners, while other firms were strictly seen as competitors or rivals (see box 3).

Summary and policy recommendations

This examination of practices in five service industries has aimed at providing specific insights into the restrictive business practices that take

Box 3. Inter-affiliate project teams

One management consulting firm had a clear strategy of avoiding any competition among affiliates by consistently structuring its project teams to include consultants from various affiliates. When an affiliate in one country receives a request for service from a client, the team that is put together to deal with the request is, in accordance with internal company policy, selected to include partners and junior consultants from more than one office. This may mean, in the case of the United States, that all team members are from the same country, but they are still selected systematically from different offices. In Latin America and Europe, these teams include consultants from more than one country.

When a client requests consulting assistance from this firm, whether the request comes from the local affiliate in Latin America or from the parent firm (or from a regional office in the case of Latin America or Europe), the consulting firm's response is always to provide one proposal, and not competing offers from different offices. This internal policy completely limits the client to one global opportunity to deal with the TNC consulting firm, which is logical for the consulting firm as part of a strategy to optimize its use of resources worldwide. Host governments may view this limitation as a restraint of trade imposed by the affiliated offices of the consulting firm, but this kind of strategy has been upheld in antitrust cases around the world.

place in service-sector TNCs operating in Latin America. Restrictive business practices were found only within the firms, that is between affiliates, rather than between independent firms in any of the five industries. The types of restrictive business practices that were found, based on the United Nations classifications, were market-allocation schemes (including restrictions on exports); global requirements to buy from selected suppliers; a concerted refusal to supply; and limits on transfer of technology.

Through the value-added chain it appears that restrictive business practices in these service industries occur most frequently in purchasing, R & D and distribution. Purchasing is sometimes limited to specified suppliers or to inputs from the parent firms, but more often than not the limitations were to ensure quality control rather than to distort supply decisions. R & D was much more frequently carried out in the parent firm, except for service adaptation to local market environments. Also, technology was sometimes made available only through multi-country teams of the firm's skilled personnel, thus limiting the transfer of technology. Distribution of services

was often limited to clients in the particular host country so that the firm's affiliates in different countries would not compete with each other.

It should be noted that the lack of restrictive business practices between service firms here refers to actions between services sector firms in which at least one of the participants is a TNC. There are, in Latin America, as in European countries, numerous instances where service firms belong to local industrial groups, and where the service firms seek together to pursue their goals along with other members of the group.[3] These groups could be viewed as acting restrictively in some of their activities. Since the transnational service firms are not based in the Latin American countries, they are not members of the local industrial groups.

Service TNCs seek to maximize their gains from doing business in Latin American countries. This means trying to profit from their competitive advantages, such as possessing the technology for producing and providing management consulting or advertising services. A major way in which these firms try to protect their competitive advantages is tying them to the firm itself. This may be done by jointly operating a computer system (e.g. cross-border hotel reservations or bank accounts) among affiliates so that no single affiliate could appropriate it and use it in competition with the parent firm. It also includes the use of teams of specialists from different affiliates of the firm so that no affiliate is independently able to provide the whole service, and the use of proprietary methodologies for providing the services that cannot be separated easily from the parent firm. In all, quite a few mechanisms are used by the service TNCs to protect their capabilities against competitors locally and internationally. This type of ''restrictive'' practice was the main one found in the context of TNC service firms in Latin America.

It is clear from the empirical survey and from reviewing the literature on restrictive business practices in services in Latin America that there is very little collusion, price fixing or other monopolistic practices between firms. This situation requires no remedy, since inter-company problems are not present, at least in the given sample of service affiliates examined here.

It is not obvious that host governments in Latin America should seek to prohibit TNC service firms from sharing their competitive advantages among affiliates and withholding them from competitors. In antitrust law

[3] Analyses of Latin American economic groups appear in, for example, Campodónico (1993) and Naim (1989).

worldwide, the right of a parent firm to direct foreign affiliates' activities from headquarters (and thus to restrict the activities of foreign affiliates if so desired) has been upheld. That is, "collusion" among affiliates of the same firm is permissible as a business practice.

What host governments seek from service TNCs is the development of these industries in their own countries. This is actually ensured, since all the services in question must be provided mostly locally and not imported from abroad. While some parts of consulting services or software may be imported, other parts, such as delivery to the client, evaluation of performance of the service and interaction with the client, must be local. Moreover, these services are largely provided by skilled people; and one fundamental way in which key skills are transferred to a host country is through movement of people from foreign affiliates into local firms. It is clear that this transfer takes place routinely in the Latin American countries examined here.

Policy could be oriented towards maximizing the transfer of skills to local people and to local firms. Since very few expatriates are used by service TNCs, it appears that local people are already being trained in the relevant skills. To promote the transfer of skills to local firms, policies to promote private-sector development in general will encourage the entry of firms into profitable service activities. The more open entry is into a service business, the more likely it is that local firms will join TNCs and develop the capabilities needed to compete, through training and hiring people away from the TNCs, and ultimately from experience in developing their own capabilities. ■

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