CROSS BORDER MERGERS AND EMPLOYEE PARTICIPATION IN EUROPE

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Cross-Border Mergers and the ‘Country-of-Origin Effect’: Implications for Employment Relations?

Tony Edwards & Chris Rees

Kingston University

t.edwards@kingston.ac.uk
c.rees@kingston.ac.uk

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Abstract

The paper addresses the argument concerning the growth of the 'global firm' and the apparent detachment of MNCs from their home base in an increasingly 'borderless world'. A counter literature has developed which provides a necessary corrective to the more extreme 'globalization thesis'. We briefly summarise this debate before arguing that the pace of internationalisation of MNCs in the second half of the 1990s suggests that a re-assessment is now necessary. We develop the argument that the wave of cross-border tie-ups in the last few years has created a number of firms which have roots in *two* rather than one business system (ie. they are 'bi-national') and which have a wide geographical spread (while they may not be 'global' many are certainly pan-European and/or trans-Atlantic). These developments thus present a challenge to the 'country of origin effect'. The paper elaborates this argument with secondary data on recent cross-border mergers and acquisitions, before considering the implications of these developments for employee participation within these organisations.

Key Words

country-of-origin effect, cross-border mergers, globalization, employee participation, multinationals.

1. Introduction

The growth of international production has been a key element in the internationalisation of economic activity in recent years. The United Nations estimates that there are just under 63,000 multinational companies (MNCs) in the world, controlling nearly 700,000 foreign affiliates. Foreign direct investment grew by over 15% per annum between 1993 and 1997 and, despite turbulent economic conditions, by more than 30% per annum between 1997 and 1999. This growth has been driven primarily by the surge in cross-border mergers and acquisitions which have increased more than ten-fold in value between 1991 and 1999 (UN, 2000). Many of these cross-border mergers and acquisitions have created a number of firms which are highly internationalised; Vodafone, BP, Aventis and Daimler-Chrysler are all examples.

It is commonly argued that the internationalisation of the firm, of which cross-border mergers and acquisitions is a central part, has given rise to the emergence of 'global' firms that are spread widely across the world and are free from the influence of any one business system. These firms, so the argument goes, have detached themselves from the influence of their home business system, and rather are shaped by global economic forces. The best known exponent of this line of argument has been Ohmae (1990, 1996) in his writing concerning the 'borderless world'. According to Ohmae, the ability of the nation state to regulate and control economic activity has been dramatically reduced by globalisation. At the core of this process are 'global' corporations that are 'nationalityless' and are able to shift to whichever part of the world promises highest returns. Robert Reich has written in a similar vein. In addressing debates about 'national competitiveness', Reich (1990) has argued that nationality is no longer an important or meaningful concept in large MNCs.

The notion of global firms which are detached from their original home base is not entirely new. More than three decades ago, Ball (1967) and Kindelberger (1969) argued that international firms were becoming more global in orientation. However, it has certainly become more popular in much recent academic writing (e.g. Cerny, 1997, de Kerckhove, 1995) and is not confined to those who are enthusiastic about globalisation. Many observers

who see globalisation as a threat accept the idea that many MNCs are global (e.g. Bienefeld, 1994; Greider, 1997). Moreover, many newspapers and magazines have readily adopted the rhetoric of the global firm and many managers are anxious to portray their organisations as being global in nature.

Much of the literature on globalisation not only portrays MNCs as being global in scope but also suggests that economic and competitive pressures lead MNCs towards adopting a globally integrated model of operation. In recent years differences in consumer tastes between countries have diminished, while there has been a trend towards deregulating product markets in many countries. These developments in markets have made it easier for MNCs to realise the potential for synergistic linkages between their subsidiaries. Many have responded by building international management structures and seeking to integrate their processes of production or service provision across countries. In terms of employment relations, this implies that where the nature of practices in place at plant level in different countries are subject to the pressures for convergence, this will take the form of the transfer across a multinational's operations of 'best practice' from wherever it originates. Thus in 'global' firms, new practices which are diffused across the company emerge not just in home country plants but also in foreign subsidiaries.

However, the view that MNCs are highly 'global' has been severely criticised. A counter-literature emerged in the mid-90s, suggesting that, far from being detached from their home base, MNCs remain firmly rooted in, and influenced by, their country of origin. Ruigrok and van Tulder (1995), for instance, challenged the 'myth' of the global firm. Based on an examination of the largest 100 MNCs in the world, they concluded that 'not one of these can be dubbed truly global, footloose or borderless. The argument of the globalisation of the firm is unfounded and untenable' (1995: 168). Similarly, Hirst and Thompson (1996: 95) also referred to the myth of the global firm, arguing that the 'home oriented nature of multinational activity across all dimensions seems overwhelming'. Doremus *et al*. (1998: 3), moreover, argued that MNCs 'are not converging toward global behavioral norms' but rather continue to be deeply influenced by their country of origin.

The implication for the diffusion of employment practices of this alternative view of MNCs is markedly different from that stemming from the literature on the global firm. The concentration of operations in the home country means that MNCs retain a distinctively national character when they operate abroad. In other words, rather than being shaped by global economic forces, MNCs possess a detectable 'country of origin effect' (Ferner, 1997). Thus when practices are transferred from one part of the firm to another it is usually from the home to host countries and, more generally, the way that MNCs manage their international workforces is strongly shaped by their embeddedness in their home base. Of course, practices diffused from the home base to foreign subsidiaries will be adapted to the host environments concerned and, therefore, operate differently across the firm. Moreover, variation within business systems means that the nature of the influence from the home base will not be identical in two firms of the same nationality. Nevertheless, the evidence suggests that country of origin effect is evident in the way MNCs manage their international workforces.

As we will see, this second position, stressing the role of the country of origin in shaping the orientation of an MNC, has stronger empirical support than the first. However, the relationship between an MNC and its home business system is dynamic rather than static. In part this is because national business systems are themselves subject to change but, more importantly, it is because MNCs become less concentrated in, and therefore less influenced by, the country of origin as they internationalise. Indeed, the experience of the second half of the 1990s strongly suggests that a reassessment of the strength of the country of origin effect is necessary. The surge in foreign direct investment calls for an important qualification to the view that MNCs are concentrated in and heavily influenced by their home country. In particular, the process of cross-border mergers and acquisitions is creating a growing number of MNCs which have firm roots in at least two countries, which have a wide geographical spread, and which in consequence are not tied to, or dependent on, any one business system. Such firms can be termed 'bi-nationals' (Hu, 1992: 111) in the sense that they have 'two home nations or centers of gravity'.

The following two sections examine the sources of the country of origin effect and discuss the linkages between MNCs and the economies in which they originated. Following this, the

principal contribution of the paper is made in sections 4 and 5. Section 4 draws on secondary sources to establish the recent growth in cross-border mergers and details the way in which they have diminished the country of origin effect. The fifth section then considers key areas of employment practice which are likely to be affected by the increasing numbers of 'bi-national' MNCs. Our arguments here are necessarily tentative and suggestive at this stage. Our intention is to highlight potentially important implications for employee participation which only detailed case study work could substantiate in greater depth.

2. Sources of the Country of Origin Effect

MNCs are firmly rooted in their country of origin across a number of dimensions. Studies of the geographical distribution of the operations of MNCs have demonstrated that most MNCs hold a high proportion of their assets and employ a high proportion of their workforces in their home base. Ruigrok and van Tulder (1995) showed that only eighteen of the largest one hundred MNCs held the majority of their assets abroad and only nineteen employed the majority of their workforce abroad. Similarly, Hirst and Thompson (1996) present data showing a marked concentration of sales, assets and subsidiaries in the 'home region' of MNCs (see also Dicken, 1998; Weiss, 1997). This concentration of operations means that the home country is the main focal point in MNCs, acting as the principal source of new systems and practices for the firm as a whole.

The country of origin effect also stems from the embeddedness of MNCs in the corporate governance system in their home base; most MNCs are owned by institutions and individuals in the country of origin. This is significant because there are important variations in the nature of these systems across countries. Marginson and Sisson (1994) distinguish between two types. The first is the Anglo-Saxon 'outsider' system in which the primacy of shareholder interests and the active market in corporate control give rise to an orientation based on maximising short-term financial returns. In contrast, the continental European 'insider' system is characterised by the existence of multiple stakeholders and stability in ownership which is more conducive to furthering long-term goals such as increases in market share. Consistent

with this, Pauly and Reich (1997) provide evidence of enduring differences in the corporate financing arrangements of the US, Germany and Japan. The traits created by these different systems shape the behaviour of MNCs because 'in most cases, a large majority of shares are held by individuals and legal entities in the home nation' (Wade, 1996: 79; see also Hu, 1992). Furthermore, Ruigrok and van Tulder (1995: 156) argue that most MNCs 'regard control over their financial resources of utmost strategic importance, which can only be warranted at home'.

While most MNCs are embedded in nationally distinct forms of corporate governance, others are owned by the state. In these cases, the firm's goals and priorities are of course shaped by the interests of governments, and since these vary from country to country so too will the behaviour of state-owned MNCs. Ruigrok and van Tulder (1995) found that of the largest one hundred MNCs in the world, seven are wholly state-owned and a further five are partly so. In the case of the oil industry, the authors argue that state-owned oil firms became more influential during the 1980s, increasing their market share at the expense of the privately-owned oil 'majors'. More generally, the concentration of MNCs in their home countries may lead them to be 'quite susceptible to pressure and persuasion from the home country government' (Wade, 1996: 79) on which they may be reliant for subsidies, favourable regulations or sales. Thus, characterising MNCs as 'stateless' appears to be wide of the mark.

The influence of the country of origin also stems from senior managerial positions being filled primarily by home country nationals. This means that key decisions within MNCs are disproportionately shaped by managerial traditions and culture in the home base. In Ruigrok and van Tulder's (1995) study, only five of the thirty US MNCs had any foreigners on their board, and even in these cases there was only one. Similarly, among the twenty Japanese MNCs, only two - Mazda and Sony - employed a foreigner in a senior managerial position. In the case of Mazda this was due to its alliance with Ford, whilst Sony is distinctive among Japanese MNCs in the extent to which it is internationally spread. This is consistent with other sources which indicate that 'top management and governance rest in home country hands' (Wade, 1996:79).

Moreover, there is evidence that 'the world's leading MNCs remain firmly rooted in national systems of innovation' (Pauly and Reich, 1997: 12). Overwhelmingly, research and development (R&D) within MNCs is concentrated in the home country. American MNCs are more likely than their counterparts from Germany and Japan to conduct R&D overseas, but even they spend only 12% of their corporate R&D budgets in their foreign affiliates. There is evidence of a well-developed pattern of cross-border exchange of technology taking place within multinational corporate networks and, crucially, this is primarily from parents to their affiliates, demonstrating that the 'development of new technology remains centralised in the home market operations of MNCs' (Doremus et al, 1998: 109).

Overall, therefore, MNCs appear to be highly concentrated in their home country across a number of dimensions. The literature testifies to the way that this country of origin effect shapes the nature of HRM practices in the foreign subsidiaries of MNCs (Edwards, 1998; Ferner, 1997). American MNCs, for instance, are distinguished by: the emphasis the HQ places on monitoring short-term financial performance; their reluctance to grant union recognition and, particularly, to engage in sectoral bargaining; and the pioneering of practices such as single status and team briefings. Japanese MNCs, too, are distinctive in important ways. In particular, many Japanese MNCs have developed an extensive network of expatriate managers and have used this to implement 'lean production' in their affiliates. The behaviour of German MNCs at the international level is also shaped by the country of origin effect: they are distinguished by high levels of investment in training, a key feature of the German political economy, and have not pursued the aggressive cost cutting measures characteristic of many American and British MNCs.

However, the evidence from German MNCs also demonstrates the dynamic relationship between MNCs and their home business system. Ferner and Quintanilla (1998: 725) detect a process of 'Anglo-Saxonisation', arguing that in recent years they have converged 'towards patterns that have for some time characterised the typically more internationalised MNCs from the USA and the UK'. This points to the need for a closer examination of the embeddedness of MNCs in their country of origin and the extent to which this determines their behaviour. It is to this task that we now turn.

3. Multinationals and their Home Base

The literature reviewed in the previous section indicates that the orientation of MNCs is shaped by the home country business system. The vast majority are not detached from the influences of their country of origin but rather are shaped by it in important ways. There is, of course, a well developed literature demonstrating that the distinctiveness of a country in terms of the nature of its institutions, culture and markets informs the behaviour of *domestic* firms (e.g. Whitley, 1992; Maurice et al., 1980; Sorge and Maurice, 1990). How should we understand the linkages between the distinctiveness of a country and *multinational* firms?

To some extent, the country of origin exerts an influence from which MNCs cannot easily escape. Thus the business system in the country of origin may constitute a legacy which senior managers in a multinational are left with whether they like it or not. In some respects, this legacy may erode its competitive position. One illustration of this is the 'short-termist' pressures experienced by British MNCs as a result of the financial system in the UK. Hutton (1995) has argued that the persistent danger of hostile take-over and the consequent need to maximise immediate profitability has led many British firms to pursue successive rounds of cost-cutting and, hence, to sacrifice longer term goals such as investing in R&D and seeking to increase market share. There is certainly evidence that, in international context, British firms are forced to borrow at high rates of interest on finance raised over short periods (Lee, 1997; Williams *et al.*, 1990). In this sense, therefore, the embeddedness in the country of origin imposes a set of constraints upon MNCs.

Conversely, however, MNCs' embeddedness in their home base also presents a set of opportunities for firms to enhance their competitive position in international markets. Elger and Smith (1994) argue that MNCs act as the representatives of particular forms of capitalism, and those that establish a degree of dominance internationally often do so because they are able to draw on the strengths of the home country. The growth of Japanese MNCs in the 1980s and early 1990s is a good illustration as their internationalisation strategies were commonly based on exporting forms of production and work organisation characteristic of

their Japanese operations. Similarly, for much of the century, the growth of American MNCs was accompanied by the diffusion of 'Fordist' production techniques from the US to their foreign subsidiaries (Edwards, 1998). Thus the concentration in their country of origin also presents a set of opportunities for MNCs to draw on and exploit.

Therefore, while the country of origin shapes the behaviour of MNCs to some extent, these firms clearly have significant scope to exercise choices concerning how far their home base shapes their behaviour. More generally, many large MNCs have considerable room for manoeuvre in their dealings with the institutions in the different countries in which they operate. The oligopolistic power of some MNCs in international markets, for instance, enables them to shape the nature of consumer tastes and establish their production processes as the dominant mode of organisation. Moreover, those MNCs which appear to be footloose can use this to extract concessions from unions over pay levels and working practices and to exert pressure on governments concerning labour regulations (Edwards *et al.*, 1999). While all firms enjoy some scope for exercising choices in responding to the nature of their environment, this is greater among large, powerful MNCs.

This scope for choice that MNCs enjoy, of course, extends beyond their home business system to the countries in which they have foreign subsidiaries, allowing them to take advantage of the opportunities presented by the different business systems in which they operate. The greater the international spread of a multinational, the greater too is their scope to draw on expertise, technologies, systems and practices characteristic of those countries. As Marginson (2000) puts it: 'in becoming international MNCs partially escape the national institutional configurations in which they were previously embedded', opening up the possibility of drawing 'on a wider range of institutions and practices than those found in the home country'.

The wider process of the internationalisation of economic activity has facilitated the adoption of practices from different business systems. In particular, developments in communications and transportation have made it quicker and cheaper for MNCs to closely monitor the performance of their sites in different countries and to examine the practices in place at plant level. A growing proportion of MNCs have attempted to establish a network of managers

working across sites in different countries through such mechanisms as meetings of managers in the personnel function, international personnel committees and regular visits and assignments of HR specialists to sister plants (Marginson *et al*, 1995). Arguably, as well as being easier to transfer practices across borders, doing so is also becoming more important to the competitive position of MNCs. As competition is increasingly international across a range of industries, many MNCs have embarked on a continuous search for alternative practices and have used their foreign subsidiaries as a part of this search.

Therefore, MNCs are able to use their international spread to maximise their ability to draw on the opportunities presented by different business systems. We contend that the internationalisation strategies of MNCs, particularly the enormous growth in cross-border M&As, are increasing their scope to learn from environments other than that of their home country. Crucially, we argue that this is eroding the country of origin effect in a significant number of MNCs and this has significant implications for the nature of employment practices. We develop these arguments in the following two sections.

4. Cross-Border Mergers and the Country of Origin Effect

In our view, it is necessary to reassess the literature reviewed in section two which demonstrated that MNCs remain firmly rooted in their country of origin. This argument was based on information which is now somewhat dated, relating to the early and mid 1990s and, in some cases, to the late 1980s. For instance, Doremus *et al's* (1998) book, which argued that the global firm is a myth, used data principally from 1994 and 1995. Ruigrok and van Tulder's (1995) analysis of the world's largest one hundred non-financial firms was based on information published in 1993, much of which related to 1992 while some of that for internationalisation related to 1990. Hirst and Thompson's (1996) assessment of the extent to which MNCs are 'global' was made on the basis of two datasets. The most recent of these related to 1992-1993, but for a variety of reasons they are less confident about the robustness of this dataset than that relating to 1987, to which they attach more importance. The other cited texts also rely on data which now appears to be ageing: Hu's paper reports information for various MNCs up to 1989; Weiss's analysis of the extent to which FDI is concentrated in

high wage economies relates to the period up to 1991; Wade's consideration of whether it is legitimate to describe MNCs as 'footloose and stateless corporations' uses information from the late 1980s with two references to information relating to the early 1990s.

What, then, has changed in the intervening years? As we saw in the introduction, foreign direct investment in general and cross-border mergers and acquisitions in particular increased significantly in the second half of the 1990s. Indeed, as shown in Table 1, cross-border mergers and acquisitions have increased from a level of $86 billion a year in 1991 to $1.1 trillion in 1999. This record figure in 1999 represented a doubling on the previous year's figure, itself a record.

Table 1: Value of Cross-Border Mergers and Acquisitions, 1987-1999, $ billion

Year	Value
1987	75.0
1990	150.6
1995	186.6
1999	720.1

Source: UN, 2000

One way of investigating the impact this has had on the extent to which MNCs are rooted in their country of origin is to consider the United Nations' Transnationality Index (TNI) which is compiled for the 100 MNCs with the largest foreign assets in the world. This brings together three measures of the internationalisation of firms - the percentage of their sales, assets, and employees outside the home country - into one single measure. The trend in the TNI Index over the last decade indicates that the largest MNCs are gradually becoming less home-country centred. The figures for those MNCs which have been involved in significant cross-border mergers and acquisitions demonstrate the wide geographical spread which this activity has created; for example, the proportion of BP's activities which are in the UK fell from 42% in 1997 to 21% in 1998 following acquisitions in north America.

Outside the top one hundred MNCs, a number of other firms have significantly increased their global spread through large acquisitions. In many sectors that were previously dominated by firms organised only at the domestic level, large firms have embarked on a process of international expansion through acquisition. In retail, for instance, the American giant Wal-Mart bought Asda of the UK, signalling its intention to expand further into Europe. In electricity supply, privatisation in Britain has allowed many of the American firms to significantly increase their international spread, exemplified by Texas Utilities' purchase of Energy Group. Similarly, the newly privatised firms in Britain are now able to expand internationally, something which Scottish Power has taken advantage of with its acquisition of PacifiCorp in the US. In investment banking, the large banks are keen to increase their international spread in order to have a significant presence in each of the main financial centres in the world, a motivation which resulted in Deutsche Bank's purchase of Bankers Trust in the US. Cross-border mergers and acquisitions have also been a feature of more traditional, manufacturing sectors. In steel, the merger between British Steel and Hoogovens of Holland in 1999, forming a new group called Corus, instantly reduced the UK group's concentration in its home country from 80% to around 50%. In aluminium, the merger between Alcan of Canada and AluSuisse of Switzerland created a 'bi-national' company of just under 53,000 employees spread widely across thirty-seven countries with no clear country of origin.

The impact of cross-border mergers and acquisitions has perhaps been felt most acutely in telecommunications. Until a few years ago most markets in Europe were characterised by a state-owned monopoly which was organised solely at the domestic level. Recently, however, privatisation, deregulation and rapid technological change have led the key players to seek to build international networks. Deutsche Telekom, for example, has embarked on a series of acquisition attempts, including the successful purchase of One2One in the UK. Indeed, the sector has been the scene for a number of large cross-border mergers and acquisitions in recent years, creating a significant number of firms which have no one country of origin and which are highly spread across countries. The best example is Vodafone, which in recent years has built up a partial or complete stake in telecommunications firms in 23 countries. In 1999 it

acquired the American firm Airtouch in a deal worth $60 billion and, most notably, at the beginning of 2000 it succeeded in its $170 billion hostile take-over for Mannesmann of Germany.

There is clearly evidence that cross-border mergers and acquisitions have reduced the concentration of the operations of many MNCs in their country of origin, but to what extent has the distinctive influence of corporate governance systems been eroded? While some small acquisitions do not significantly alter the strong roots that MNCs have in the financial system in their country of origin, a growing number of deals have done just this. Most large cross-border mergers and acquisitions are achieved through issuing new shares rather than cash, resulting in the combined group having a strong shareholder base in at least two systems. BP, for example, financed its take-over of Amoco through issuing American Depositary Receipts (ADRs) which are listed in New York, so that it now has shareholder bases of roughly equal sizes in the UK and the USA. Scottish Power also used ADRs to finance its acquisition of PacifiCorp. Cross-border mergers in the financial sector are of particular relevance since they have knock-on effects on the firms they finance. As the large investment banks merge with their counterparts in other countries one might expect the distinctive national influences they exerted previously to be eroded.

While deals between American and British firms are significant in that they reduce the strong links a multinational has with its domestic financial system, perhaps of more significance are deals which leave the combined group with strong shareholder bases in two quite different systems of corporate governance. Mergers between Anglo-Saxon and continental European firms are of particular interest here. Many large German firms have enjoyed close and long-lasting relationships with the big banks, with the latter often holding large stakes in the former. When Daimler merged with Chrysler, the holding of the Deutsche Bank fell from 22% to 13%, illustrating the way in which these distinctive linkages have been eroded in recent years. In Sweden, similarly, a small number of investment groups have held large stakes in many Swedish-based MNCs, providing a stability in ownership which contrasts with the dispersed nature of shareholdings and the distant relationship between shareholders and firms in the UK. The merger between Astra and Zeneca was of great significance, therefore, because

it reduced the shareholding of the 'Investor' group from 10% of Astra to 4.7% of the combined group. A further illustration of a merged firm with strong roots in quite different financial systems is the bi-national created through the merger of Alcan and Alusuisse, which is legally domiciled in New York but has additional share listings in London, Paris, Zurich and Toronto. More generally, where cross-border mergers create a key player in an industry, financial institutions from a range of countries appear to be anxious to secure a stake in the new group, exemplified by the great international spread of shares in firms like TotalFina and Vodafone.

Perhaps the clearest example of the way international acquisitions have shifted a continental European firm towards an Anglo-Saxon approach is the French group Vivendi. Formerly known as *Generale des Eaux*, operating in stable but unspectacular markets such as water provision and motorway services, in the last few years it has undertaken a string of purchases which have radically altered its activities. Its growth areas have been in environmental services, transport, energy and, most notably, in the growth of its communications division. It has recently obtained outright control of Cegetel, the second largest mobile phone operator in France; in television, the group has a controlling stake in Canal Plus and a quarter of the shares in News Corporation; and has reached an agreement for a joint venture with Vodafone to provide internet services. Most recently, Vivendi has merged with Seagram of Canada and now employs more then half its workforce outside France. The group is widely seen as behaving more like an Anglo-Saxon than a French firm in its preference for growth through acquisition and the attention paid to 'shareholder value'. For instance, in advance of its merger with Seagram, senior management bowed to pressure from US investors and removed key voting restrictions and clauses in its statutes that might impede potential hostile take-overs (FT, 2nd October, 2000).

The distinctive influence of state ownership and regulation on MNCs appears also to have been eroded. Influenced partly by a shift towards neo-liberal economic policies, and partly by the practical issue of reducing public debt and borrowing in order to qualify for economic and monetary union, several European governments have embarked on a process of total or partial privatisation. Many of the newly privatised firms have sought to expand internationally

through acquisition, Deutsche Telekom and France Telecom being prime examples. Others, meanwhile, have joined forces with their privatised counterparts in other European countries, such as the mergers between British Steel and Hoogovens, and Total and Fina.

Many cross-border mergers and acquisitions have led to the creation of a managerial board made up of a mixture of nationalities, thereby eroding a further source of the country of origin effect. Thus, the four most senior positions at Astra-Zeneca are filled by two British and two Swedish managers. Of the twenty two positions on the senior management board of BP-Amoco, thirteen were from BP and nine from Amoco. Corus had joint CEOs for two years, one British and one Dutch, and the Executive Committee is made up of six managers from British Steel and three from Hoogovens. In this way, decision-making within bi-national companies is influenced by more than one set of managerial traditions. Daimler-Chrysler presents a very interesting illustration of the way that very different governance structures have been integrated. The merged company has set up a US-style Board of Directors, comprised of ten Daimler managers and eight from Chrysler, which will 'create a formal arrangement for representatives of some of the new company's biggest shareholders to meet executives' (FT, 9th Dec, 1998). This will operate alongside the German-style supervisory board, which is made up of employee and shareholder representatives. IG Metall has agreed to cede one of its three positions on the supervisory board to the UAW. Thus the nature of decision-making structures and the composition of these structures in Daimler-Chrysler reflects both American and German influences.

It is clear that the wave of cross-border mergers and acquisitions is reducing the concentration of MNCs in their country of origin across a number of dimensions. What are the implications for the nature of employment relations in the increasing number of bi-national firms? How are two (or more) sets of national influences combined? Is it likely that management's approach to employment relations will primarily converge on those of one nationality or, alternatively, will a 'hybrid' of the two nationalities emerge? At present these remain open questions upon which there is insufficient longitudinal case study evidence to warrant definitive conclusions. The following section, however, addresses areas of employment relations in which there is likely to be some considerable impact.

5. Employment Relations in the ‘Bi-National’ Firm

Most mergers, whether they are international or domestic, involve some restructuring or organisational change. This might stem from: new investment to upgrade existing assets and acquire new ones; the re-deployment or intensification of existing assets; or a drive to cut costs through slimming down or disposing altogether of some part of the operations. Such organisational change is termed a ‘general merger effect’ because it is common to all types of mergers, not just those that are cross-border in nature. Thus the rationale for merger provides a key influence on the nature of employment relations in a firm formed through a cross-border merger. How then are ‘nationality effects’ played out in these varying contexts?

One possibility when two firms from quite different business systems merge is that each partner retains a distinct approach to employment relations. That is, there is little attempt to harmonise pre-existing systems and practices in the different countries in which the firm operates. This tendency is likely in areas of employment relations in which legal, institutional and cultural factors constrain a firm’s scope to deviate from practices already in operation. In relation to structures for employee representation, for example, the room for manoeuvre that management enjoys is significantly constrained by the legal underpinning of labour market institutions, meaning that persistent differences in the nature of these structures in different countries are likely to remain.

Increasingly, however, MNCs are under pressure to integrate their operations despite these differences between national business systems. One source of this pressure is that many MNCs are striving to present a standardised product or service in international markets. Moreover, the creation of international institutions, particularly in Europe, has required a co-ordinated approach from management, further driving integration. This set of pressures has led many MNCs to strive for an integrated approach to some aspects of employment rerlations. The pressures to achieve international integration are stronger in some sectors than in others, of course: in automotive and electronics, for example, consumer tastes between

countries vary only slightly and competition is primarily between highly integrated multinationals in which plants co-ordinate closely. In some cases, this integration takes the form of explicit policies, such as those relating to employee development in French-based Danone. More commonly, such integration comprises implicit policies to share best practice in areas like work organisation, as in the case of the major motor manufacturers (Marginson and Sisson, 1996).

These competing pressures, for a decentralised approach on the one hand and for an integrated approach on the other, will be found in different mixes among MNCs according to such factors as sector, the degree of diversification and customer requirements. However, given that the forces towards integration are growing, one pressure that merged firms face is the challenge of harmonising their approach to employment relations. It is pertinent to examine whether this integration in firms formed through a cross-border merger will involve a 'hybrid' of the two principal national business systems or convergence towards one set of processes and practices.

There are some pressures towards the latter. The way in which MNCs attempt to harmonise their operations is strongly shaped by managers' perceptions of the relative strength of particular organisations and countries within the international economy. A strongly performing firm is likely to lead competitors to consider emulating its systems and practices, while strong economic performance of a country may create similar interest in the diffusion to other countries of elements of the model of economic organisation concerned. Smith and Meiskins (1995: 255-256) refer to this process as 'dominance effects': at any one time, they argue, countries 'in dominant positions have frequently evolved methods of organising production or the division of labour which have invited emulation and interest'. Thus merged companies in which one of the parties to merger originates in a strongly performing country are able to exploit the advantage of having first-hand experience of particular organisational principles and practices and use these as the basis on which harmonisation occurs.

One example is the nature of management structures in MNCs. A growing body of evidence reveals that many continental European MNCs perceive the hierarchical and bureaucratic

structures that are characteristic of their domestic operations to be ill-suited to an international environment characterised by rapidly changing markets and technologies. These firms have simultaneously been under pressure from the financial markets to pay more attention to 'shareholder value'. The shift towards financial markets in the USA placing more emphasis on shareholder value has been well documented (e.g. O'Sullivan, 2000) and arguably this is reinforced at the international level by the influence of the IMF and the World Bank. Consequently, many European MNCs have undergone a process of 'Anglo-Saxonisation'.

This tendency is marked among those German MNCs which have expanded internationally through acquisition and merger in recent years. Many of these firms have moved towards management structures typical of British and American MNCs, particularly the divisionalised organisational form with business units having devolved responsibilities for bottom-line performance. Accompanying these organisational changes have been important developments in the recruitment and remuneration of managers. A growing number of executives in German MNCs are 'generalists' rather than having expertise in a particular function, as has traditionally been characteristic of German firms. A further trend is for an increasing element of their pay to be performance-related, a relatively novel development (Ferner and Quintanilla, 1998). Moreover, international expansion through acquisition and merger has been associated with similar moves towards Anglo-Saxon management practices in some French MNCs (Mtar and Quintanilla, 1997) and in a Swedish multinational (Hayden and Edwards, 2001). For cross-border mergers and acquisitions, this suggests that Anglo-Saxon management structures and practices are likely to form part of the basis of international integration.

This is consistent with evidence from a detailed case study of one of the largest MNCs formed through a cross-border merger, the Swiss-Swedish multinational ABB. On the basis of analysis of data drawn from a number of the company's plants, Belanger *et al*. (1999) argued that, while the firm was still influenced by its original roots, this country of origin effect had been eroded markedly. The authors (1999: 258-9) describe the firm as an 'Americanised European-based company' (1999: 258-9) which is 'trying to implement American ideas'. They went on: 'On the global level ABB's culture is corporate, cosmopolitan, but as we keep emphasising, Americanised'.

This tendency towards convergence around one set of systems or practices is not driven solely by structural developments in firms' environments, however, but rather is also likely to be a contested process. The pressure to produce an integrated approach may be resisted by some organisational actors and the scope for political activity may lead to some groups seeking to further their own interests. Indeed, the uncertainty associated with a merger, cross-border or otherwise, may present a critical opportunity for different groups to influence developments. This may involve attempting to block the process of integration or, alternatively, it may involve shaping the direction that integration takes.

One group who may seek to do so is managers of national units within a multinational. These managers may be concerned either to guard their autonomy from higher levels of management or to advance their systems and practices as the basis for convergence. In particular, this group may perceive integration around other national models as a threat. One example involves those French managers who have been trained in one of the *grandes ecoles*, for whom promotion up the managerial hierarchy is largely guaranteed (Ferner and Edwards, 1995). This group may be uneasy with, and consequently try to resist, moves towards the development of a cadre of 'international' managers who are trained through uniform systems of management development. A key question, therefore, concerns how such managers in MNCs formed through a cross-border merger seek to use various sources of power in order to advance their own interests. These include their role as experts in their own national business system and the interface they represent with key customers in that system.

Another group who may seek to influence the nature and extent of integration is managers of particular functions, and as such one of the potentially key implications for employment relations concerns the role of personnel managers. Crucially, HR managers may try to use the merger as an opportunity to portray themselves as key players in dealing with the 'people' side of the post-merger process. In so doing they may be able to stress the importance of the training and development of international managers and in establishing mechanisms which promote the sharing of practices across borders as important elements in the international integration of the merged firm's approach to managing people. In this way personnel

managers may be able to raise the profile and prestige of their function within the organisation and to increase the prospects of promotion to high-level corporate jobs for individuals in the function. As a recent KPMG report into European mergers concluded, ‘the process of entering into M&A transactions is (often) less than perfect, with key elements left too late and post-completion integration tackled haphazardly’ (1999: 23). Evidence such as this serves as an opportunity for the personnel function to portray itself as a key player in post-merger integration. However, despite this opportunity personnel managers are more likely to find themselves marginalised in mergers, finding it difficult to get the ‘people’ issues onto an agenda dominated by managers from the finance and accounting function. Arguably, this is particularly likely to be the case in mergers where significant cost savings are promised to shareholders. More generally, there is a wide range of sources indicating that personnel managers in UK and US firms find themselves marginalised in cases of organisational change.

How are these alternative outcomes for the personnel function shaped by the competing national traditions that are evident in a cross-border merger? We might hypothesise that personnel managers are more likely to find themselves marginalised in mergers where an Anglo-Saxon firm is the dominant force. Where British or American firms are key players in mergers, the primacy of shareholder interests and attention given to (short-term) profitability are likely to make it difficult for personnel managers to secure a significant role for themselves. In mergers where continental European firms are the larger party, on the other hand, this task is likely to be commensurately easier. However, as we have seen, even in these cases, many large continental European firms appear to have undergone a process of limited ‘Anglo-Saxonisation’.

As well as affecting the profile of the HR function, cross-border mergers also affect the form of ‘international HRM’. The pressures to integrate the firm’s approach to managing its international workforce will erode elements of national models of personnel management within the different parties to the merger. In their study of German MNCs, Ferner and Varul (2000: 16) identified ‘considerable strains between the highly reactive, legalistic, administrative style of personnel management, rooted in a specifically German institutional framework, and the requirements for a more “broad-brush” strategic approach to IHRM’. It is

likely, then, that the eventual form of international HRM in bi-national firms will in part be the result of a series of negotiations and trade-offs between HR managers from different countries.

Employees and their representatives may also seek to shape the process of integration. This group may be concerned to resist the development of common approaches to employment relations, fearing that it will undermine pay levels and pre-existing channels of representation. They may be able to use legal obligations on management to negotiate change, such as the works councils in many European countries, to block or alter the introduction of particular practices. Accordingly, the employee representatives in Opel Spain were able to shape the introduction of team-working in such a way as to minimise its impact on the pre-existing nature of employment relations. Alternatively, employee representatives may seek to influence the substance of integration through co-ordinating their demands with their counterparts in other countries. The ability of workforces to exert such an influence increases as MNCs seek greater integration in their processes of production and service provision as this process makes them more susceptible to disruption given the knock-on effects in other parts of their operations. The establishment of European Works Councils arguably provides a forum in which employee representatives can increase the co-ordination of their approach to bargaining on a cross-border basis. Where the influence of employee representatives is strong we might expect the impact of integration to be greater on managerial than non-managerial employees.

Of course, the centre in most MNCs has considerable power resources that it may be able to use to overcome resistance or influence from other groups of organisational actors. Invariably, the HQ possesses control over investment funds, for instance, and also retains the authority to take key decisions concerning the promotion of senior managers. Moreover, the general context of uncertainty and the particular concern over job security that characterises the post-merger process creates an opportunity for the centre to push through organisational change. Nonetheless, the forces for post-merger integration in MNCs that stem from managers at the HQ will not be uncontested.

In sum, the approach to employment relations in firms formed through a cross-border merger is likely to be subject to growing pressures towards integration. This integration is likely to take different forms in different areas of employment relations: one tendency is for the Anglo-Saxon party to a merger to form the model for integration in relation to managerial structures and management development and remuneration. However, we have also seen how the move towards integration is a contested process, the outcome of which is of course dependent on the resources that each group is able to mobilise. The stronger the influence of the centre the more likely it is that there will be convergence on a particular model; the stronger the influence of national and functional managers and of employee reps the more likely it is that a 'hybrid' form will emerge.

6. Conclusion

The paper has argued that the recent high incidence of cross-border mergers and acquisitions is creating a significant number of 'bi-national' firms and, consequently, is eroding the country of origin effect. More particularly, we have considered the implications of these developments for employment relations, and contended that many of those MNCs formed through a cross-border merger are subject to pressures to integrate aspects of their approach to employment relations. The form this integration takes, moreover, is shaped in part by the perceived attractiveness and suitability of national sets of practices, but also by the power of groups of organisational actors to shape the nature and extent of integration. The former tends to promote convergence towards one national influence dominating integration, while the latter is likely to lead to a hybrid of two (or more) national influences.

The rise in cross-border merger activity clearly has profound implications for practitioners. Personnel managers may be able to use a merger of this type as a way of raising the profile of the function, as we have argued, and further are likely to find that the nature of their responsibilities are increasingly cross-border, involving them in greater co-ordination with their counterparts in other countries. Worker representatives, too, are likely to be deeply influenced by this process. The nature of practices that management seek to employ are likely

to be subject to pressures for change and, more importantly, representative structures and bargaining relations are similarly likely to be challenged. The process of international restructuring also has important implications for policy makers, too, something on which we plan to elaborate elsewhere.

Whilst the paper has raised a number of potentially important issues around HRM in MNCs, to further our understanding of these issues a programme of qualitative research into cross-border mergers is needed. Ideally, this would involve comparative fieldwork in a number of different countries, a task on which the authors are planning to embark.

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Anglo-Saxon vs. Continental Capitalism: Institutional Aspects of EU-level Participatory Management

Lucian Cernat*

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Ecole des Mines de Paris

(France)

* UNCTAD, Palais des Nations, CH-1211 Geneva, Switzerland. Lucian.Cernat@unctad.org.

The opinions expressed herein are those of the author and do not necessarily reflect the views of the UN.

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Anglo-Saxon vs. Continental Capitalism: Institutional Aspects of EU-level Participatory Management

Abstract

During the last years the European Commission has been very active in creating a 'level playing-field' for European companies by the creation of a harmonised regulatory framework. The Europeanisation of national corporate governance models was seen as one important part in this endeavour. However the likely policy consequences are far from clear and the direction and pace of corporate governance convergence in Europe is still a matter of some debate. One focal question is whether national governance models across Europe can be expected to converge in the near future as a result of European regulatory framework. If so, there is also the question regarding the final shape of the European corporate governance model. This paper, striving to integrate several bodies of literature focusing on corporate governance models, institutional change, and European integration, advances the view that due to the institutional architecture of the EU the degree of EU-induced corporate governance harmonisation will be limited and will allow national systems to coexist. Furthermore, the model of corporate governance promoted at the European level is a 'cocktail' model combining Anglo-Saxon and Continental principles that do not necessarily go hand in hand. Consequently, the European project may lead to multiple equilibriums where a hybrid corporate governance system may perversely destabilise workable (though imperfect) national arrangements.

1. Introduction

A significant body of recent comparative corporate governance literature has been concerned with the question of whether there is a national corporate governance system that performs best in terms of competitive advantage[1]. This question arises in the wake of globalisation of the international economy, a surge in cross-border mergers and acquisitions and various regulatory attempts to reform the existing national corporate governance systems. The claim that one set of institution should prevail over another is based on several underlying assumptions. An extensive body of studies have addressed in recent years these questions identifying national variations across corporate governance arrangements and industrial relations practices. Each of these independent variables is considered responsible for the international economic competitiveness of national capitalist institutional arrangements (Mayer 1997). This fact is exacerbated by globalisation, expected to spare

only the most fitted species of capitalism. Thus, it has bee argued that corporate governance represents not only a crucial difference among varieties of capitalism but also a major factor determining their economic performance.

Against this background, many observers have examined the EU's attempts to harmonise the national varieties of corporate governance in Europe. Harmonisation of company law and corporate governance standards and practices at the European level has been initiated since 1960s with the 1st European Directive on formation and registration of public companies.

The globalisation of the economy and the Europeanisation process advanced in the 1990s has drawn renewed interest in the persistence of national specificities with regard to corporate governance.[2] This debate has been spurred by the decline in the sustainability of national models of capitalism in late 1970s and 1980s. The loss of confidence in the feasibility of Keynesian economics and macro-societal corporatist arrangements has permeated the work on comparative corporate governance and, assuming an intrinsic link between the macro-societal governance model and the corporate governance mechanisms, an increasing number of observers thought that the Continental model of corporate governance is rapidly losing its distinctive character.

To the extent that this is happening, the convergence process towards Anglo-Saxon 'best practices' is driven by two interrelated forces. Firstly, a liberalised financial market that is beyond any individual state or supranational institution makes increasingly difficult to reconcile the *Hausbank*-style of Continental blockholders with the shareholder approach of financial markets. Secondly, the Europeanisation project aims to promote harmonisation towards several capital-related features of the Anglo-Saxon system.

In contrast, with regard to labour-related issues, the same Europeanisation project aims to produce a Continental-oriented model of corporate governance. Change in the national corporate governance regime would then have to be explained as a consequence of a *dynamic interaction* between the specific political selectivities of national and supranational

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[1] For general surveys of various facets of convergence see Coffee (1999), Gilson (1998), Moerland (1995), Prowse (1995) and Turnbull (1997). For more specific studies see for instance Berglof (1997) and Shleifer and Vishny (1997).

[2] With regard to the great diversity of national corporate governance across Europe, a good collection of country studies can be found in Isaksson and Skog (1994).

institutional constraints and opportunities, adding to the effects of interdependence between national systems competitively embedded in an encompassing common market[3].

Thus, the interesting question regarding corporate convergence at European level is what are the major characteristics of the emerging Europeanisation project? The options are either a hybrid model combining 'best' with 'second-best' practices from Anglo-Saxon and Continental corporate governance models, or convergence towards one of the two models. The next chapters further investigate these issues. Three distinct European legislative initiatives that are aimed at re-shaping the corporate governance structures across Europe are examined. After a short description of the main two types of corporate governance influencing the emerging European model, a spatial voter model is used to identify the main institutional influences on the direction of convergence.

The remainder of the paper is divided in 5 sections. Section 2 introduces the main features of the Anglo-Saxon and Continental models of corporate governance. Section 2.1. and 2.2. describes in more details the two models of corporate governance that shape the attempts at promoting a European model of corporate governance. Section 3 elaborates the methodology used to analyse the consequences of decision-making procedures in the EU on the direction of corporate governance convergence at the EU level. Section 4 presents the analysis of three specific legislative initiatives: the European Works Council Directive, the European Company Statute Directive and the 13th Takeover Directive. The conclusions with regard to the convergence debate over the Europeanisation of corporate governance are discussed by of conclusion in section 5.

2. Models of corporate governance

In the models of corporate governance literature one can organise the variety of variables encountered in the literature according to two main criteria. The plethora of concepts used to describe the complexity of corporate governance mechanisms can be organised into two

[3] One argument found in the literature surveyed states that national institutional contexts have a significant impact on corporate governance regimes (Gordon and Pound 1991). It is also claimed that different models of capitalism (understood as specific institutional arrangements regulating the macrosocietal space) are a determinant factor on the type of corporate governance found at national level (Scott 1997).

main categories: *capital-related* and *labour-related.* The capital-related aspects contain, among others, variables like ownership structure, corporate voting, the identity of owners, and the role of institutional owners. The labour-related aspects refer mainly to the stakeholding position of labour in corporate governance. Here one could mention employee involvement schemes, participatory management, co-determination, etc. [4]

Table 1. Anglo-Saxon vs. Continental corporate governance: capital- and labour-related aspects

Aspects	Anglo Saxon	Continental
Labour-related		
Cooperation between social partners	Conflictual or minimal contact	Extensive at national level
Labour organisations	Fragmented and weak	Strong, centralised unions
Labour market flexibility	Poor internal flexibility; high external flexibility	High internal flexibility; lower external flexibility
Employee influence	Limited	Extensive though works councils and co-determination[5]
Capital-related		
Ownership structure	Widely dispersed ownership; dividends prioritised	Banks and other corporations are major shareholders; dividends less prioritised
Role of banks	Banks play a minimal role in corporate ownership	Important both in corporate finance and control
Family controlled firms	General separation of equity holding and management	Family ownership important only for SMEs
Management boards	One-tier board	Two-tier boards; executive and supervisory responsibility separate
Market for corporate control	Hostile takeovers is the 'correction mechanism' for management failure	Takeovers restricted
Role of stock exchange	Strong role in corporate finance	Reduced

Source: Adapted from Rhodes and Apledoorn (1997: 174-5).

Table 1 above summarises well the various aspects of corporate governance, according to the proposed dichotomy. Based on this organising principle, the next section further explores the concepts mentioned above and other key aspects of each corporate governance model.

2.1. The Anglo-Saxon model of corporate governance

In the Anglo-Saxon tradition, the corporate concept is based on a fiduciary relationship between shareholders and the managers. Based on the conception of market capitalism, the Anglo-Saxon system is founded on the belief that self-interest and decentralised markets can

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[4] This difference is blurred to some extent by the transformation of labour into owners. However, unless employee financial participation is significant, the worker identity does not get completely diluted into a shareholder identity

function in a self-regulating, equilibrated manner. It comes to little surprise that these institutional settings are based and reinforce a profit-oriented behaviour and a struggle for material success by individual entrepreneurs and managers. This short-term profit oriented behaviour and individualism are coupled with a set of appropriate institutions to enhance their effectiveness in the Anglo-Saxon model.[6] In the continental tradition, the company has an independent will, i.e. in theory, what is good for the corporations might not be good for its shareholders. These differences penetrate down to company law particulars such as shareholder rights, the role of statutory capital and the responsibility of the board, just to mention a few.

Capital-related aspects

With regard to capital-related features of corporate governance, the Anglo-Saxon countries are known to offer well-developed mechanisms. Anglo-Saxon corporate governance systems are characterised by dispersed equity holding and a broad delegation to management of corporate responsibilities. In the UK and US, not only are there few large shareholders but also the second, third and smaller shareholdings are not appreciably smaller than the largest. This gives rise to the possibility of effective control through coalitions but not by individual shareholders (Becht and Mayer 2000, Blair 1995). Although ownership and control are so separate, minority shareholders enjoy protection due to the not solely legal infrastructure, but also to the highly developed capital markets in the market oriented system[7].

Probably the most distinctive capital-related aspect that contrasts between the two systems is the structure of corporate ownership. As seen in table 2, in 1990 in the US (the textbook example for the Anglo-Saxon capitalist model) individual shareholders account for 50% of total outstanding shares owned[8]. This differs markedly from the other two exponent countries of European and developmental capitalism, Germany and Japan. The same sharp differences in ownership structure are present with respect to the other two major non-

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[5] The German co-determination system give the employees of a company control rights without them owning any of the shares of the company. Thus, in many cases 50% of the supervisory board members are appointed in this way but the capital side has the casting vote.

[6] For a classical description of the main Anglo-Saxon best practices see for instance the Cadbury Report.

[7] These mechanisms on the other hand create a shareholder-management problem (Porter 1991).

[8] The US and the UK governance systems are broadly similar (liberal market/competitive; shareholder dominant) but starkly different when compared to the continental European variants. With regard to hostile takeovers, for instance, Franks and Mayer (1996, Journal of Financial Economics) report a total of 80 (successful and unsuccessful) hostile bids in the UK for 1985-86. and 85 (successful and unsuccessful) hostile bids in the US in 1984-86. In Continental Europe the figures are much more modest.

financial shareholders: banks and enterprises. From the ownership structure it results that the Anglo-Saxon corporate governance system is one where share ownership is widely dispersed and shareholder influence on management is weak. In this system a well functioning stock market is vital for unsatisfied shareholder to be able to sell their shares. In order to work the system needs to protect the individual shareholder by strict regulations on corporations regarding information disclosure and insider trading.[9]

Table 2 Major non financial shareholders of stocks 1990 in the US, Germany and Japan (in percentages)

Shareholder	US	Germany	Japan
Individuals	50.2	17	22.4
Banks	-	10	18.9
Enterprises (cross-ownership)	14.1	42	25

Sources: US Federal Reserve Flow of Funds, Japanese Flow of Funds, Deutsche BundesBank Annual Report.

Table 3 Ownership concentration, 1993

Share of the largest shareholder	Germany	The Netherlands	UK	US
Greater than 25%	85	-	13	-
Greater than 50%	57	22	6	-
Greater than 75%	22	-	1	-

Still more striking than differences in average sizes of shareblocks is the complete distribution of the largest shareholdings. In most Continental European countries, there is a fairly uniform distribution of the largest voting blocks[10]. In contrast, in the UK and US there is a strong "market bias" towards dispersed control (see Table 3).

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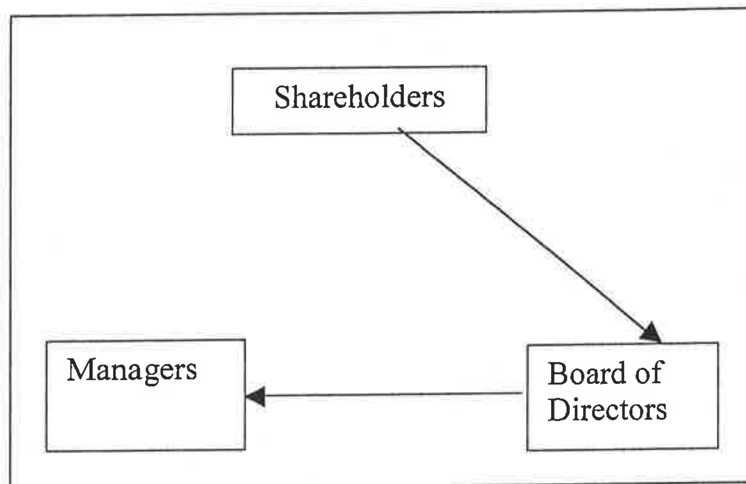
[9]In addition, the Anglo-Saxon system has a well established antitrust law and authorities to preclude the formation of anti-competitive cartels through mergers and acquisitions or cross-ownership.

[10] However, it would be wrong merely to contrast Continental European with Anglo-American control. There is a marked variation within Europe, ranging from a "private control bias" in Germany to a modest market bias in the Netherlands and Spain.

Labour-related aspects

With regard to the role played by labour in shaping the US policy making, most authors agree that the influence of trade unions is much smaller in the Anglo-Saxon model when compared with the European model.[11] Organised labour in the US is characterised by a relatively high level of heterogeneity and fragmentation at national level. The Anglo-Saxon system also has a low and declining rate of unionisation Pryor (1996). In contrast with the European and developmental capitalism, the labour market in the Anglo-Saxon capitalism is its poor internal flexibility due to a fragmented training system and poor skills (Rhodes and Apeldoorn 1997: 174).

Figure 1 The Anglo-Saxon model of corporate decision-making



These negative features are partially balanced by a higher mobility (both across professional groups and geographically) and by more flexible wages than the ones characterising the European model.

As can be seen Figure 1, the Anglo-Saxon model of corporate governance does not allow for labour to participate in strategic management decisions. On the decision-making side, America's best firms have delegated more decisions to workers through employee involvement programs and team decision-making than ever before. In the mid 1990s over half of Americans reported that they worked in firms with employee involvement committees; and one-third of workers said that they were members of employee involvement

[11] The comparison is more difficult with the developmental state because of the latter's state authoritarianism combined with extensive corporate welfare schemes and worker's active role at the shop floor level.

committees of some form (Freeman and Rogers 1999). However, this participation is restricted to operation management and has no equivalent at the strategic management level.

Moreover, in the Anglo-Saxon world employee participation has often just a financial aspect. A major component of the US economic model is the growth of shared capitalism, including a diverse set of mechanisms for worker participation in production decisions and in the financial stake of their firm and of capitalism more broadly. A large share of the US workforce receives compensation related to company performance in a variety of schemes. Dube and Freeman (2000) found that approximately 25 percent of the US workforce had a stake in their firm through some form of ownership. This includes working in a firm with an employee stock ownership plan (ESOP) (around 8%), or receiving a stock option through an employee stock option plan that covers the bulk of the work force, or through purchase of stocks in a firm that offers discounts on purchases. A quarter of the work force was covered by profit or gain-sharing schemes and approximately 10% of the work force had a substantial proportion of their retirement funds invested in company stocks.

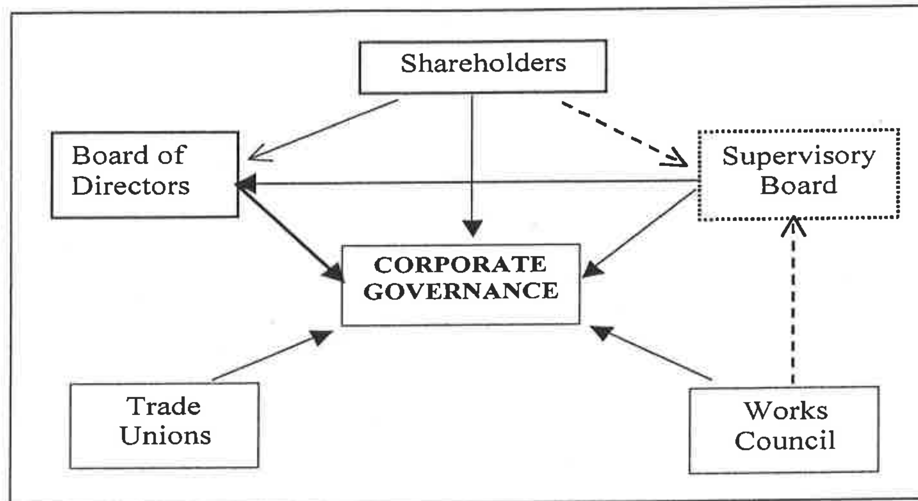
2.2. The Continental model of corporate governance

The situation in continental Europe is rather different. The underlying principle under which the Continental corporate governance system is founded is embodied in the stakeholder theory of the firm. The Continental capitalist model considers not only the interests of shareholders but also the inputs from the relevant stakeholders (see figure 2). Often, the most important stakeholders that take part actively in strategic decision making at corporate level are employees, through trade union representative and/or works councils.[12]
Unlike the Anglo-Saxon model, many continental European countries provide for a two-tier board: the executive board of directors and the supervisory board. The supervisory board is formed according to different procedures across Europe, but in many cases employees have the right to appoint or recommend several members in the supervisory board. From the schematic relationships depicted above it can be seen that unlike the Anglo-Saxon system the Continental corporate governance allows for multiple channels to deal with the shareholder-manager agency problem and ensure insider supervision. These features are best

[12] The dotted arrows and lines symbolise the cross-national differences in these institutional arrangements. In France for instance, the Supervisory Board does not exist.

captured by the label *stakeholder capitalism* that is often associated with the Continental model of capitalism[13].

Figure 2 The Continental model of corporate governance



Capital-related aspects

Unlike the Anglo-Saxon system, the Continental model (and to some extent the Japanese model) is based on a prominent role of banks and other institutional shareholders in corporate finance and control (see Table 2). It is quite common for banks in this model to own significant proportions of shares in their portfolios as a way to control the economic activities of their major clients. Bank representatives also often are found on the boards of directors of the companies they offered large loans. These organisational features and banking-enterprise close interaction creates a more secure economic environment that allows firms to seek higher profits on the long run, as opposed to the short-term view imposed by stock markets on Anglo-Saxon companies (Albert 1993, Smyser 1992). Furthermore, German banks are allowed to conduct business in all branches of banking (universal banking), while Anglo-Saxon countries strictly separate certain banking activities (Albert 1993). Both features make European banks more attractive than stock markets for companies intending to raise their capital for new investment (Davidson 1997).

[13] On the concept of stakeholder capitalism, the meaning of stakeholding and various refinements of the concepts (stakeholder state, the stakeholder society, stakeholder company, stakeholder economy) see Kelly et.

Not only the banks but also other shareholders and interested parties have a direct or indirect influence on corporate management. Since the number of freely trade shares is limited and dividends are less prioritised than in the Anglo-Saxon system, shareholders do not face the classical Hirshmanian choice of 'voice or exit'. Less fluid stock markets make exit more costly and therefore, shareholders have a strong incentive to gain a powerful 'voice' in the management of the firm by acquiring a sufficiently large share stock to enable them to monitor the managers and reduce the relative costs of this operation[14]. The same reluctance towards stock markets renders take-overs (especially hostile takeovers) more difficult in the Continental capitalism.[15]

Labour-related aspects

The Continental corporate governance is generally associated with a neocorporatist pattern of interest intermediation, featuring strong voice for organised labour in policy making at macro- or sectoral level[16]. It is also generally the case that collective bargaining determines wages at sectoral level and a minimum national wage level, thanks to high trade union membership rates and representative peak associations.

The role of labour is important not only at macro level but also at firm level through workers' councils and the principle of co-determination, although the latter is not found throughout Europe as a whole. There are well established and institutionalised business-labour forms of cooperation and information exchange, whether in supervisory boards or at a more decentralised level in works councils[17]. Naturally, the Board of Directors bears the final responsibilities for any decision taken and its result on the company performance. However, the Board enters in consultation with workers and supervisory board before any

al. (1997) and Hutton (1999).

[14] Dittus and Prowse (1996:24) bring evidence in support of this argument. Germany has the highest share concentration ratio (42%) compared with the US (25%) and Japan (33%).

[15] With regard to the importance of stock market in various countries, Prowse (1995) reports that market capitalization corresponds to 51% of GDP in the U.S., 90% in the UK, 71% in Japan, and only 29% in Germany. Adjusted for crossholdings, the figures are 48% in the U.S., 81% in the UK, 37% in Japan, and 14% in Germany. Using more recent data, Wenger and Kaserer (1997) estimate a relative capitalization of 21% for Germany.

[16] An extensive discussion on neocorporatist interest intermediation is provided in the following section.

[17] The "Nordic model" of workforce participation, which is based on national industrial agreements, differs from the German model based on "rigid" legislation (Streeck 1997: 19)

important decisio1n is being taken. Furthermore, certain Continental countries have some links in place between the supervisory board and the works councils.[18]

Employee rights in a company are protected through the existence of a works council. This is an elected body of employees that advises and consults with management on a number of areas relating to the company's operations and the interests of the employees. Works councils have the right:

- to initiate discussions on a specific topic,
- to be consulted and to give their opinion on various major issues affecting employees in the company,
- to approve certain decisions taken by the employer which mainly cover a range of personnel matters.

With regard to many strategic corporate decisions, Continental-based companies often involve works councils at an early stage. In such instances, better coordination and agreement between works councils and trade unions could really strengthen the employees' position in the case of mergers, acquisitions, and corporate reorganisation. In the German corporate model (and to a large extent in the Netherlands and other Western European countries) works councils are engaged in consultation and participation in the corporate decision making process, while trade unions were mostly concerned with working conditions and wage bargaining[19].

However, co-determination may also create disadvantages. If workers become too influential they may pursue opportunistic objectives. It may also slow down decision-making within firms by requiring extensively lengthy procedures before decisions can be taken (Hopt 1994). Moreover, co-determination may reduce the flexibility of employment adjustments across firms and industries. Often employers must consult the works council not only on the social consequences of important economic decisions, but on the economic and financial

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[18] In Germany, for instance, works councils have the right to appoint up to half of the number of representatives on the Supervisory Board. In the Netherlands, works councils can only recommend and oppose the Supervisory Board membership.

[19] One should distinguish between two aspects of employee participation. On one hand, there are operational employee participation mechanisms (operational meetings, quality circles, self-guided teams, etc.) aimed at improving the work process and overall enterprise competitiveness (direct participation). On the other hand, there is employee participation in strategic management decisions at corporate level, done through workers'

consequences as well (Bolt and Peters, 1997). But the works council has not been given a say in how company profits should be distributed.

Despite these institutionalised links between workers and management in the Continental model, corporate governance and industrial relations are far from a non-conflictual environment. The Board of Directors maintains its dominant position and sometimes acts in isolation from stakeholders. Even worker participation in corporate governance is at times characterised by lack of coordination between trade unions and works councils.[20]

3. The European diversity: is there an emerging European corporate governance model?

Across Europe there are significant difference in terms of ownership structure and market for corporate control. Wymeersch (1994) identifies two broad types of corporate governance in Europe: a company-based system and an enterprise-based system. This classification parallels the shareholder vs. stakeholder distinction. While this dual approach may exaggerate the difference among various European corporate governance systems, it nevertheless seems well suited to reflect the significant regulatory and social aspects of corporate governance across Europe.

In the United Kingdom for instance, hostile takeover through public offerings on the stock market play an important role. In the European Union, the UK is generally viewed as the economy most similar to the US, and the reforms enacted by the Thatcher, Major, and Blair governments have brought the UK even closer to the American model.[21] In contrast, Germany had virtually no hostile takeover before the Vodafone deal. Similar systemic aversion to hostile takeover can be found in different degrees in other Continental European state (De Jong 1989).

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representatives, aimed at ensuring that workers' interests are taking into account in any major decision, including mergers and acquisitions.

[20] In certain Continental countries, both unionised and non-unionised workers take part in works councils. Often there is competition between works councils and trade unions for legitimacy in negotiations with the management over working conditions and employment. This is especially true after increasing trade union decentralisation at enterprise level.

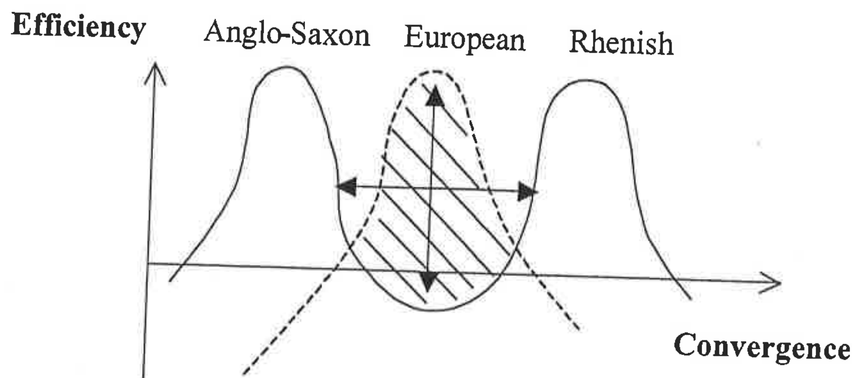
[21]'There are however differences even between Mrs. Thatcher's UK and the US. In the UK the conservative reforms never touched the National Health Service, did not reduce the ratio of tax revenues to GDP to US levels, and left macro-economic monetary policy in the hands of the government rather than the Bank of England.

Empirically, the different experiences in Europe both in terms of types of capitalism and economic performances give full legitimacy to the research question whether capitalist institutions (markets, hierarchies, networks, various state and private actors) can be related to various economic outcomes. Secondly, a crucial question in the European context is whether the EU has a coherent institutional project with regard to corporate governance and industrial relations. As economics itself finds it increasingly difficult to account for cross-national variations in institutional variety and economic performances, a more encompassing approach based on institutional political economy theories may hold the key for our understanding of European integration.

The diverse forms of corporate governance found across Europe and the longstanding attempts to promote a pan-European corporate governance regime make the object of two competing theories. The first one – the convergence thesis - sees the landscape of efficient corporate governance as single-peaked. Depending upon the features assumed to be more important, opinions are divided whether the fittest to survive regime competition is the Anglo-Saxon or the Continental model. The second view considers the landscape of efficient corporate governance as multi-peaked (as depicted in

Figure 3) and advanced two rather different hypotheses. The first one considers cross-fertilisation possible and therefore allows for a natural convergence towards a hybrid model, based on 'best practices' borrowed from each other (the dotted line in figure 3). The second hypothesis argues that corporate governance is a complex construct, based on a variety of systemic links among its elements. Consequently, the systemic view discards the feasibility of cross-fertilisation on high transition costs grounds. Any attempts towards convergence, either through cross-fertilisation or survival of the fittest will incur systemic costs on the existing model and therefore it will be rejected.

Figure 3 Corporate governance change: efficiency and convergence



Given these divergent views with regard to changes in corporate governance the current process of Europeanisation of corporate governance raises several questions. These questions concern the extent to which policy convergence is taking place in the EU and, if so, the path and model towards which convergence occurs. Are we witnessing the harmonisation of the various national corporate governance model along the lines of the Anglo-Saxon system? Or is the European model of corporate governance shaped more like the Continental model? Secondly, if there is an emergent European capitalist model is that likely to be more or less efficient that the starting point?

The following sections will follow these points through by briefly presenting the EU attempts at harmonisation of national systems of corporate governance. The main capital-related corporate governance issues dealt with at the European level are scattered among the thirteen EU company-law directives put forward over the years by the Commission. The subject matter of these capital-related directives ranged from formation and registration of public companies (1st Directive of 1968) to disclosure requirements (the 11th Directive of 1989), cross-border mergers, or disclosure of voting power.[22]

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[22] See the Large Holdings Directive (88/627/EEC). The Directive is also referred to as "Transparency Directive" or "Anti-Raider Directive".

These directives contained in many instances proposals to reform labour-related corporate governance aspects. For example, the Fifth Directive concerning the structure and management of public limited companies, first drafted in 1972 and subsequently revised in 1983 and 1989, called among other things for worker participation in company decision-making through a two-tier board and a works council or collective agreement. . In parallel, the EC promoted several proposals aimed at harmonisation of labour-related aspects of corporate governance. Another earlier attempt to reform labour-related corporate governance aspects was the Vredeling Directive (1980). This was followed by several attempts to introduce a European Works Councils Directive and worker involvement provisions in the proposed European Company Statute (Danis and Hoffman 1995).

Thus, from a cursory look at the specific actions taken towards the Europeanization of corporate governance, it seems that the model of corporate governance promoted at the European level is a mixture of Anglo-Saxon and Continental elements. Several aspects of corporate governance promoted at the European level are inspired from the Continental model of corporate governance and its various forms of employee information, consultation and participatory arrangements. [23]

The main question relates to the likely impact of such a hybrid corporate governance model. Rather than tackling the question directly, in the following special attention being given to the decision making process in order to understand the underpinning EU institutional factors that push towards the adoption of a hybrid model of corporate governance. Based on the capital/labour distinction between aspects of corporate governance and the examination of the EWC Directive, the ECS Regulation and Directive, and the 13th Takeover Directive, several considerations will be made on the direction and pace of corporate governance change at the EU level.

4. A simple spatial model of EU decision-making with regard to corporate governance

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[23] The most conspicuous instances when the EU tried to harmonise the national corporate governance systems along the Continental lines were the European Works Council Directive and the recently passed directive with regard to worker involvement in a European Company.

There exists a voluminous literature on voting power analysis of EU institutions (see, e.g. Colomer and Hosli 1997, Hosli 1996). Most previous works focus on a single institution, typically the Council of Ministers, but more recently also inter- institutions have been taken into consideration in power index studies. A good example of this more general approach is Bindseil & Hantke's work (1997), which focuses on power distributions under EU decision procedures. Our work can be viewed as case study of this branch of research.

Apart from voting power techniques another methodology often used in analysing institutional decision-making is spatial modelling.[24] Various spatial modelling approach based on non-cooperative game theory have been discussed in the literature (Crombez 2000; Hubschmid and Moser 1997); Steunenberg 1994, 1996; Tsebelis 1994). Therefore, it is appropriate to begin with a brief discussion on game-theoretical approaches to set the stage for power index analysis. After that, we shall outline the indices utilized in the evaluation of power distribution in weighted voting bodies. Next, we discuss briefly the properties of the indices. The first scenarios we shall dwell upon pertain to the Council and are based on different assumptions concerning its decision rules. Thereafter, we shall discuss legislative scenarios based on various Parliament- Council interactions. Finally, we shall look at procedures involving all three bodies.

4.1. Assumptions and methodology

The existing spatial models of EU institutions typically consider the Commission and European Parliament as unitary actors, while the Council is decomposed into individual countries (Steunenberg 1997; Garrett 1995).[25] The aim of these analyses is to find equilibrium outcomes and characterize them in terms of the ideal points of the players. This approach allows the comparison of outcomes under various decision-making procedures and, so it is argued, the comparison of power relationships between various players.[26] If under procedure *a,* a player is able to move the equilibrium outcome closer to his/her ideal

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[24] For a critique of the voting power model see for instance Tsebelis and Garrett (1997).

[25] For a detailed but non-technical description on the EU institutions and policy-making see for instance Nugent (1999).

[26] It has to be noted however that the results of the analysis is sensitive to the position of the status quo (the original regulatory landscape if no new decision is adopted). In the course of this paper the status quo will be placed both outside and inside the Council preferences.

point than under procedure b, then the former procedure gives the player more power the latter one.[27]

In non-cooperative game theory the basic concept is that of an equilibrium. An equilibrium is a particular type of outcome resulting from strategy choices of players. In the spatial models of EU institutions the players are characterized as a points in many-dimensional Euclidean policy space. The dimensions represent the salient policy variables, such as a degree of integration. Each player (country, party or Commissioner) is assumed to have an ideal point in this space. Moreover, each point in the space has a utility for each player. The utility of point x for player I is defined as some monotonically non- increasing function of the distance between x and the player's ideal point, i.e. the further the point from the players ideal point, the less utility it carries to him/her. To define utility, we thus need a distance measure.

A further elaboration of the spatial model is to consider the policy-making process as a repetitive game. As it will be shown below, under this assumption, credible threats and past behaviour become key factors determining the evolutionary path of decision-making and the final outcome. However, given the complexity of decision-making at the EU level, it would be extremely difficult to include all the procedural details into analysis. A spatial voter analysis on 15 members each that have different weights would complicate the understanding of key variables and interactions. What is more important than differences across voting weights and actual EU members is the formation of minimum winning coalitions. In this case the key explanatory variable in the following analysis is the *voting rule*. The EU Treaty provides for three possible voting rules: unanimity, qualified majority (QMV) and simple majority. For simplicity in the analysis of voting patterns and outcomes, a 15-member EU Council may be equated to a Council of 7 members, having equal voting weights. Under these new specifications, unanimity rule is 7 out of 7. Qualified majority (based on the distribution of the voting weight in the original Council) is 5 out of 7.[28]

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[27] Sometimes even quantitative power comparison are made on the basis of such models.
[28] To illustrate this equivalence, let's start from the original qualified majority procedure. The total number of votes in the Council is 76 and qualified majority is reached when achieving 54 votes. Thus the ratio for the original QMV is 54/76 or 0.71, which is equal to 5/7.

The other main actors – the European Commission (EC) and the European Parliament (EP)- are assumed to be unitary actors. The analysis also assumes that the Commission is generally more integrationist than any member of the Council. The European Parliament will be modelled similarly, but this assumption will be subsequently made more flexible. Once these specifications made three EU provisions with impact on the emerging European corporate model will be examined to establish a link between institutional actors' preferences, decision-making procedures and regulatory outcomes.

4.2. The EWC Directive

The European Works Council Directive (ECW) was enacted in 1994 having the main objective the establishment of appropriate mechanisms at the EU level for informing and consulting employees in Community-scale undertakings (European Council 1994). However, despite the pioneering work contained in the Vredeling Directive and various amendments proposed by the Economic and Social Council and trade unions, the ECW Directive does not contain any reference to participation. Yet, the EWC was thought to provide labour with major institutional device to counteract the potential adverse effects of global capital.[29] Although many other factors influenced the non-inclusion of worker participation in the directive, the limited scope of the directive was significantly influenced by the decision making procedure utilised.

The EWC Directive found much support in the Maastricht Protocol on Social Policy that was applicable to only 11 EU countries, due to the opt-out granted to the UK. Stemming from the Protocol's Article 2(2), the decision –making procedure for the EWC Directive is the cooperation procedure, as mentioned in ex Article 189c. Unanimity voting used to be the prevalent decision-making procedure prior to the Single European Act and Maastricht Treaty. Subsequently, qualified majority voting was extended to most Common Market decisions. Moreover, under the 'flexibility' provisions added by the Amsterdam Treaty,

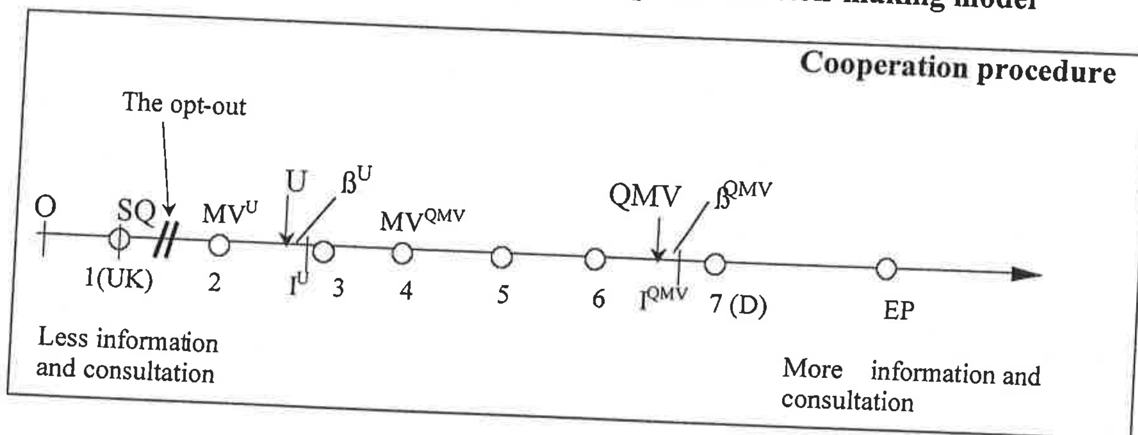
[29] The most cited cases of negative effects on labour of free movement of capital and MNC activity in Europe are the Hoover case when production was shifted from Dijon to Glasgow and Renault's Vilvoorde incident. In both cases the EU legislation did little to avoid MNC relocation in search for cheap and more flexible labour within Europe.

'multi-speed Europe' has been formalised when allowing for a group of EU members to establish 'closer integration' (Nugent 1999: 166, 353).

Under this procedure, the European Parliament, although lacking the veto power from the co-decision procedure, is still a significant actor. If the European Parliament rejects the Council's common position, the Councils needs unanimity to pass its original common position. The same unanimity is required if the EP amends the Council's common position but the amendments are rejected by the Commission. Therefore, the EP enjoys to a certain degree a 'conditional agenda setter', whenever it rejects or amends the Council's common position.

Figure 4 illustrates the one-dimensional space of decision making in the case of the EWC. One exception to the normal procedure is the British opt-out which precludes it to vote.[30]

Figure 4 The EWC Directive: a non-repetitive spatial decision-making model



Where:

- O represents the origin of the decisional space;
- 1 through 7 denotes the member states' preferred outcome;
- SQ stands for status-quo;
- U refers to the outcome under the unanimity voting procedure;
- QMV refers to the outcome under qualified majority voting;
- MV stands for the median voter position;
- ß represents the residual premium the median voter needs to obtain in order to move away from the indifference point and vote in favour of a decision;

[30] It can be seen that in the case of the EWC directive, the British opt-out can be interpreted as a restrictive condition on the UK ideal point: d[UK] ≤ SQ. In other words, the UK ideal point cannot be at the right of the SQ.

- I denotes the point leaving the median voter indifferent between the SQ and a Council decision.

Under Article 189c's cooperation procedure the Council votes by QMV. In this case, based on a Commission proposal, the median voter ensuring a minimum pro-integrationist coalition is country 4, taking into account the UK opt-out. In this case, the median voter's indifference point between the SQ and a draft directive is at I^{QMV}. It is sufficient then for the Commission to make a proposal at the left of I^{QMV} (allowing a minimum ß median voter premium) and the directive would reach the Council common position stage. The value of residual premium ß depends on many factors and assumptions. Firstly, under the consultation and cooperation procedures, the Commission does not have an unconditional agenda setting power and the Council can adopt unanimously a different proposal (see the unanimity case above). If one takes into account the repetitive game aspect of decision making in the EU Council of Ministers then the residual premium depends upon the voting record of the median voter, logrolling over issues, and existing coalitions.

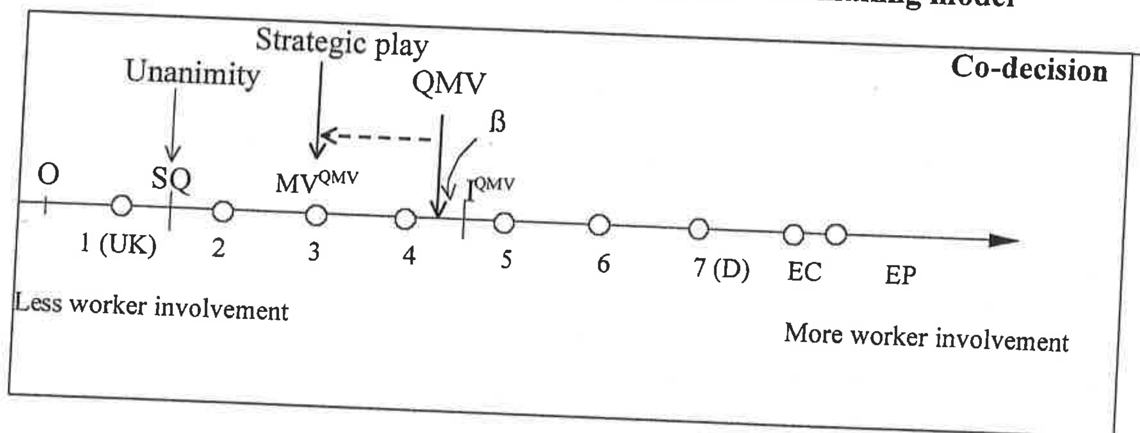
What follows is staging in the preferences of the EP with regard to the EWC common position. Normally the QMV common position is closer to the EP's ideal point than the SQ and therefore the EP should vote it without any amendment. For, if the EP decides to amend the Council's position or reject it, the fallback position in the Council is unanimity.

Under unanimity voting procedure, if the Commission proposal is placed at I^{U}, it will be preferred to the SQ by member 3, 4, 5, 6, and 7 and it will leave member 2 indifferent between the SQ. In this case, to ensure that member 2 joins the pro-integrationist coalition, the EC proposal has to offer member 2 a residual premium ß (measured from the indifference point I^{U}) that will be sufficient for member 2 to choose a positive outcome to the SQ. The final unanimity outcome is placed to the right of member 2's ideal point, at a distance equal to d[2MV^{U}-SQ-ß] from the origin. This new outcome makes the EP worse-off than the one under QMV and therefore it should be expected that the EP would vote unconditionally the Council initial common position.

4.3. The European Company Statute Directive (ECSD)

As instructed by the Nice European Council, COREPER met on 15 December 2000 to examine the texts of the Directive on employee involvement within the European Company and the Regulation on the Statute for a European Company. After tenuous negotiations, it was agreed to take Article 308 TEC as the legal basis for both acts. That Article provides for unanimity in the Council and consultation of the European Parliament. The Parliament has already delivered its Opinions on the amended Commission proposals, but in the light of the substantial amendments since made to the text, including the change in legal basis, the Permanent Representatives Committee considers that the European Parliament should be consulted again. European interest groups also manifested early in the drafting process their preferences.[31]

Figure 5 The European Company Statute: a spatial decision-making model



Under the unanimity voting procedure, it is obvious that when the SQ is at the right of the least integrationist member, there is a stalemate and the SQ should prevail. Any Commission proposal that to the right of the SQ will be blocked by the least integrationist member, while any proposal to the left of the SQ will blocked by all other members. In either situation, no decision will be taken in the Council of Ministers. This impasse has lasted for over 30 years since the first EC proposal.[32]

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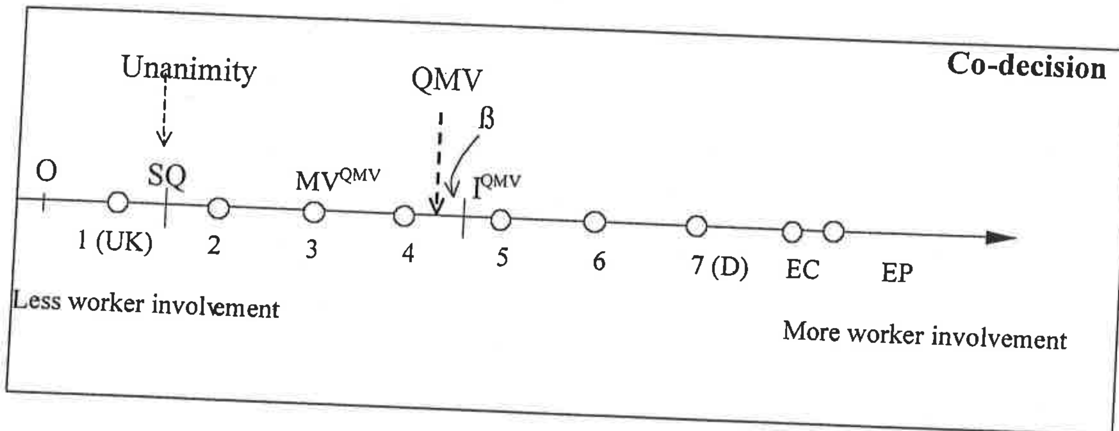
[31] Since the European Commission presented its first proposal for a European Company Statute in June 1970, UNICE has repeatedly stressed the interest that creation of a European Company could present for European companies. The existence of an optional legal form of this type would facilitate cross-border mergers and foster industrial cooperation in Europe and is therefore an important element of the internal market.

[32] The only situation when a decision will be taken is when all members agree that a decision preserving the status quo is better that the uncertainty resulting from a deadlock.

Under QMV, if the EC proposal is placed at I^{QMV} it will be preferred to the SQ by member 4, 5, 6, and 7 and it will leave member 3 indifferent between the SQ and a decision. In this case, to ensure that members 3-7 form a minimum winning coalition, the EC proposal has to offer member 3 a residual premium ß that will be sufficient for member 3 to choose a positive outcome to the SQ. The final QMV outcome is situated at the right of member 3, at a distance equal to $d[2MV^{QMV}\text{-}SQ\text{-}ß]$. Evidently, if the median voter decides to play strategically the maximum he could get is up to its ideal point, since both the minimum winning coalition in the Council (members 4-7) and the EP would prefer voter 3's ideal point to the SQ. As in the previous case, the outcome is more integrationist the farther the MV and the closer the SQ are situated from the origin.

If the EP is brought into picture, the results are slightly different. Under co-decision, the EP has basically veto power over the Council agreed position. Although the EP is situated at the extreme of more worker involvement in the case of ECSD, based on its past record the EP can play strategically and credibly threaten with the use of veto.

Figure 6 Strategic veto power



If this option is used by the EP, then the outcome is the SQ. Now, under this solution, the median voter is worse off since the QMV point was closer to its ideal point than the SQ with the residual premium ß, Thus, should the EP threaten with the use of veto the outcome moves close to the I^{QMV}.

The point of this section is simple. Under unanimity voting (as it was the case of the ECS Regulation and Directive) the pace of integration is dictated by the least integrationist government. However, depending on the issue this might be pro Anglo-Saxon or pro-

Continental, in terms of labour- or capital-related aspects of corporate governance. What can be inferred from the above analysis of all policy-making cases examined is that given the diversity of national corporate governance models across Europe and the complexity of the decision-making, a coherent Europeanisation of corporate governance cannot be taken for granted.

4.4. The 13th Takeover Directive

One of the regulations that aim at introducing more elements of Anglo-Saxon model of corporate governance across Europe is the 13th Directive concerning Takeover Bids. The Directive has as its main objective the harmonisation of minority shareholders' protection throughout the EU, through the Mandatory Bid Rule.[33]

On the most controversial part of the Directive, the Mandatory Bid Rule, the 13th Directive imposes minimum requirements and the result will most likely be a minimum level of harmonisation. Although defensive measures are forbidden unless approved at the shareholders meeting, they still exist in countries with large blockholders.[34] Another expected effect of the Proposed Directive is to disable the board of the target company from taking defensive measures. The most controversial part of the Directive was the MBR threshold, due to different set ups in the Member States have in their national regulations. The Takeover Directive has, like many other cases of corporate governance harmonisation, several contentious points. The national preferences with regard to the MBR in the Council are difficult to harmonize given the differences in ownership structure and blockholding across Europe. The decision-making procedure used was, as in most cases of Internal Market, the co-decision procedure.

An interesting fact is the EP's attempt to use the 13th Directive to upgrade the right of employee participation in the case of a takeover bid. Out of the 15 amendments adopted by the EU after its second reading of the proposed 13th Directive, 5 concerned the introduction of worker participatory rights in the takeover process (either through their representatives or supervisory boards, where existent) (European Council 2000b). Furthermore, the EP tried to

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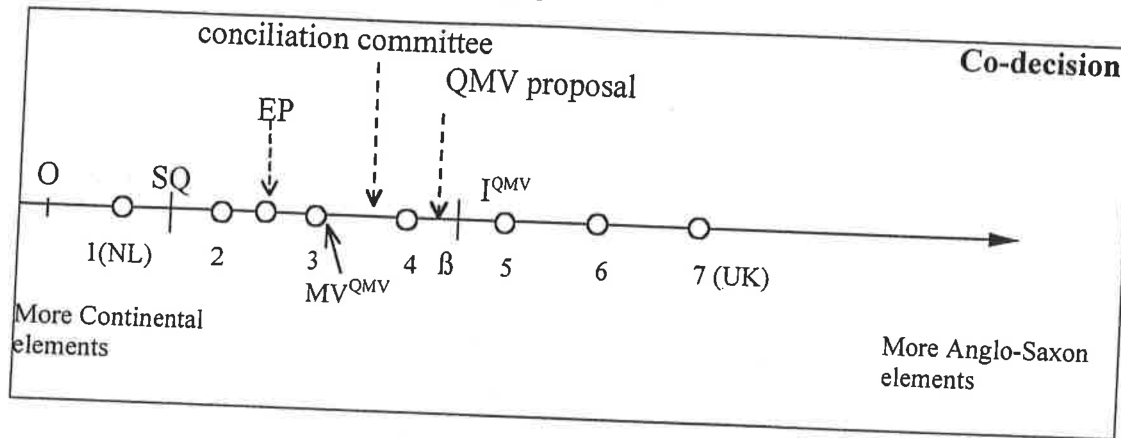
[33] The Mandatory Bid Rule (MBR) requires that anyone who secures a certain amount of voting rights to give him control over a company must offer to buy the rest of the shares. Throughout the MBR, minority shareholders should be protected by having the choice to sell their shares when a new person acquires control over the company.

[34] The most extreme case is the Netherlands where defensive mechanisms are still largely permitted.

strengthen the anti-takeover devices already permitted by the proposal, signalling its implicit preference for a Continental model of corporate governance.

Figure 7 The 13th Takeover Directive



This outcome is easily understood using a spatial voter model (Figure 7). This strong preference towards the Continental model places the EP closer to the SQ than the median voter. This creates a situation when the EP can credibly use its veto power allowed under the co-decision procedure. The result of this veto power is results into a gradual adoption by the Council of EP amendments (European Council 2000a).

After the EP's first reading several of its amendments were already included by the Commission, especially those The Commission's amended proposal incorporates most of the amendments adopted by Parliament at first reading, not only those related to more precise wording and definitions but also those extending to the workforce the principle of disclosure to shareholders and providing workers with prompt information once a takeover bid is made public.

The historical development of the 13th Directive indicates that Member States have not been able to reach an agreement for the Directive that imposes strict rules regarding takeovers. After almost two decades and many amendments that diluted the initial EC proposal, one can conclude that most of the issues will be left to the Member States and dealt with on the national level.

To the extent that the 13th European Directive aims offer a better protection to minority shareholders it acts towards the Europeanisation of different national corporate governance structures along the lines of the Anglo-Saxon system. Should this harmonization happen, the

private benefits of control currently enjoyed by large blockholders would decrease. As La Porta, et al. (1998) suggest, the persistence of family and bank-controlled companies was due to lack of appropriate protection for minority shareholders[35]. Once this in place and coupled with weaker anti-takeover devices, one should expect that this should lead to a more dispersed ownership in Continental states, and subsequently an orientation towards the Anglo-Saxon model. All these effects are promoted by and expected to results from the 13th Directive.

Although the stated aim of the proposed 13th Directive is to upgrade the Continental corporate governance model to the Anglo-Saxon level of protection for minority shareholders, the Directive is unlikely to promote an overall convergence towards the Anglo-Saxon model of corporate governance. The simple reason for this is that the minimum bid requirement will not produce the intended effects of stimulating cross-border mergers and acquisitions thought to be the main vehicle of eliminating concentrated ownership in Continental Europe. Firstly, the introduction of the minimum bid requirement will actually increase the price of the takeover and will act as an extra *poison pill,* reducing a bidder's incentive to make a bid. Secondly and more importantly, despite Art 8(1)(a) provisions forbidding any defensive measures once the bid has been made public (unless having prior approval from the shareholders) the directive allows target companies to seek friendly takeovers ('white knights') as a defensive measure against hostile takeovers (Article 9(1)(a)).[36]

5. Conclusions

Many argue that globalisation and Europeanisation will lead to a convergence of inefficient systems into more effective systems. This paper has identified two major constraints. Firstly, differences in the two models of corporate governance that influence the direction of Europeanization still exist and are rather difficult to square. Secondly, the decision making at the EU level is poorly equipped to advance a coherent model or a hybrid based on 'best

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[35] Based on survey of corporate ownership structures in 27 countries, La Porta et al. (1998) found that countries with poor shareholder protection have more concentrated shareholding and vice versa.

[36] Commissioner Frits Bolkestein expressed its disappointment with the anti-takeover attitude shown on 13 December when the EP voted its amendments (European Commission 2000).

practices'. Therefore, at least on the short run, the future of corporate governance in Europe is likely to remain multiple-peaked with large difference in key aspects across EU members. On the more important issue of corporate governance and economic efficiency, although not thoroughly explored here, it seems that regulatory deficiencies are likely to have two types of effects. Firstly, it is unlikely that Anglo-Saxon capital-related features of the European corporate governance will work well with Continental labour-related aspects of corporate governance. Secondly, the incomplete level of harmonisation achieved after more than 30 years of attempts from the European Commission towards Europeanisation of national corporate governance systems will add further strains to a pan-European hybrid model of corporate governance.

Therefore, the European project would hardly advance and enhance the efficiency of European companies without addressing the internal fracture of the model. Although employee participation is promoted in the European model of corporate governance, its interaction with shareholder capitalism is not frictionless. The current wave of mergers and acquisitions promoting a shareholder approach to the corporate governance as well as increased importance of arm's length financing will put significant pressures on long-standing relationships with employees and participatory management. Given the EU regulatory framework described, there are good chances for the European model of corporate governance to be more problematic than both Anglo-Saxon and Continental models.

From section 4 it results that, given the various EU decision-making procedures it is difficult to ensure that the European project of governance convergence is underpinned by a dominant coalition promoting an articulated corporate governance model. However, one can categorise the various decision-making procedures in accordance to their optimal impact on the adoption of a higher degree of harmonisation.

Table 4 summarises the main findings of the spatial voter analysis and offers a bi-dimensional matrix, grouping the voting procedures offering the highest level of policy harmonisation along the lines of corporate governance models (Anglo-Saxon and Continental) and issues (capital- and labour-related).

Table 4 The corporate governance- EU decision making matrix

	Anglo-Saxon model	Continental model
Labour-related issues	Consultation/Unanimity	Co-decision/QMV
Capital-related issues	Co-decision/QMV	Consultation/Unanimity

As presented in Table 4 and stripped to its essentials the options facing the Europeanization of corporate governance can be summed up into three basic propositions:

a. If the EU wants to promote a high degree of harmonisation across countries towards a best practice hybrid model, then co-decision and QMV should be used for both labour-and capital-related aspects of corporate governance.

b. If the EU wants to promote a high degree of harmonisation towards the Anglo-Saxon system, then consultation and unanimity should be used for labour-related issues and co-decision and QMV for capital-related aspects of corporate governance;

c. If the Continental model of corporate governance is the blueprint for the emerging European model, then co-decision and QMV should be used for labour-related issues and consultation and unanimity for capital-related aspects of corporate governance.

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How do different participatory regimes compare after merger? Evidence from employees

Nick Bacon* and Paul Blyton**

*University of Nottingham
**University of Cardiff

Address for correspondence: Blyton@cardiff.ac.uk

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Ecole des Mines, Paris, 9 March 2001.

How do different participatory regimes compare after merger? Evidence from employees

Introduction

In addition to questions relating to the levels of involvement and influence that employees may achieve in decisions over cross-border mergers in Europe, another set of issues concern what happens to employee participation following such mergers. Among the foreseeable problems for employees and their representatives is first, that the locus of decision-making power may become more distant as a result of being shifted across national boundaries. Second, there is the question of the implications of merging distinct participatory 'cultures' – does one identifiably influence the patterns of behaviour and thinking within the other, and if so, is it more likely that the 'more' participatory system will influence the 'less', or vice versa? Further, it is one thing to audit and compare the participatory arrangements and their position within the decision-making structures of merged companies, but quite another to estimate from this how far employees as a whole feel involved and influential in decisions affecting them being taken in the merged organisation? It is to this general area of research questions that the present paper contributes some preliminary findings, focusing in particular on the views of employees towards the nature of participation, communication and accompanying management styles, in a recent Anglo-Dutch merger within the iron and steel industry

When the UK steel maker British Steel and its Dutch counterpart Hoogovens made their merger proposal public in June 1999, the indication that this also involved a coming together of two very different management styles and employee participation structures was summed up in a phrase commonly heard at the time. In Britain it was said that employees were *told* that a merger was taking place, whilst in the Netherlands, employee representatives were *asked* by management if they approved of the merger going ahead.

Given the distinct employee relations traditions characterising the two countries in recent decades – the one traditionally portrayed as a more adversarial, disjunctive form of industrial relations, the other pursuing a more cooperative, integrative form of

industrial relations – and given too, the different levels of statutory requirement for employee involvement in the UK and the Netherlands, it was clear that this merger was one that could raise significant issues for the broader handling of employee relations. Not least, in the light of various debates regarding the transfer (or lack of transfer) of management practices from one national setting to another within multinational corporations, and in the light too of the new merged business (named Corus) being structured along product lines, involving a close integration between the countries where product areas overlapped (as they did in all key areas such as steel strip, constructional steels and tinplate) the merger raised questions about whether any change would be discernible in the management style towards employees in the different locations, following exposure to alternative management traditions elsewhere in the business.

The remainder of this paper is divided into four sections. First we briefly review the nature of employee representation and involvement in the businesses and countries involved in the merger, highlighting the differences between the two companies at the time of merger. Following this we outline the study that we have undertaken, together with the methods and measures employed. The approach includes both longitudinal and cross-national components, allowing us to make at least some preliminary comparisons both between the two national settings, and also regarding whether employees perceived changes in management style before and after the merger. The findings from two employee surveys are then presented, followed by a brief concluding section highlighting the main implications arising from the findings.

Participation arrangements in the UK and Dutch steel industries

The structures of workers' participation in the two merging companies stand in marked contrast to one another. During its most recent period under state ownership (1967 – 1988) the British Steel Corporation (BSC) operated extensive participation machinery throughout the Corporation. First, it developed an extensive worker director system which involved worker directors comprising one-third of BSC's Main Board as well as additional representation on various Group Boards (See Brannen *et*

al, 1976). In addition, at each level of the Corporation down to and including individual works departments, the company operated a comprehensive joint consultation structure, which functioned alongside its extensive collective bargaining arrangements (Blyton and Turnbull, 1998: 183-90).

This entire system of participation and consultation, however, was either terminated or allowed to decline following the three month national steel strike in 1980 (Docherty, 1983) after which employee relations were focused more squarely on a combination of local negotiation committees and greater direct (though largely downward) communication between management and employees, as part of Total Quality and similar managerial initiatives. Thus, by the time that BSC was privatised in 1988, little remained of its former tradition of extensive and formal consultation and participation arrangements, and this continued to be the case throughout the 1990s.

In the Netherlands, the nature of employee participation is strikingly different. Legislation dating back to 1950 (and expanded by a series of subsequent amendments) gave legal rights to workers to participate in a range of company decisions. The principal body to effect these rights is the works council (ondernemingsraad, or OR) which is legally required to operate in all enterprises employing more than 35 people. Rights granted to the OR include access to a wide range of information as well as co-determination rights (that is, the employer must gain OR approval) for any decision in such areas as working time arrangements, job classification systems, and policies regarding hiring and firing, promotion and training (Van Ruysseveldt and Visser, 1996). Areas covered by collective agreement remain outside the works council's jurisdiction.

In the Netherlands, therefore, the works council constitutes the focus of representation within the plant, whereas in the UK it is the lay trade union representatives who act as the focus of local representation. These representatives belong mainly either to the Iron and Steel Trades Confederation (ISTC) representing production workers, or the Amalgamated Engineering and Electrical Union (AEEU) for craft workers, with smaller proportions of employees belonging to the Transport and General Workers' Union (TGWU) and the Steel Industry Managers Association (SIMA). Levels of trade

union density are significantly higher in the former British Steel (over 90 per cent density) than in the Dutch Hoogovens company (where the FNV estimates around 50 per cent union density). This difference in union density however, has no effect on the fact that the powers underpinning the OR result in works council representatives in the Dutch steel plant enjoying far more rights to information, consultation and co-determination than their local trade union representative equivalents in the UK.

At the same time, these additional formal rights held by the OR do not necessarily mean that in practice Dutch steel workers will feel any more influential over the decisions taken by the merged company than do their UK counterparts. One likely effect of such mergers, for example, is a fracturing of many of the established relationships of influence and understanding between management and employees by the creation of a new cadre of senior managers, in many cases located in, or coming from a different country. Moreover, it is one thing to identify and catalogue formal works council powers, but quite another to assume that these translate directly into a feeling of involvement among employees on the shopfloor (see for example, Rubenowitz *et al*, 1983 on the different effects on employees of direct and indirect forms of participation). It is to this that we now turn, examining the extent to which comparable groups of employees in the two countries felt involved in the decision-making processes of the merged company, the degree to which management style was perceived to be consultative and communicative in the different locations, and the extent to which employees perceived a change in management style following the merger.

The Study

The findings reported here are drawn from studies conducted in one of the Corus businesses, Corus Packaging Plus (CPP) which is concerned with the production of tinplate, galvanised steel and related products, primarily for the packaging industry, engineering components and the white goods sectors. CPP operates a total of five plants, the largest three being two sites in Wales (Trostre and Ebbw Vale) and IJmuiden in the Netherlands (with smaller operations in Belgium and Norway).

Prior to the merger, an employee survey was conducted in late 1998 at British Steel's two tinplate plants both located in South Wales. This survey, and accompanying interview programmes with managers, union representatives and employees formed part of a larger and ongoing project on the impact of work organisation changes in the steel industry (see Bacon and Blyton, 1999 and 2001 for more details). Following the merger of British Steel and Hoogovens and the creation of Corus (which formally came into being in October 1999), an employee sample survey covering a wide range of employee attitudes was conducted in both the UK and Dutch plants of CPP in October 2000. Several questions asked in both the earlier and later surveys related to aspects of employee participation and related management style. Thus, in combination the 1998 and 2000 surveys provide a basis for comparison both over time (in the case of the UK plants) and for comparing opinions of Dutch and UK employees towards aspects of participation under two distinct participatory regimes within a single merged organisation.

Sample and Measures

In the December 1998 survey of the two plants in Wales, a postal survey of all 2,500 employees resulted in a response of 869 employees (a response rate of 35 per cent). Comparing the response group with information supplied by the Personnel department relating to age, length of service, occupational grade and department, the respondents were satisfactorily representative of the works population as a whole in terms of these biographical and structural characteristics.

In the October 2000 survey, random samples of twenty per cent of employees at the two Welsh sites and the Dutch site were created using a complete list of employees provided by Corus. Questionnaires in English and Dutch were again sent to employees' homes and gained a 56 per cent response rate (n= 150) in the Netherlands and a 36 per cent response rate (n= 154) in the UK. The range of employees and departments represented in the returns again indicates a satisfactory level of response from the different areas of each of the sites. With the pattern of responses generally very similar between the two Welsh sites, both in the earlier and later surveys, and since even at the earlier survey point the two plants were managed as a single

business with a common senior management, the two Welsh sites are discussed together in the ensuing analysis.

Both the 1998 and 2000 surveys included a wide range of measures relating to aspects of employees' experience of work (e.g. job satisfaction, work commitment), together with work changes, perceptions of industrial relations and management style, as well as various biographical information. The two areas of questioning particularly relevant to the present discussion relate to aspects of job satisfaction and perceived management style.

Results

The much more extensive participatory structure existing in the Dutch plant notwithstanding, a smaller proportion of the Dutch sample were satisfied with the amount of communication they received from management, compared to their UK counterparts. Overall, only minorities in each location were satisfied either with the amount of communication they received or with the overall industrial relations between management and employees at their plant (Table 1).

Table 1. Levels of satisfaction (and dissatisfaction) with communication from management and industrial relations

% satisfied (and dissatisfied)* with...	Wales (n=154) %	Netherlands (n=150) %
'Amount of communication from management'	35 (44)	22 (44)
'Industrial relations between management and workers'	28 (49)	27 (50)

* Employees responded using a seven-point scale, ranging from 'extremely satisfied' to 'extremely dissatisfied'. Here, the combined responses of 'satisfied', 'very satisfied' and 'extremely satisfied', and 'dissatisfied', 'very dissatisfied' and 'extremely dissatisfied' are reported (the latter in brackets). Those reporting a 'neutral' attitude are omitted.

Similarly, in terms of perceptions of management style towards employees, the Dutch sample was no more likely (and in some cases less likely) than their UK counterparts to view their managers as seeking to develop employee cooperation or involvement. Further, only small minorities in either country thought that management took employees' feelings seriously (table 2).

Table 2. Perceptions of management style

% agreeing (and disagreeing) that management...	Wales (n=154) %	Netherlands (n=150) %
'Seek to develop co-operation'	40 (36)	32 (28)
'Involve employees sufficiently in decisions'	16 (56)	16 (51)
'Consult with employees/ representatives over key decisions'	20 (51)	24 (47)
'Take seriously the feelings of employees'	19 (59)	18 (50)

*Employees responded using a five-point scale, ranging from 'strongly agree' to 'strongly disagree'. Here, the combined responses of agree/ strongly agree, and disagree/strongly disagree are reported (the latter in brackets). Those reporting a 'neither agree nor disagree' view are omitted.

Employee comments from both Dutch and UK samples reinforce this overall picture of a widespread perceived lack of involvement, consultation and information. For example, at the time of the October 2000 survey there had been press comment in the Netherlands regarding the financial difficulties facing Corus. The absence of information from management on this was noted by several employees, comments from whom included:

'Since things have been going bad, I read more information in the newspaper. Only after that do employees hear something.'

'Honest information from management regarding the position of the company would be appreciated.'

'The provision of information with regard to the status of the Corus Group on the world market is poor. More information please.'

In addition, there appeared to be a widespread feeling among the Dutch sample in particular that levels of information and consultation had deteriorated since the merger. Comments included:

'Since the creation of Corus the top-down flow of information has only gotton worse.'

'In 1992, Hoogovens underwent a complete reorganisation. The purpose and progress of this was clearly communicated... At the moment, it seems that a similar reorganisation is needed... The communication of progress seem[s] to be without any clarity.'

'Due to the ever-changing organisational structure, employees on the shop floor don't know where they stand.'

The lack of communication appeared compounded by a widespread lack of faith in whether employees' views and suggestions were being heard – a concern equally held among the Dutch and UK respondents (see Table 2). As one Dutch employee commented:

I can understand that if you present an idea it may take a few months before you hear whether it has been accepted or not. But, if it takes on average more than a year, I have to question whether we are taken seriously or not.

These feelings of not being adequately consulted, employees' views not being sufficiently taken into account, and generally being treated with a lack of respect were also strongly expressed among the UK sample. Comments included:

'More needs to be done in terms of two-way consultation to ensure employee ideas are at least acknowledged.'

'To be quite honest, we are just another number.'

> 'Communications regarding the business position at all levels needs to improve'

> 'I find the management still treats us like a number [rather] than an asset'

> [Uncertainty over the future] is not helped by the management's handling of information regarding the changes, which is driving a wedge between management and workers'.

One of the positive outcomes of employee involvement has been identified as an increase in employee-management trust, and stemming from this an increase in work commitment. For writers on 'high performance work systems' such as Appelbaum *et al* (2000), it is this link with a building up of trust that makes worker involvement the key component in developing high performance systems. Given the perceptions in the present study of a generally low level of communication and consultation, following the argument of Appelbaum and her colleagues we would therefore anticipate a general absence of trust of management in both the UK and Dutch samples. As Table 3 indicates, this was in fact the case, with only minorities in each national sample indicating trust in the actions of management.

Table 3. Perceptions of trust

% agreeing (and disagreeing) that ...	Wales (n=154) %	Netherlands (n=150) %
'I trust the management to treat me fairly'	36 (51)	38 (31)
'Management can be trusted to make decisions that are also good for me'	22 (53)	20 (54)

Finally, we turn to the question of the potential effect of merger on perceive management approaches. We have already seen from comments by Dutch employees that they identified the merger with a deterioration in information and consultation. However, another question raised by the merger is whether the requirement for Corus

management to engage in more participation in the Netherlands (reflecting the statutory rights of the works council) would have implications for their style of management in the UK – or in particular, given our focus, how that style was perceived by employees. For this we can draw on aspects of the two surveys undertaken in the UK plants in 1998 and 2000, particularly those questions concerning management style. It is evident from table 4 that, if anything, perceived levels of consultation and cooperation declined between the pre- and post-merger periods, with no evidence of British Steel's exposure to the more developed participatory arrangements in the Netherlands altering their approach in the eyes of UK employees. Indeed, this was further underlined in February 2001 when Corus announced widespread redundancies in the UK (including the closure of the Ebbw Vale plant) following no prior consultation with employees.

Table 4. Employee attitudes to management style in the UK: 1998 and 2000 surveys compared

% agreeing (and disagreeing) that management...	1998 (n=869) %	2000 (n=154) %
'Seek to develop co-operation with workers'	46 (24)	40 (36)
'Consult with employees/ representatives over key decisions'	32 (36)	20 (51)
'Take seriously the feelings of employees'	17 (63)	19 (59)

Conclusion

The preliminary nature of this study restricts the breadth of conclusions that may be drawn. Our focus on employee perceptions was informative but requires further supporting evidence, not least a more detailed analysis of the degree of participation achieved by the works council in the merged company. It may be, for example, that as a result of experience with the works council system, employee expectations over

participation are much greater in the Netherlands than in the UK. If so, similar expressions of dissatisfaction with the amount that management communicates and consults may in practice mean something rather different in the two countries. Yet, given the findings of previous studies (such as the Rubenowitz *et al* 1983 study referred to earlier) it may be that the existence of indirect, representative forms of participation typically do not significantly increase workers' sense of involvement in decision-making. Indeed, despite the existence of the formalised system of participation in the Netherlands, levels of satisfaction with the amount of communication from management, were clearly low. And in this aspect, the merger was frequently referred to in comments as the reason for poorer quality information and consultation.

In terms of the future development of participation in this merged company, it may turn out to be significant that the Dutch company has merged with a UK organisation that withdrew much of its participation structures in the 1980s. Certainly there was no evidence in the two surveys conducted in the UK plants pre- and post- the merger, that any significant change towards a more consultative management style could be detected by employees. Further, of all the findings from the different plants and the different time periods, the fact that in each case less than one in five employees felt that managers took employees' feelings seriously, does not appear a good basis for the building of participation and trust that Appelbaum and colleagues (2000) identify as the key to high performance in the future.

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Cross border mergers and employee participation

Franco-German case studies

The importance of the national issue in cross-border mergers

Draft

Delphine Corteel* and **Gilles Le Blanc****

*WZB, research unit "economic changes and employment"
delphine.corteel@free.fr

**Cerna, Ecole des Mines de Paris & London School of Economics
leblanc@paris.ensmp.fr

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Cross border mergers and employee participation
Franco-German case studies

The importance of the national issue within trans-national mergers

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1. Context and definition of the research project

AGF and Allianz merged on 1st April 1998. DaimlerBenz and Chrysler announced that they are going to bring their activities together on 7th May 1998. On 1st December 1998, Hoechst and Rhône Poulenc publicly declared their will to create Aventis, which will be the second group in life sciences worldwide. After numerous contradictory declarations, the German Dasa, the Spanish Casa and the French Aérospatiale Matra finally announced the merger of these three firms and the creation of EADS (European Aeronautic Defense and Space Company) on the 14th October 1999. On 4th February 2000, the board of Mannesmann approved the agreement reached the day before with Vodaphone Airtouch ... Vivendi-Seagram (June 2000), Usinor-Arbed (February 2001), this is everything but an exhaustive list.
The wave of gigantic mergers, that started in the USA at the beginning of the 1990s, sweeps through continental Europe at the end of the decade through an increasing number of trans-national mergers.
We have been elaborating our research project in this context. In our opinion, those mergers represented one of the most relevant consequences of the new relation between the financial sector and the rest of the economy. However, we thought that a merger could neither be reduced to the collection of a huge amount of capital, nor to a sophisticated financial construction. Moreover, we assumed that those mergers constituted one of the steps of a larger restructuring process of the involved firms: new definition of the industrial project and area, outsourcing of certain activities, or on-going mergers wave. This restructuring process has strong repercussions on the employees of those firms regarding employment and participatory regimes, all observers agreed on this point.
Three of the big European mergers involved French and German companies. Consequently, we decided to focus on Franco-German case studies, and to analyse

i) the role played by employee representatives in the merger implementation, ii) the impact of the merger on institutional forms of employee representation, iii) the internal re-organisation of production, iv) workforce adjustments (volume, flexibility, working time...).

2. Analytic Framework and Bibliographic Survey

Mergers are not a research issue in the social sciences (excluding economy). There is (still) no book or article dealing specifically with this issue, except for one chapter of a book published in 1983 [Aldrich, Sproule, *in* : Goldberg : 293-308] about mergers in the United States, and for an article written by Tony Edwards [1999] (see end of § 2). Yet, most of the time, mergers are still indirectly examined through shareholder value[1] and changes in ownership structure of the firms [Fairburn, Kay, 1989 ; OECD, 1994 ; Sudarsanam, 1995]. According to this approach, employees are considered within broader terms and categories such as cost minimization strategies, restructuring and synergies that lead, most of the time, to substantial redundancies. We will go back to this literature (see *infra*), but of course, the first obvious step is to look at economy analysis to provide useful insights into what determines mergers and their consequences.

2.1. Why do firms merge? In search for the economic rationale of merger

The dramatic increase in the total value of mergers since 1995-96 has led many observers to talk about a 'merger mania'. This spectacular trend has not been ignored by economists. Their interest in mergers, which dates back to the early days of industrial economics and competition policy, found there a new force and motivation. The structural transformation of the industry and the firms brought about by mergers actually raises a number of interesting issues. The first of them is without doubt: why?; in other words, what is the rationale and the motivation in merging two

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[1] Even if this approach, aiming at explaining mergers by the attempt to increase shareholder value, is still the main one, the performance of most mergers does not validated it: "*mergers lead to a dramatic amount of failures: more than 75% of mergers do not bring the expected results, 60% achieve a lower performance than the expected one in their own sector of activity, and 50% present an insufficient profitability*" (Jean Christian Kipp, Arthur D. Little, *Le Figaro*, 18 février 1999), see also: Breuer, 1999; KPMG, 1999.

or more companies? Then one might wonder: will the operation be beneficial to society or not? Should the government interfere with the process to clear or forbid the transaction? If so, on which legal justification and based on what kind of economic evidence and argument? Here, the main concern is that mergers could be used as an instrument to create legal cartels, since the merged firms will now be able to coordinate their actions and legally achieve joint-profit maximisation. These public policy implications have given birth to a vast theoretical and empirical literature. The nature of competitive threats risen by mergers, the relevant distinction between mergers that are harmful for other firms and consumers and those that are not, the adequate antitrust policy with respect to mergers are issues widely debated amongst financial, industrial organization and public economists. On all these points, there are no agreed-upon answers. The aim of this section is not to review systematically the existing theoretical and empirical economic literatures on the causes and consequences of mergers[2]. Rather, we suggest to investigate how the various existing economic models try to figure out the unique feature of a merger, in other words, what fundamentally changes when two formerly separate firms are joined into a single one? Therefore, we concentrate on the assumptions and the main hypothesis of the models, and leave aside their results and predictions. We will argue that the merger mechanism still remains to a large extent a black-box for economic analysis. Most of the models actually clarify the motivation of a merger and display their predictable effects by assuming that the joint company get a new or superior capacity the merging firms did not enjoy separately before (increased market power, leadership role in the industry, scope economies etc.). This new feature is central to the model resolution (price, quantities, corporate profits, social welfare compared prior and after the merger). However, these models give us very little clue on why and how the merger confers to the joint firm such ability and feature. To sum up, the problem is simply shifted one step further but remains basically unresolved. The following brief review of the main merger models will help us illustrate this point and collect on our way the different assumptions used to capture the changes brought by a merger.

The first step of the analysis is to define exactly the nature of the transaction involved in a merger. Does the literature provide a useful and efficient classification of merger

[2] for comprehensive survey see Scherer, 1980; Mueller, 1989, 1997; Meschi, 1997 among others.

types? The basic approach consists in considering the nature of the relations that existed previously between the merging firms. This allows to distinguish three different kinds of mergers:

- between formerly competitors in the same product market: horizontal mergers (e.g. two food retail chains or two long distance telecommunications providers),

- between firms involved at different stages of one vertical production chain: vertical mergers (e.g. an oil producer and a refiner, a car manufacturer and a engine designer and producer). This category also extends beyond strict hierarchical links to include consolidation of complementary goods producers.

- between firms without a clear substitute or complementary relationship: conglomerate mergers (creating a diversified industrial group).

Horizontal Mergers

In horizontal mergers, the reduction in the number of firms operating in the market is seen as the main motivation for merging companies (increased market power, larger size) as well as the most visible threat to competition. It is quite interesting to see how economists try to model this effect and the specific problems they had to cope with. We will see that the core issue is how to define the changes brought by the merger to the initial companies compared to the competitors who remain the same.
To begin with, consider an homogeneous product market with firms engaged in Cournot (quantity) competition. What happens if two of these firms merge? From an overall point of view, total output is reduced, industry price and total profit go up. However, the merged firm is not more profitable. The reason is that the two firms will jointly produce a smaller fraction of the smaller industry output than they did prior to the merger. And the increase in the margin is insufficient to compensate for that fall in the output. Therefore the merger creates no additional profit for the two firms. This result is called the "merger paradox" (Salant, Switzer, Reynolds, 1983). The paradox also lies in the fact that, if a merger takes place, then it will directly benefit to the non-participating firms, whose relative share increase will dominate the fall in the total output, creating a clear gain. With a standard Cournot-Nash competition model, most of horizontal mergers are then unprofitable. Note here that in Bertrand price competition models, the same paradox occurs.

The flaw here is quite obvious: in this model, the merged firm becomes just like any of the other firms in the industry. This means that all of the firms (the merged as well as the non-merged) have the same costs and will in equilibrium produce the same output and get the same profit. In such a setting, no firms will merge because it is not profitable. The missing element in the Cournot model is a way to capture how the new firm takes in some sense advantage of its larger size. We must ask what sort of model could help to capture this advantage of the merged firm over its former rivals that did not merge.

A logical proposition is the Stackelberg leader model, where one firm (the leader) benefits from an advantage over its rivals, its ability to commit to an output before the other (follower) firms take their output decision. This leadership role allows the firm to take into account in its strategy and output choice the reactions of the followers. Considering the merged firm as a Stackelberg leader seems a reasonable assumption (it has twice the capacity of its rivals in the former setting) and helps resolving the "merger paradox". The approach here is similar to the Selten model of cartel (1973) with the difference that with a merger case, cheating from a member of the cartel is no longer a concern. The analysis shows that, in a Stackelberg competition game, a two-firm merger will increase their profits (compared with the combined profit of the merged firms in the premerger setting) and decrease the profit of the firms that have not merged (provided that there are more than four firms in the industry). The merging of two firms to play the role of an industry leader is then a profitable strategy.

However, this model is still not entirely satisfactory. It actually leaves open the question of the welfare impact of the merger, which is as we noted before a major concern for policy makers. This model indeed implies that any two-firm merger results in lower prices and therefore benefits consumers. However, the threat of higher prices following a merger is well documented on an empirical ground. It is then necessary to move further and look at some aspects of mergers that are still not captured by the Stackelberg model. One obvious limitation is that the follower firms passively consider the merger that will dent their profits. By relaxing this assumption, we allow other firms and mergers to take place after the initial one. To develop this idea, we can move to an enlarged Stackelberg model with several industry leaders and followers. There is now a leadership group that includes the merged firms. In this

group, firms play the usual Cournot competition game. Then in a second stage, the followers take the outcome of that competition and the collective output obtained as given and respond to it as in the simple Stackelberg model. In this new model, one can demonstrate that starting with any configuration of leaders and followers, any two-firm merger is profitable for the merging firms. To examine the impact on social welfare and economic overall efficiency, it is useful to consider the price-cost margin, which accurately indicates the distortion from the competitive environment. One might intuitively expect that the leaders group should not be too large, and that beyond a certain point having more leaders is not desirable. More precisely, a new merger will increase the industry output and decrease price, provided that the group of leaders contains fewer than a third of the total number of firms in the industry.

While this new model at first suggests at the same time the motivation for mergers and how some of them are not in the public interest, our initial problem is in fact just replaced with another. The above discussion actually shows that if a merger gives the firms leadership advantages such as these at work in a Stackelberg competition model, then it will always be a profitable strategy. Yet, the precise mechanism by which firms get this strong leadership positions through the merger are unclear and not specified.

Note that in the previous discussion, the costs savings possibly brought by the merger have been intentionally omitted to focus on the effects on price-quantity competition and the issue of market power. They are however often mentioned as the main justification and rationale for a merger.

We have also considered so far very crude models of competition with a single product. Yet the economic literature and business observations indicate that firms try hard to avoid frontal competition by differentiating their products from their competitors'. How does that impact on the incentives for mergers? One of the most common model of competition with product differentiation is the spatial model (often mentioned as the Hotelling 1929 model) where the variety of products is translated into different geographical locations, and consumers are represented with different spatial locations, according to their preferences. In the consumer purchase decision, a transport cost is introduced, that can be interpreted as a real transport cost, or the loss of utility for the customer in buying a product that is not ideal (i.e. at some distance from preferred location). The sources of profit increase through the merger

are twofold: better coordination of the prices of the different product lines, and coordination of product design and location choices. In such context, how does a merger modify the market outcome? If two neighbouring firms merge, they will eliminate wasteful competition between them and will set prices that maximize their joint profits. They have clear incentive to raise the price of their products: they will lose a few customers on their market boundaries that will go to cheaper neighbour producers but the increased profits on their common captive customers will outweigh that loss (provided the price rise is not too large). Note that in this spatial model, there is no more merger paradox, contrary to the case with homogeneous products and firms competing *à la* Cournot. The reason for that is quite interesting for our discussion since it takes us further inside merger economic mechanism. The key issue is in fact the extent to which the merged company can credibly commit to produce a quantity or variety off products. This is the essential condition to the merger's profitability. But in a spatial model, this kind of commitment required is a commitment on locations and this is clearly feasible and credible by the merged firm: it can always decide to maintain its production at its current locations or keep its current range of products. On the other hand, the commitment necessary in a context of Cournot competition with homogeneous products must be in terms of production levels. The merging firm must commit to a high volume of output following the merger but since this is clearly not its optimal competitive answer to output decisions by the other firms this is not credible.

In conclusion, mergers in product-differentiated markets are without doubt profitable to the companies. Their welfare effect is uncertain, depending on the balance between the loss resulting from the price rise throughout the industry and the possible benefit consumers might obtain from an increase in the variety of products offered and cost savings. Actually, production of the (closely related) differentiated products is very likely to exhibit economies of scope. In that case, the merged company could exploit these cost complementarities and generate cost savings. This could lead to a reduction in variable costs of production and/or fixed cost (combination of headquarters, R&D, marketing, distribution operations) that could be reflected in lower prices. Such cost synergies also create incentive to increase product variety, because the set-up costs for a new product will be lower for the merged firm. All these conclusions hold all the more strongly when firms can adopt

discriminatory pricing policies (reflecting their local monopoly power in the spatial competition model).

Vertical Mergers

When products are complementary and produced by firms with monopoly power, every pricing decision by one firm imposes an externality (through demand effects) on the other firm. Without coordination, prices will then be set too high. This inefficiency loss (for the consumers as well as the firms who could jointly obtain higher profits) is usually referred in the case of vertically related firms as the double marginalization problem. In a standard manufacturer-retailer setting, this means that the retailer adds a further mark-up to the wholesale price already set by manufacturer above its marginal cost (the 'chain of monopolies' idea). A merger allows to internalise this externality. The new single company will price the two goods so as to maximize its total joint profit. The integrated firm will choose a retail price lower than the price set by an independent retailer, even though this reduces its retailing profit, because that loss is more than offset by the increase in the manufacturer's profit from increased sales volume. The coordination of the separate activities enabled by the merger is in this case socially desirable since it suppresses the sub-optimal pricing and the resulting economic inefficiency. However, this result holds only when each of the merged firms has monopoly power. Otherwise, if one the two goods sector is competitive, there will be no double marginalization, hence no gain from the merger by correcting this market failure. In a similar way, the benefits of a vertical merger strongly depend on the possibility for the downstream firm to switch to a substitute of the product sold by the upstream firm, that might be competitively supplied.

Vertical merger can also be used as a mean to facilitate price discrimination, which as we know allows a monopolist to take profit of the differences in willingness to pay of its downstream client firms. However, the implementation of such profitable strategy faces two difficulties: the identification of the buyer's type (does it have an elastic or inelastic demand?) and the possible resale of the products among buyers. A merger leading to vertical integration can bring a solution to the latter problem. The upstream firm will in this case merge with the firms controlling the markets with the highest elasticity of demand. It will then control and prevent any resale of these products to the inelastic markets, on which it will then be free to charge the profit-maximizing price.

A vertical merger might rise the possibility of foreclosure. This refers to a situation where the vertically integrated firm can either deny the other downstream firms a source of inputs (e.g. with a price squeeze), or upstream competitors a market for their products. The major resulting anticompetitive effects explain the very cautious approach of these kind of transactions by antitrust authorities (and the huge number of investigations and legal cases, such as the famous historical one with Alcoa).

These three factors: overcoming the problem of double marginalization, enhancing a supplier's ability to price discriminate, and facilitating market foreclosure combine each other to offer a clear motive for vertical mergers.

Conglomerate Mergers

In this case, the merger brings together firms whose products are neither substitutes, nor complements. It then gives birth to a firm with a very large and diversified range of products sharing very little in common: the so-called conglomerate. A number of reasons could be advanced to support the economic rationale behind the model of conglomerate firms:

- economies of scope (could have several sources: common inputs, shared marketing or R&D)
- financial diversification and shareholder risk reduction,
- transaction costs reduction (transaction costs refer to the cost of using external market mechanisms to exchange goods and services: searching, negotiating, monitoring and enforcing the contracts. They increase with uncertainty and the specificity of the transaction, i.e. the degree of specialization of the assets involved.) In that perspective, a merger allows to manage internally under a different non-market regime these transactions, when the transactions costs are particularly important.
- managerial motives (this behavioural explanation builds on the needs and wishes of the management). For sure, a multi-product organization complicates shareholders' control and monitoring, enhancing the discretionary power of managers.

However, it should be noted that all these motives seem quite questionable, are rarely supported by empirical and econometric tests, and again do not explain the

true origin of the benefits expected from the merger. If we consider for example the scope economies and the financial arguments, they do not fundamentally explain why production must be organized within a single multi-product firm: joint production could be handled by different companies linked by contracts and shareholders could indeed invest in two firms rather than in the combined one to split his risks over two different products and markets.

2.2. Mergers, shareholders, management and employees in the social sciences[3]

The analysis of firms' ownership structure, of the relation between management and shareholders and their evolution – that is everything but limited to the study of mergers – gave rise to a vast literature, especially in the Anglo-Saxon political economy on corporate governance. It aims at identifying different – national and/or regional – models of corporate governance. The comparative advantages of those different models are examined, particularly German *versus* Anglo-Saxon model [Windolf, Beyer, 1996; Kaplan, 1997; Vitols *et al.*, 1997; Mayer, 1998; Rhodes, van Apeldoorn, 1998; Jürgen *et al.*, 2000]. It focuses on the ability for alternative corporate governance systems, such as the German one, to survive in a time when the pressure for short term profitability exerted by investment funds affects more and more firms[4].
Of course, there is a specific field of corporate governance studies called "stakeholder approach" not only focusing on managers and shareholders but integrating firms' clients, suppliers, employee representatives and a certain amount of state-controlled authorities[5]. However, these studies usually concentrate on a macro and systemic level. Their authors sometimes evoke cross-border mergers, but as a symptom – not as a research topic – indicating a change in the corporate governance system, or announcing the domination of the Anglo-Saxon model. Employee

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[3] Excluding economy

[4] On *corporate governance*, see among others, in addition to the references indicated above: Fligstein, Freeland, 1995; Moerland, 1995; Müller, 1996; Hopt *et al.*, 1998; Mayer, 1998. These authors essentially focuse on the relation between managers and shareholders, and sometimes, when they talk about Germany, on the employee representatives sitting at the supervisory board of the large firms: Hopt, *in* : Hopt (eds.), 1998 : 227-258 ; Roe, *in* : Hopt (eds.), 1998 : 361-372 ; Jürgens *et al.*, *op. cite.*

[5] See among others : Vitols *et al.*, 1997, Jürgens *et al.*, 2000.

representation structures are not examined as such but as an element of the entire system. Most of time they focus on the way employee representation structures impacts firms' competitiveness and/or the (lack of) attraction of a national territory to investors.

Concerning forms of employee participation in trans-national companies – not necessarily arising from a cross-border merger – there are however a lot of articles on the implementation and operation of European Works Councils (EWCs)[6]. Most of these articles, published since the beginning of the 1990s, are based on case studies. The first ones [Streeck, Vitols, 1993; Turner, 1993] precede the European Directive on EWCs (Directive 94/45/EC, adopted on 22nd September 1994), and examine the "spontaneous" creation of supra-national information and consultation bodies within multinational firms such as Volkswagen, Bull, Thomson or Europipe. Those supra-national employee representation bodies already existed in a hundred of firms, some of them have been officially recognised by management, others not. In the absence of a European legislation, their structures and functioning are rather heterogeneous. Turner writes: "*it is really impossible to tell if what we are seeing is a groundwork for future progress or dead-end*" [1993 : 21]. The European Directive adopted in 1994 covers multinational firms employing at least 1000 workers in the member States, including at least 150 employees in two member States[7] [*European Industrial Relations Review*, 250, November 1994]. In 1998, 400 EWCs had been implemented [*EIRR*, 296, September 1998]. Despite this quantitative success,

[6] On EWCs, see among others : Streeck, Vitols, 1993; Turner, 1993; *European Industrial Relations Review*, 1994-2000; *Industrial Relations Europe*, 1994-2000; Turner, 1996; Lecher *et al.*, 1998; Lecher, Rüb, 1999; Didry, 2000; Hancké, 2000.

[7] Those firms have to engage in negotiations at management's request or at the request of more than 100 employees (or their representatives) in more than one member State. The negotiations imply the constitution of a trans-national "special negotiating body" composed of employee representatives from all countries covered by the Directive on which the firm is located. This special negotiating body aims at negotiating an agreement with management on the implementation on a EWC, or on information and consultation procedures. The agreement should determine: the list of subsidiaries covered by the agreement, the composition of the European Works Council, the number of seats and their distribution, the role and procedures of information and consultation of the EWC, the frequency and duration of meetings, the financial resources of the EWC, the duration of the agreement and the negotiation procedures for the following negotiation.

studies on EWCs and their functioning point out the lack of information and consultation rights for employee at a trans-national level [*EIRR*, 317, June 2000]. Those bodies are not used by national employee representatives as a tool allowing them to develop and coordinate a European solidarity, to decide joint minimum standards under which unions or employee representatives would refuse to negotiate locally. Moreover EWCs work as an information forum under management control [Hancké, 2000].

The only author to deal with the "exact" topic of our research: Tony Edwards, identifies three different consequences of cross-border mergers for labour and its representatives: i) redundancies; ii) management appealing to the principle "divide to rule" in relation to labour representatives; iii) the national effect: substantial differences remain in the nature of national business systems in which firms are embedded, and they lead to differences in the way management considers and deals with employee representatives [1999 : 323-324]. He concludes : « *The growing Anglo-Saxon influence associated with international takeovers clearly presents challenges to employee representatives in general and to those on EWCs in particular. These challenges stem from the tendency for Anglo-Saxon firms to intensify the use of labour, involving the close monitoring of short term labour costs, an emphasis on numerical flexibility and hostility to national and European structures of employee representation.* » [*id.* : 338].

To sum up this bibliographic survey on the literature dealing more or less, but rather less, with our research topic, we will stress the five following points:
1/ even if numerous authors mention their growing importance, mergers are no research topic in the field of social sciences (excluding economy);
2/ if we now turn to economic analysis, we must face a fundamental obstacle. Our review of existing models shows that neoclassic theory does not allow to satisfactorily characterize the changes brought when two separate production units are joined and replaced by a single integrated one. This results from a larger weakness of the theory regarding the scope and the boundaries of the firm. That does not prevent it from deriving interesting results about the impact of mergers on competition and welfare, but little can be said about the merger process itself: what does common ownership permit the merged firms to do that could not be done before separately?

3/ press articles and academic papers on cross-border mergers see those mergers as a symptom for a growing internationalisation of capital markets and firms: they focus on globalisation and stress on harmonisation processes within trans-national firms. From this perspective, that is the perspective of internationalisation and its supposed effect: homogenisation, academics as well as politicians and unionists question the future of national production models, and national employee participation regimes, the limitation of the national States' intervention capacity *vis-à-vis* international firms;

4/ legal forms of employee participation exist at European level, but they don't seem to be the occasion for different national union representatives to develop a collective strategy to defend European employee rights;

5/ but, even if lots of studies focus on management and shareholders in trans-national firms, the literature shows some examples of information and consultation bodies created within multinational firms at the request of employee representatives, sometimes well before the adoption of the 1994 European Directive: in some firms, employee representatives care for trans-national issue, and even in multinational firms, there is room for labour initiative.

In order to go beyond the general debate on broad systems of corporate governance and their development, we were willing to focus on the very moment of the creation of a trans-national company. We decide to base our research on detailed case studies of Franco-German mergers[8], to meet management and employee representatives as well, and to conduct interviews about the process and the consequences of the merger.

Unlike the observations and analysis made by academics on the functioning of EWCs in firms with long multinational tradition, we assumed that a cross-border merger – that is the very moment of the creation of a new firm of European dimension, in the current context of growing market internationalisation and European economical

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[8] By looking in press archives, we collected almost 70 cases of Franco-German mergers over the past ten years. We finally decided to focus on four detailed case studies: Aventis, Europipe, Quante Pouyet, V&M Tubes. For a short description of the cases, see annex.

integration, when according to Vallourec CEO "*industrials are making Europe*"[9] – would force management and labour representatives from different countries to face together concrete problems and issues. So that we would see new exchange and dialog processes – formal or informal ones – emerging at a trans-national level. We assumed that these processes would depart from pre-existing national forms of employee participation. We thought we would witness the progressive disappearance of national challenges (at least regarding some issues), and the emerging feature of the European Society, which status were still debated[10].

3. The national issue

Surprisingly, our case studies show that national issues are still extremely present within firms arising from a cross-border merger, even if the merger occurred ten years ago. There are several different ways for the national issue to be present. We will examine three: i) firms care for a fair balance of the work load among different national territories; ii) 'social' issues (wages, working time, holiday, pensions...) are absolutely differently managed within the firm and linked to national territories; iii) there is no dialog among different national employee representatives within the trans-national firm.

Those different ways for the national issue to be present within trans-national firms have to be seriously studied. They should not be considered as survival or "has been" forms that are going to disappear as time goes by, but have to be examined and analysed as real research issues. When European presidents and prime ministers just adopted a proposal for a European Directive on the status of the European Society, it is essential to identify the specific ways the national issue arise within trans-national firms to take note of their possible (non-) compatibility with the supranational structures implemented by the European authorities.

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[9] « *Les 'politiques' et les 'financiers' parlent de l'Europe, les industriels la font.* », Arnaud Leenhardt, Vallourec CEO, *Le Figaro*, 12 février 1997

[10] The arguments developed in this paper, based on a small number of case studies, should be considered as assumptions to be tested in a larger research on cross-border mergers.

3.1. The national fair balance rule

In some cases, the management of the trans-national firm arising from the merger does not just decide according to the economic rationality. Some decisions, such as work load distribution, are ruled by a distinct logic, clearly identified by our interlocutors as a different logic than the economic one.

> "*There has been no change concerning physical flows. In case of low loading we tried to have a fair distribution of the orders, except in case of absolute specialisation*".[11]
>
> (V&M Tubes, 02. 2001)
>
> "*The production planning committee makes sure of a fair distribution of the work load between France and Germany, partly based on costs and competencies, but not only*".
>
> (Europipe, 11. 2000)

One of the first objectives of the management of a trans-national firm is the search for a fair distribution of the work load among national territories, provided that technical constraints (*absolute specialisation*) do not interfere. *Cost* and *competencies* criteria that can be related to the economic rationality constitute one of the decisive factor for the distribution of the production among plants. However, management does not only decide according to these criteria. As such, they do guaranty a so called "*fair*" balance of the work load among national territories. This form of distribution is based on something else (*partly based on cost and competencies, but not only*).

> "*If we were willing to work, politically, we had to distribute the load in a fair way: on the middle run, however, we can be forced to take different decisions, this creates a very strong potential tension*".
>
> (V&M Tubes, 02. 2001)

Besides economic rationality, the trans-national firm has to submit to the *political* rule in order to function. The political rationality that operates within the firm governs the relations among plants located on different national territories. It requires (*we had to*) a fair distribution of the work load. As a consequence, trans-national firms are not systematically free from national issues, they are not de-territorialized.

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[11] The italics are exact extracts of the interviews we conducted for the case studies.

These two rationalities, the economical one and the political one, can not be merged, they are distinct. If they are compatible, the work load is fairly balanced. As soon as they are no longer compatible, the economical rule prevails over the political rule (*we can be forced to take different decisions*) and this non-compatibility leads to imbalances regarding the work load distribution on the one hand, and eventually creates tensions on the other hand.

> "*The fair balance rule regarding work load among the two tube plants operated up to 1998, 1999. Since then Dunkerque has always had a lower loading than Mülheim. Dunkerque had to implement a flexible organisation since the 1980s, and developed tools allowing to face dramatic changes in load. This is an advantage as well as a disadvantage: as the plant got this know-how, it is also required to implement it. In 2000 Dunkerque systematically operated with low loading (50% of its capacity) in order to preserve a full activity in Mülheim: as a consequence the rule does not exist any longer*".
>
> (Europipe, 12. 2000)

The political rule leading to fairness can come to an end. As a consequence, in case of low loading, the logic at stake is a logic appealing to the different capacities national firms can use to face a lower loading. This logic is also related to the national issue but in a totally different way: the trans-national firm intends to mobilize the distinct resources given by different national laws regarding short-time working, fixed term contracts, temporary posting, etc. It is then a logic of differentiation (see § 2).

The political rationality can already be implemented before the actual merger, during the preparatory negotiations aiming at the constitution of the trans-national firm:

> "*Concerning investment decisions the economic profitability prevails. Regarding this issue, certain points had been settled before the JV, attempting to equalize starting situations*".
>
> (V&M Tubes, 02. 2001)

The aim is to establish a fair initial situation among the plants located on different territories that are going to be put together within the trans-national firm. As soon as the balance is reached, the economic rationality (*economic profitability*) is the only one at stake.

"The merger occasioned plant closures in France and in Germany, closures on both sides were one of the conditions for the merger".
(Europipe, 11. 2000)

When the creation of the trans-national firms leads to lay offs the political rule can apply as well. The implementation of the fair balance rule can operate as one of the pre-conditions for the merger.

Within the trans-national firm, the political – national – work load (or production) trio governs the relations among plants located on different national territories according to the fairness rule, provided that this rule is compatible with the economic rationality. Management in trans-national firms sometimes submit to multiple logics and principles. This is everything but a naive understanding of the quotations. In the end, the firm is ruled by the economic rationality. However this logic is not the only one to constrain management decisions. It does not only let rooms for manoeuvre but can temporary be confronted to other rationalities within the trans-national firm.
The political rationality, that is the 'fair balance rule', leading to a fair handling among national territories is provisional. It seems to be at stake at the very moment of the creation of the trans-national firm, and in some cases – especially horizontal mergers (Europipe, V&M Tubes) – it can go on for a long time. However, this fair balance rule is not permanent.

While (as we will see in the following section) most cross-border mergers must already cope with the fact that wages, social policy, work organisation and conditions remain set on a national basis, the 'national fair balance rule' adds the two following economic constraints:

- the initial number of production sites in each country will not change,
- new orders and production are on average shared equally between the countries.

One might immediately question the economic viability of such a plan. How can one expect benefit from combining operations if you cannot exploit the increased size by rationalizing production and plants, nor coordinate on a global basis wages and labour costs? It is here very important to draw attention to the merger agreement, and in particular the actions undertaken during the pre-merger phase (i.e. the one-two year period between the very first informal contacts and the official public

announcement of the transaction). The above mentioned plan can only be sustainable in an economic perspective if the productivity levels in the different sites are not too different. This requires prior to the merger, and as a condition to its effective fulfilment, a levelling of the initial economic conditions. This was achieved through a simultaneous rationalization of each national industrial tool. In the cases studied, plant closing were actually decided before the merger (even if in some cases it really took place after it). With this starting point, one can reasonably contemplate that the status quo regarding the national number of plants and the equal share of workload is economically viable.. at least for a while. Actually, if the initial agreement was soundly designed, the merged company can run its operations in a quasi steady state for some years (5, 7, 10?). However as time goes by, the internal tensions are likely to grow, if productivity gaps between plants and national wages differences are not progressively brought down. This might eventually rise the issue of closing a plant. Such a decision would constitute a very serious challenge to the stability and future of the joint company. On the other hand, we can consider that this is the ultimate test to determine if the merger was just a temporary organisation form, or if it has given birth to a truly new independent and self-sufficient firm.

Another key issue in the initial agreement is the location of the new headquarters of the merged company. In a subjective manner first for employees, because it eventually marks in a symbolic way the geographical rooting of the company. But also, since the mobility of employees remains very limited, it instantly indicates which nationality will predictably dominate the staff in the central functions of the merger firm. To avoid this kind of conflicts as well as to improve management efficiency, a solution consists in setting up a very light and holding structure with a limited workforce (10-20) and decentralize to the largest possible extent the management of operations at the individual site level (Europipe, V&M Tubes). If markets, technology and products characteristics however impose an important central structure, firms may choose to close their former headquarters and create a greenfield corporate HQ in a new geographic location (Aventis chose Strasbourg which symbolically stands as a crossroads of France, Germany and Europe).

3.2. The 'social issue': partition and differentiation

The second way for the national issue to arise within trans-national companies appears in the 'social' topic (wages, working time, holidays, pension...). 'Social' themes are absolutely separated among the territories and lastingly rooted at the national level.

This very point constitutes the specificity of a cross-border merger. In the case of a merger between companies located on one and the same national territory, work contracts, wages, working time, etc. are subject to an harmonization. This process (can) lead(s) to tensed discussions or conflicts between management, employees and their representatives: "*in case of merger or acquisition* [in a national context] *the integration of employees is always a problem, especially when they loose some advantages*" (V&M Tubes, 02. 2001).

At the time of a cross-border merger, a lot of activities tend to be coordinated: sales, marketing, management, relations with suppliers, quality, security, R&D... This process neither takes place immediately nor smoothly. But the management of the trans-national company instigates an active policy regarding the harmonisation of these issues (see § 3). On the contrary, work contracts, wages, seniority, working time, holidays, pension are not supposed to be brought closer. Sometimes, those issues are not even re-negotiated: "*the employees of the tube plant in Mülheim kept a Mannesmann work contract until 1997* [even if the plant belongs to Europipe since its creation in 1991]" (Europipe, 11. 2001).

The social issue is not an ordinary topic:

> "*Social issues are very specific. Social issues are strictly a national problem, it's the specificity of social issues to be national, because of the legislation on the one hand and of the social practices* [social partners] *on the other hand*".
>
> (V&M Tubes, 02. 2001)

So that it is the proper typical feature of social issues – in comparison with other dimensions of the firm: technical, economical, financial... – to be strictly rooted at the national level. Social issues are ruled by their own logic, which is a national one whatever the geographical area of the firm's operations may be. The company may be trans-national, it has to submit to the different legal rules fixed at the national level.

As a consequence, social issues are settled at national level, referring to other firms belonging to the same industrial sector:

> "*There has been no unification of the pension, working time or wages regimes for Europipe employees. French subsidiaries still follow the rule fixed by Usinor and German production sites adopted the MRW rules*".
> (Europipe, 11. 2000)

Moreover, there is no discussion about the different decision-making processes on this issue within the trans-national firm:

> "*The wage issue is a black box on both sides*".
> (Europipe, 12. 2000)

The human resource manager at Europipe France discovered at the beginning of 2000 that his German counterpart needed the approval of the works council to hire a new employee[12]. This story is not only anecdotic. The partition of social issues treatment, and its national founding is absolute. Yet, this lack of communication does not prevent employees and union representatives from both sides to have a rough idea of wages differences. For example, it is well known that wage increase was nil or negligible in France in 1999, while in Germany branch negotiations resulted in an average 3% growth. There is also a wide consensus on a 25-30% difference between French and German gross salary (though comparisons are pretty complicated by very different qualifications and promotions systems).
Nowadays, French subsidiaries of trans-national companies are forced to negotiate over working time reduction to 35 hours a week. German firms still operates with a 35 hours week since 1996, at least in the metallurgy. As we were asking our French interlocutors (on the management side), that are employees of a Franco-German firm, if they benefited from the German experience of working time reduction or at least if they talked with their German counterparts to know how they dealt with it, all of them answered with a no. Moreover they considered the German experience to be of no help for them, the national practice is the only one that counts:

[12] Even if it sounds like a repetition, let us recall that the merger occurred in 1991.

In France the solution for the 35 hours week was well known, since 82[13] *we have not reduced the plants utilisation time, but we introduced compensatory holidays, time accounts.*

(V&M Tubes, 02. 2001)

Regarding social issues, the experience that has been acquired on a national territory cannot be transferred into another. Social issues are ruled by a specific way for the national issue to be present that exclude any possibility of exchange and connection within the trans-national firm on this topic. It acts as a factor of absolute differentiation and partition. Distinct social regimes lastingly co-exists within one and the same entity.

"*Concerning social issues,* [...] *each nationality continues to operate within its national context, social systems are considered as too different to be brought together*".

(Europipe, 12. 2000)

Social issues are not only related to *national* but also to *nationality*, that is what legally rules and defines the membership of a national State. Regarding social issues, the national issue does not arise in a geographical sense but is related to Law and to the State. National States are present within the trans-national company through social issues.

Regarding social issues, that is the way firms treat, count, pay their employees, the way for the national issue to present refers to national differentiation under State's control. Employees of a trans-national company are still attached to a specific national territory.

This pre-eminence of national patterns within the firm can also been understood as a result of weak shareholder control. In a 50%-50% merger, there is actually no clear dominant actor that could unanimously stand as the owner of the new firm (even though the merger agreement might give one of the shareholder the industrial control and daily management of operations). Since in most industrial mergers observed in Europe, the shareholders of the joint firm remain the parent companies (i.e. the former owner of the plants), the logical tendency for employees on every site is to stick to their previous employer. From that, the common feeling shared by many of

[13] In 1982, the socialist government passed a law on the reduction of working time from 40 hours to 39 hours a week.

the managers we interviewed that in many plants the real owner of production facilities and the staff's employer still seem unclear.

Of course, trans-national companies use the comparative advantages offered by different national legislation, as we saw with the case of the tube plant in Dunkerque at Europipe. But, this non-harmonization of social issues is not only rooted in objectives such as "divide and rule". Trans-national firms have to submit to the own logic of social issues embedded in the Law and the State that constrains them to implement distinct national solutions.
In the absence of any social legal framework at the European level, social issues intrinsically lead to differentiations within the trans-national firm. This way for the national issue to be present, which is the presence of national States within the trans-national firm will last. We can also turn the argument another way: even though firms are located on several national territories, national States still have an influence on them.

3.3. The employee factor in the merger outcome

The two previous sections illustrate the severe limitations associated with a cross-border merger in terms of production consolidation and wages coordination. As a result, the potential for production costs and labour costs reduction (often described as the primary source of economic benefits brought by a merger) is drastically restricted. This is the reason why we consider that the employee factor in the merger implementation is of key importance and should be central to the analysis of mergers' final outcome. Actually, any other source of economic synergy from the merger will necessarily deal with the internal organization of each former company (sales, marketing, R&D, accounting, finance, management control, computer system, and purchase units) in order to bring changes increasing overall efficiency. In such a process that implies intangible and information assets (such as working methods, rules, practices, standardization framework, software...), employees are likely to play a major role. Either as a driving force, or as a powerful source of opposition.
How can these organizational changes be implemented? Our case studies offer interesting insights into this difficult problem. First of all, the unifying of the two existing systems is not considered as a credible solution. The main arguments raised against it are the cost, the internal resistance from employees on both sides, and a

far too long precarious transition period. That leaves only two alternative means: the common adoption in the whole firm of one national system, or the creation of a new one. The first one seems to apply in situations i) where there is a strong and clear commitment from the management to implement this solution (e.g. Europipe imposed the SAP accounting system used by Mannesmann to the French plants, that did not anyway previously shared a common unified system), or ii) when the system at work in one company emerges as indisputably superior. In the latter cases, reciprocal decisions could also help a smooth adoption: in V&M Tubes, the French management of the plant storage and cleanness and the German procedure regarding workplace security, unanimously viewed as superior, have been introduced in the counterpart plants. In some cases, we noted that the status quo (i.e. former company systems still run in parallel with minor changes in the waiting of a new common standard system) is the only reasonable and feasible solution. The management must then wait for an opportunity to bring this change at the lowest possible cost and with the highest possible commitment and support from the affected staff. We noted in our cases two different factors that might bring such opportunity: a technological change, that makes obsolete the old equipment or systems, and a generation change (with the retirement of the majority of the employees in one unit). In each case, the introduction of new equipment and software, or the hiring of new employees (that do not share the historical heritage in terms of routines and practices from the pre-merger firm) will legitimate and make easier the adoption of a common shared system.

The interviews show that there are three fields where these organizational changes are considered as particularly decisive but difficult: sales, accounting and computer systems. In any case, the final completion of these tasks far exceeds the period conventionally referred as the merger and might require five to ten years.

3.4. Unions and the national issue

Within the context of a cross-border merger occurring in continental Europe, unions and employees representatives still have a pretty important room for manoeuvre to impose their view on certain issues, especially for securing employment level or existing structures of representation.

Yet, if Europipe is a firm ruled by the German law, with a supervisory board within which employee representatives and shareholders have an equal number of seats, this is incontestably due to the action of IG Metall. At the time of the creation of the company, the union feared that this merger would be an occasion for management and shareholders of the new firm to set a preceding case by escaping from the paritory co-determination model instituted in the German steel industry (*Montanmitbestimmung*, 1951 law). At that time, management argued that Europipe was not producing steel but made tubes out of steel plates, and as a consequence did not fall under the 1951 law any longer. IG Metall threatened to mobilize the German workforce and put pressure on the management. In the end, Europipe agreed to implement a paritory supervisory board in accordance with the 1951 law [Turner, 1993 : 33]. However contrary to this law that requires to appeal to a neutral arbitrator in case of a blocked situation, shareholders have the last word, in accordance with the 1976 law on co-determination applying to firms of more than 2000 employees. On top of this, Europipe has no *Arbeitsdirektor*, who is a sort of a human resource manager, member of the management board, responsible for human resource issues, appointed by employee representatives (interviews, 11. 2000). Even though the participation regime of employee representatives at Europipe is noticeably different than the one that prevailed at Mannesmannröhren Werke AG, IG Metall succeed in preserving an important part of the role devoted to employee representatives.

Within German firms, employee representatives are given extended and co-determination rights by the law. When those firms are involved in a merger process, those strong national participation rights guaranty a certain influence of employee representatives over the merger process itself and a stability of the structures of employees representation.

So that, the specific feature of the legal recognition of the role and place of employee representatives at national level significantly determines the supra-national representation structures.

Otherwise, in all cross-border merger cases we have studied, employee representatives have put pressure on management to secure employment and/or control the amount of lay-offs in the new firms. However, employee representatives

capacities are limited in two important ways. We will use the merger between Quante AG and Pouyet SA as an example.

On the one hand, one of Quante managers argued that this merger did not occasion any lay-offs, especially because of the pressure of the IG Metall:

> "*There has been no lay offs caused by this merger. This was a major concern, and has only been possible because of the specific market feature: a growing market. No lay offs was a major issue in order to have people's support for the merger process.* [...] *The IG Metall and the elected members of the Works Council have been pursuing a strategy to protect workers*".
>
> (Quante Pouyet, 11. 2000)

But, in February 2000, the Quante family, who still owned the majority of the group's shares, decided to sell its shares to the American firm 3M. The press release proclaiming this take-over has immediately been followed by another one announcing the firing of 500 employees (20% of the group's total workforce) and the closing down of French and German subsidiaries. Even if employee representatives still have the possibility to secure employment in case of cross-border mergers within continental Europe, the arrival of Anglo-Saxon firms considerably modifies their room for action[14]. This remark meets Tony Edwards' conclusions on the growing influence of Anglo-Saxon firms that are pursuing a short term cost strategy regarding labour and are limiting unions' room for manoeuvre [1999 : 338].

On the other hand, even if it sounds surprising, our interlocutors declares that the Franco-German merger occasioned no lay-offs – actually there has been no lay-offs in France and in Germany –, but in fact the merger lead to the closure of a subsidiary in the United Kingdom[15]. If IG Metall engaged in an active policy to secure employment on the German territory, it did not succeed in (did not know how to?) preventing the closure of a production site outside Germany. Of course neither IG Metall nor the Quante's works council initially decided the closure. But considering the role of German employee representatives – especially concerning lay-offs, that cannot be handled without employee representatives' agreement – it is reasonable to

[14] Since the end of the year 2000, the implementation of those lay-offs absorbs the whole group's management, who refuse us any complementary interviews related to the research project...

[15] Unfortunately, we could not get any precision on this issue.

argue that, in this case, the fair balance rule did not apply, as in other merger cases, but that a logic aiming at preserving national employment level to the detriment of employees located on other territories prevailed, and that it was supported by the IG Metall and the works council.

Therefore, unions have a non-neutral relation to the national issue. They implement and/or support a national and sometimes even nationalist logic, which effects can be substantial.

Within trans-national companies we studied, there is few (or no) exchanges and discussions among employee representatives coming from the different national territories on which the firm operates. Of course, supra-national representation structures, such as European Works Councils (EWCs) exist, but the different national groups of employee representatives seem to be weekly (not at all) informed about the proceedings and decision-making processes of their counterparts. The French representative at Europipe's EWC has no information on German negotiations over wages. He declares:

> *Even though employee representatives meet once or twice a year without management, those meetings are not the occasion for determining a joint strategy...*
>
> (Europipe, 12. 2000)

This absence of dialog is also clear by the time of the creation of V&M Tubes. As members of the supervisory board and before giving their opinion about the merger project, German employee representatives came and visited French plants with which the tube department of Mannesmann was supposed to merge. They discussed with production managers, asked for detailed explanations about the production program, the operations, the investments... but they never expressed the wish to meet employee representatives of those plants. French and German union representatives seat together on the V&M Tubes' EWC nowadays, but they much more ignore each other than they dialog.

Cross-border mergers, and the firms arising from these mergers are not used by unionists to create and implement a European solidarity. This conclusion meets the results of Bob Hancké [2000] in his study on EWCs in the car industry. Neither the challenge represented by the creation of a trans-national company, nor the existence of supra-national structures of employee representation constitute sufficient

conditions for the implementation of an inter-national dialog among unionists. After all the different unions are still strongly rooted in their own national framework.

If we want to understand this point, we have to examine the proper nature of unions[16]. National unions are legal forms of employee representation, legally recognised by a national State. They came from labour actions and strikes that aimed, among other things, at the recognition of structures responsible for representing labour. The State recognises their existence and rules the room for and the forms of their action (negotiations, strike, etc.) by the law. But beyond their legal form, unions are embedded in the "State's framework" as they are part of the specific feature of the State on each national territory, and because they support the national consensus. Since 1945, European unions have grown up in a close "symbiosis with their own national State" [Streeck, 1998 : 1].

German unions for example are one of the pillars of the social market economy, which is a state-doctrine that has been formulated, among others, by Ludwig Erhard, who was the first minister of economy of the German Federal Republic after the second world war. The doctrine of the social market economy guides the social and economic policy of the GFR since its foundation in 1949. It is based on the principles of ordo-liberalism and rules the relation between the State and the Economy. According to this doctrine, the State has to intervene in the fields surrounding the economic life such as: demography, law, environment, training... But any State intervention regarding economic life processes is considered as dangerous. Therefore, unions and employers associations benefit from a "tariff autonomy" (Tarifautonomie)[17] and regularly bargain over wages, working time, holidays, etc. free from any interference from the State. The collective agreements cover all the firms of the industrial sector affiliated to the employer association at the regional level. This autonomy of the social partners is expressed from the State and fixed in a law. We will not analyse in details the evolution of German industrial relations within the past

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[16] For this part, we assume, that most of employee representatives belong to a union and act as unions representatives, which is true for France and Germany. For Germany, see Thelen, 1991.

[17] Fixed in the "Tarifvertraggesetz" of 1949.

50 years[18]. Even if collective bargaining tends nowadays to define a framework that will be the basis for a second round of negotiation at the firm level, even if the works council benefits from a growing importance[19], the relations between unions, employer associations and the State remained unchanged. In accordance with Silvia, we would rather insist on the remarkable stability of the German industrial relations regime: "*the social partners and politicians have therefore typically responded to challenges to the post-war labour relations regime by defending the statu quo at best they could.*" [1999 :116].

Even though they have separated roles, the State assists social partners each time it has the possibility and always indirectly. It can act as a moderator, or takes decisions related to issues he is actually responsible for to help social partners to reach an agreement[20]. The State (almost) always intervene to preserve social peace. The extremely constraining rules settled by social partners to govern their relations, also lead unions and employer associations to adopt a somewhat peaceful collaboration relationship.

The State (government and parliament), as well as the social partners aim at solving conflicts in a consensual way.

German unions are embedded in the "State's framework", because their bargaining autonomy is fixed from the State, according to constitutive principles of the State doctrine that governed the foundation of the GFR, and because – as employer associations and political parties do – they support the national consensus (*State Ideology*, would have said Althusser [1995]): social market economy, "*Modell Deutschland*"[21] and the systematic search for the consensus. Arguing that unions support the national consensus does not mean that there is no debate within unions, or between unions and employers associations or between unions and the State, but

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[18] About German industrial relations, see for example : Waline, 1970 ; Kissler, 1988, Thelen, 1991 ; Silvia, 1999.

[19] See also Corteel, 1999.

[20] The 1984 law on early retirement, has been proposed by Norbert Blüm who was minister for labour. It has been discussed and voted at the Bundestag as early retirement was a major issue among social partners. The bill allowed the conclusion of more than 300 collective agreements on early retirement and avoided strikes on this issue, see Lattard, 1987.

[21] This expression was founded by the social-democratic party, in 1976 and characterises an export-oriented model of national economy. See for example: Casper, Vitols, 1997.

it indicates that these debates take place within the limits imposed by the national consensus.

Even if the history is different, French unions also belong to the State's framework*. They are no sectoral unions whereas German unions are, but partisan unions often related to parliamentary political parties. At the end of the second world war, the CGT[22] is the strongest union. The links between the CGT and the French Communist Party make the effects of the world's bipolarisation and the antagonism between the labour movement and the State extremely substantial in the post-war France. However, there is an evident nationalisation of the French labour movement, from the CGT appealing French workers in 1946 to do there best to win the "production battle", that is rebuild the national economy, till the persistent references to the French working class, the interest of the French workers, the national interest. This kind of nationalism of the CGT coincides with the economic and industrial policy of the French government of the late 1950s and the 1960s, based on the development and the active support of "national champions" in every key sector of the economy (automobile, aeronautic, energy...)[23]. Parallel to the détente and to the pacification of the East-West relationship, the antagonism, typical for the French situation, decreases. As a consequence, State and unions relations are contractualised in the 1960s and the 1970s: steady and formal bipartite negotiations are implemented aiming at guarantying and/or restoring social peace (see for example the "accords de Grenelle" in 1968[24]). During the 1980s and 1990s the firms – including private ones – are progressively integrated in this contractual relation between the State and the unions, especially at the time of the negotiation of the big social plans (in the steel and the car industry for example).
In France, the evolution of the norms regarding minimum wage, working time reduction, etc. is the concern of the legislation. Since the implementation of the 40 hours week and the two weeks of paid holidays in 1936, the working time reduction

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* For helpful discussions and comments on this part we wish to thank Laure Pitti. The usual disclaimers apply.

[22] Confédération Générale du Travail

[23] See for example: Hancké, 1999.

[24] See : Joffrin, 1988.

up to 39 hours a week in 1982, till the Aubry law on the 35 hours week, the State is unions' main interlocutor to bring lots of their claims to a successful conclusion[25]. In France too unions support the national consensus: parliamentarism, national production, central role of the State.
We could proceed to the same demonstration for English or Italian unions.

Therefore, we observe a homogeneous feature in the post-war Europe (until now): unions are embedded in the State's framework, the way this membership operates is specific for each national State.
The different employee representation structures at European level precisely stumble over this national and state membership of unions. The European structures do not only gather together very dissimilar structures with various action capacities, but those different organisations are intrinsically related to the national territory and to the State of their country of origin. Therefore, as Streeck points it out [1998: 9] European Works Councils are far less used to defend employees rights, than they are to preserve the integrity of formal and legal structures at national level. The initial controversy between IG Metall and the future management of Europipe over the supervisory board perfectly illustrates this argument. IG Metall's first aim was to secure German co-determination, not to build a European structure where European union solidarity would be at stake.

4. Conclusion: Europe

By proposing a research project on cross-border mergers focusing on the merger process itself, and on employees as well as employee representatives participation to this process, we assumed we would find out new mechanisms, departing from national forms of employee participation on the one hand, and from former academic studies on European representation structures implemented in firms with long multinational history, on the other hand.
We thought that the arising of supra-national challenges within emerging trans-national firms would lead employees and their representatives to mobilize these

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[25] On French unions and French labour movement, see for example : Bardou *et al.*, 1977 ; Touraine *et al.*, 1984.

issues in order to create new forms of dialog and participation that would coincide with management's need to make employee commit to the merger project.

However, all along the interviews we have been conducting for this project, the remarkable presence of national issues within trans-national firms struck us. So that our own observations do not fundamentally diverge with the studies on multinational firms and the implementation of EWCs.

But, our case studies show bring to light an interesting phenomenon, never mentioned in the literature: the *national fair balance rule*, that is a very specific mobilization of the national issue under the fairness principle.

Why do firms submit, even temporary, to this logic? According to us, this question constitutes a highly interesting research track. We can already propose several potential answer:

- the intervention of national industrial shareholders having a close relationship with the trans-national firm (as suppliers of the firm for example) et interested in maintaining a certain activity level on the different national territories... this first hypothesis is rather insufficient, because those national industrial shareholders operate themselves and since a long time all over the world, and do not depend any longer on national clients.
- The threat of employee mass protest in case of substantial reduction of the work load, especially in countries such as Germany where unions are strong. But the management aims at maintaining the activity on each territory, even on territories where unions are weaker, and management clearly knows the weakness of union coordination at European level...
- The need and the will of the young trans-national firm's management to get labour's support during the implementation and the construction of this trans-national firm. This support is considered by most of our interlocutors as necessary for the merger project to succeed.

We have seen that this fair balance rule comes to an end, when will it end and why are still open questions.

Contrasting with the fair balance rule, the two other ways for the national issue to be present within the firms lead to differentiation, they are lasting and corroborate former studies' results. The merger as creation of a trans-national firm does not impulse new

forms of dialog departing from the observed forms in supra-national structures implemented in companies with a long multinational history.
The social issue and this absence of dialog among different national employee representatives are theoretically distinct and linked.
Yet, the European integration policy is above all an economic integration policy. However, the protection of employees vis-à-vis market integration still fundamentally rests on national States, in the absence of any European institution able to handle it [Streeck, 1998]. As long as national States are responsible for carrying out social policy trans-national firms will be forced to adopt distinct social regimes on different national territories and unions will turn to national States and continue to act within a strict national framework.

However, considering that national union are embedded in the State's framework, the europeanisation of union organisations does not only mean redefining their strategy at a higher, supra-national level, but changing profoundly their own structures. There is no European State, and there will probably be none in a short as well as in a medium term. Rooting unions at a European level does not only mean federating different national unions but creating (inventing) absolutely new structures, as they are not going to negotiate with a European State, but with a European agency and with different European member States.

In conclusion, we would like to go back to an argument that was briefly mentioned before about unions, but not developed. We actually said that unions were legal forms of employee representation coming from labour actions and strikes that aimed, among other things, at the recognition of structures responsible for representing labour. The paradox of the European structures is that they have been created without any labour action: without any mass mobilisation of employees claiming their construction [Turner, 1996]. There has been no European strike (except when Renault decided to close the Vilevoorde plant, see Didry 2000). Moreover, the

interviews with German workers in the car industry, conducted by Delphine Corteel[26], showed that workers had few if no interest for European issues.

Considering the state and national nature of unions, in the absence a real preoccupation of employees themselves for European issues, it is reasonable to predict that employee representation structures created at European level will continue to be information forum controlled by management and used by unions to preserve national forms of representation and participation. No European Directive will create a European mass labour movement.

Otherwise, even if Europe becomes an important issue of labour protest, and if, as a consequence, unions engage in a real and active europeanisation of their organisations, it may well be that the dialog among employee representatives appear next to formal existing structures at European level as the example quoted in Turner [1996: 336] shows:
"*EWC enthusiasts at DEC [Digital Equipment Corporation], in fact, viewed their unrecognised body as accomplishing the main positive function foreseen for EWCs in European firms: the exchange of information and the building of a cross-national network of plant activists. They argued that this outcome was in fact better that some officially recognised EWCs for which management paid the costs but also dominated the meetings, allowing little time for plant and union representatives to meet without management being present.*"

[26] Individual interviews conducted with 30 workers at VW in Hanover, in October 1998, and with 25 workers at Leonische Drahtwerke AG, near Bremen, in April 1999. Fieldwork research for a PhD in industrial anthropology.

Annex: Case Studies:

Aventis

Aventis results from the merger announced in December 1998 of the two pharmaceutical and agricultural giant companies Hoechst (Germany) and Rhône-Poulenc (France). The transaction agreed by the supervisory boards is a merger of equals with a balanced corporate governance and senior management structure. It will be realized through an exchange offer by Rhône -Poulenc, that will be renamed Aventis after the completion of the operation, for all the outstanding shares of Hoechst, after the divestiture of its chemical assets. Aventis will be a French publicly traded incorporated company, headquartered in Strasbourg, and listed in Paris, Frankfurt and New-York. The full merger into a world leader life sciences company was then submitted to extraordinary general meetings in July 1999.

The starting point of the operation is the low level of profitability of each separate firm, compared to their main competitors. The critical element of the merger is therefore the expected synergies of integrated operations, which should combined with products and portfolio rationalisation and costs reduction improve the overall profitability. The management estimates that these synergies could amount to 1,2 billion euros between 2000 and 2002: 750 million to be obtained in drug activities, 350 in Agro businesses and 100 in administrative functions.

To reinforce the common vision and workers support to the firm's corporate governance policy, an ambitious worldwide stock purchase program was launched in September 2000. Named "Horizon", this global stock purchase plan for employees was implemented in 56 countries, subject to local tax and legal regulations. During the enrollment period (15 September-15 October), employees were entitled to purchase shares with a discount of 15% up to a limit of 25% of their annual gross salary, provided that they hold these shares until April 2005. The offer was particularly attractive combined with a so-called leveraged affect mechanism which can further multiply the gains depending on the increase in the share price over the holding period. As the chief of human resources explained, the preparation and the launch of an ambitious program like Horizon just nine months after the creation of Aventis are contributing to the ongoing worldwide integration process. A total of

29,000 employees (34% of the eligible workforce) participated and will acquire 5 million Aventis shares under the program. As a result, the total employee ownership share amounts to 4 percent. High participation rates were recorded in France (42%), Japan (40%) and Germany (33%). Other systems specially targeted to managers are also planned.

Given the final size of Aventis – about 95 000 employees -, the human resources dimension was a critical issue of the merger's implementation. To handle this process in the most efficient and acceptable manner, a first phase consisted in the definition by several working groups of the common "enterprise culture" and "fundamental values". At the same time, they worked on the guiding principles in terms of development, wages, employees representation and communication. The objectives set up by the top management were: " i) to create an environment into which every employee is proud of his work and his commitment in the firm, ii) to value at most the internal cultural diversity and complementary experience, iii) to incite to the search of excellence and performance". Seven fundamental values have been chosen: personal respect, integrity, creativity, responsibility, network team, courage, urgency.

A priority was at the same time to identify the main management team and to set up the organigram of the company by the end of 1999. About 700 employees accepted to take a position abroad. In December 15, 1999, the new group was fully operational.

Meanwhile, negotiations between Aventis management and employees representative started to examine the following points:

- the creation of a European Work Council,
- the representation of employees in Aventis council
- the introduction of a new Group committee in France
- the implementation of new social structure in each activity and country.

The interesting case with Aventis is that the workforce is truly spread all over the world: 54% in Europe, 20% in North America, 14% in Asia, 9% in South America and 3% in Africa.

In April 2000, an agreement was signed by the management of Aventis and union representatives of the former companies on the establishment of the European

Works Council. Interestingly enough, the negotiations initiated as early as October 1999 involved the former European works councils of Hoechst, AgrEvo and Rhône - Poulenc. 36 employee representatives will participate to the council, from all countries where Aventis has sites. The number of country representatives is based on the number of employees (France 12, Germany 8, UK 4…). The Council will meet twice a year and the agenda of each meeting will be prepared by a Select Committee of seven members that will gather the issues raised at preparatory national meetings. The task assigned to the council is "to promote the provision of information, a social dialogue and the exchange of views concerning business, financial and social issues."

On the first anniversary of the formation of Aventis, the Chairman and Vice-Chairman of the Board of Management announced "We are very proud of the efforts and accomplishments of all Aventis employees throughout the world. The were a key factor in making this merger a success." At the end of 2000, more than 700 out of a total 1150 integration projects had been successfully completed, while the remainder is expected to be concluded within the next two years. Among them, one could note the sale of the former headquarters of Hoechst and Rhône -Poulenc in Frankfurt and Paris and the opening of the new global corporate center with a staff of around 150 in Strasbourg. Aventis announced that the planned synergies resulting from the merger materialized as expected and the targets of 400 million euros for 2000 had been secured.

Europipe GmbH

Creation	1991
Merged firms	Mannesmannröhren-Werke, Bergrohr, GTS Industries, Usinor
History	- - -
Employees	1260 (in 1999)
Products	large diameter steel pipes
Centralized activities	sales, steel plates purchase, quality, prodution planning, R&D, investments, maintenance, accounting

Lay-offs	200 laid-off employees in Germany, 200 in France, closing of two tube plants, one in Germany, one in France
EWC	no officially recognised EWC, but an informal structure for employee representation at European level
Participation regime	holding located in Germany, rules by the *Montanmitbestimmung* law, softened by a company agreement: employee representatives have half of the seats at the supervisory board, but in case of blocked situation, shareholders have the last word.

Quante Pouyet

Creation	1998
Merged Firms	Quante AG, Pouyet SA
History	the Quante group had 66% of Pouyet shares since 1992 as it bought the shares hold by a holding of employees: Pouyet Participation; in 1997, Quante AG tried to implement a joint strategy and to reorganize both firms but Acome the minority shareholder of Pouyet blocked this attempt, in 1998 the Quante group buys the rest shares of Pouyet.
Employees	2500 (in 2000)
Products	components and systems for communicative networks
Centralised activities	marketing, sales, R&D
Lay-offs	closure of a production site in United Kingdom
EWC	no EWC
Participation regime	holding located in Germany
Special remark	the Quante family decided to sell all its shares of the Quante group to the American firm 3M. Announce on the 1st February 2000.

V&M Tubes

Creation	1997
Merged firms	Vallourec, Mannesmannröhren-Werke AG
History	Mannesmann is the first external steel supplier of Vallourec; the two firms created a first joint subsidiary in 1990: IDPA and a second one with the Italian Dalmine, in 1994: DMW; those subsidiaries were already considered as experiences for a forthcoming merger
Employees	France-Germany: 6200 (in 2001), Brazil : 5000 (in 2001)
Products	tubes d'acier sans soudure
Centralised activities	reporting, suppliers, commercial departments, security, sales, R&D
Lay-offs	850 "lay-offs" in Germany managed by a social plan, most of those redundancies occurred through early retirement
EWC	officially recognized since April 2000
Participation regime	holding located in France

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The impact of mergers and acquisitions in Finance on workers, consumers and shareholders

The Impact of Mergers and Acquisitions in Banking and Insurance

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Executive Summary

In January 2000, UNI-Europa Finance commissioned three experts to produce papers on the impact of mergers and acquisitions (M&As) in the European banking and insurance sectors to complement its own internal survey "Mergers and take-overs in the finance sector – Report of a UNI-Europa survey".

Each paper focuses on different groups affected by M&As: employees, consumers and shareholders. Below is a summary of the key findings. It is interesting to note at the outset that the experts all underline the negative impact of M&As in the finance sector.

The impact of M&As on employees, staff representatives and their unions

The European financial services sector is currently undergoing a period of major restructure. This process began in northern Europe in the early 1990s and slowly moved southwards, reaching the south European countries more recently. It brought with it a greater diversification of activities and the use of new working methods to become more efficient in the light of increasing competition.

Eurostat reports show a significant decline in employment in the European financial services sector in all Member States (although some countries have suffered more than others). However, these figures should be viewed with some caution due to ambiguity within Eurostat's defining framework and the extent to which outsourced functions are taken into account in the calculation of employment. The UNI-Europa survey estimates that 130,000 jobs have been lost in the last ten years as a result of M&As alone.

It is often difficult to separate the impact of mergers from that of other competitive pressures or the introduction of information and communication technology (ICT). What is clear, however, is that these factors are often linked and that merger decisions provide an impetus for work-force restructuring. The announcement of a merger or take-over is often linked with the announcement of job losses. It is not always clear to what extent pre- or post-merger announcements are an accurate reflection of what will happen in reality, as they are clearly made with an audience in mind.

Changes in the nature and quality of employment in the sector have also occurred in recent years. Job cuts have particularly affected traditional branches and back office jobs. This has especially affected older workers and women with traditional banking skills. These skills are not easily transferable to the new centralised functions, such as those required in call centres. The standardisation of products has allowed functions to emerge which can deal with a high volume of clients without requiring training in traditional banking skills. Where jobs have been created, these often require managerial, IT or other specialist skills.

Another significant trend affecting employment is the increasing incidence of the outsourcing of functions such as IT, cleaning or maintenance. Working conditions in sub-contracting companies often differ from those of directly employed staff, for example, collective agreements are frequently inferior in sub-contracting companies Mergers generally lead to higher work-loads for remaining staff with companies requiring greater flexibility in terms of working hours, mobility and skills. Such requirements are rarely matched by a commitment to greater flexibility for workers and increased training provision.

A common method to reduce employment is through early retirement schemes. However, as these are proving increasingly costly to employers, the public purse and other employees themselves, alternatives such as reduction in working time need to be considered. M&As provide management with the opportunity to renegotiate terms and conditions which leads to a destabilisation of the social climate. This is further aggravated by limited information and consultation arrangements for employees in the newly merged company. As mergers often lead to

organisational changes involving the breakup of established bargaining units, collective bargaining arrangements frequently have to be re-negotiated.

The paper states that current legislation is usually insufficient to provide employees' information and consultation bodies enough power and resources to effectively address critical situations such as M&As. Evidence shows that workers are repeatedly informed very late, or even after the event, in the case of a merger or take-over.

National and European legislation in this area should be reviewed and much could be learned from disseminating good practice of companies which have experience in dealing with such situations. The UNI-Europa trade union strategy on mergers makes a significant step in this direction.

The impact of M&As on consumers

Mergers in the finance sector are largely the result of market destabilisation through increased competition due to deregulation and the increase in new methods of dealing with customers. The growth in electronic networks opened the market to a large number of companies which could bypass traditional branch networks

It is difficult to assess the impact of M&As on consumers, not only because this aspect is not usually considered in popular or scientific analysis, but also because it is often difficult to disentangle the direct impact of M&As from the impact of other factors such as increasing global competition or technological change.

Looking at the impact of M&As on product provision, choice and the cost of products, the number of products on the market has increased significantly in recent years, offering more choice at reduced prices, as most new market entrants are seeking to compete on the basis of price. This is possible because ICT allows them to save costs by operating with fewer branches, or without a traditional branch network. New products and providers also offer clients more time flexibility, as they no longer have to rely on branch opening hours to conduct their business. In order to meet consumers' needs and to cut running costs, traditional providers have responded to this trend by closing branches.

Recent trends in financial services, including M&As, have had a varying impact on different clients. While the majority of larger, wealthy and "standard" clients (i.e., those without problems of bad credit histories, etc.) have benefited from the increase in product choice and the proliferation of ICT-based services (such as Internet banking), a significant minority are detrimentally affected by this trend as they lack access to the required ICT or the knowledge to use it, while at the same time losing access to local branches.

This trend has served to increase social exclusion, as the groups detrimentally affected by these developments tend to already suffer from educational, social and economic disadvantages. Research, for example, shows that branch closures tend to be located in the poorer areas. The paper also points out that in some areas the disappearance of mainstream alternatives has opened the door to predatory financial service providers offering lower quality, more expensive services to those most in need.

Branch closures and the loss of many other backroom functions as a result of proliferation of ICT have led to significant job losses. While these were in evidence prior to the current merger wave, in most cases a merger accelerates branch closure programmes and the transfer of backroom functions. As a result, the level of physical and local service provision is reduced, requiring consumers to travel greater distances for personal service.

While a significant number of consumers welcome the ability to conduct their financial business at any time of day through, for example a call centre or an Internet service, others regret the loss of more personal, local, face-to-face interaction. Such consumers argue that recent developments have lowered the quality of financial service provision through a deterioration in the relationship with the financial service provider.

Increasing merger activity is serving to restrict competition and, therefore, it will not benefit consumers in the long run. In fact, it is argued that restriction of competition is very often the cause of merger activity as it serves to counteract competitive pressure.

Another key process, currently underway in many countries, is that of demutualisation of financial service providers. While in the short-term this may appear to bring benefits to consumers in the form of windfall payments, studies show that in the long-term, demutualised companies offer lower quality services at higher prices.

Finally, the paper states that it is difficult to assess the impact of M&As on consumer loyalty as such information is generally sensitive and is rarely released by companies for public scrutiny.

The impact of M&As on shareholders

Mergers in the financial services are part of a larger merger wave which engulfed the economy in the 1990s with an annual deal value of $1,000 billion. In the EU alone, 760 financial service mergers took place between 1986-1995. This process has escalated further recently with 490 mergers being effected in the banking sector in the first quarter of 1998 alone. At the same time, the size of mergers has also increased substantially.

Mergers take up a considerable amount of the executive's time and the paper therefore seeks to assess what they actually deliver to shareholders and the economy. In assessing the impact of mergers on share value, it looks at two types of scientific studies which have been conducted over the years to assess the performance of mergers. One study seeks to assess the reaction of the stock market to merger announcements and the impact of share prices in different timeframes from the merger announcement, while filtering out the impact of general share price movements (so called "event" or "ex-ante" studies). Another looks at company accounts after the merger to assess its performance ("ex-post" studies). Despite the latter sometimes being complicated by companies' use of creative accounting methods, both types of study indicate a largely negative outcome of merger decisions, particularly on the acquiring company.

All evidence from ex-ante studies indicates that the impact of merger announcements on the share price of the acquiring company is negative in the medium- and long-term, while the impact on the share price of the target company is positive. Ex-post studies are consistent with these pessimistic assessments of the impact of M&As on company profitability. From as far back as the 1950s, data show declines in profitability of around 15 per cent of merged companies. A large US study showed that acquired companies, which did well prior to the merger, deteriorated after the event. Acquired companies, which did badly in advance of merger, went from bad to worse. Furthermore, between 19-47 per cent of all acquisitions were disinvested within ten years of acquisition.

Over the years, academic studies have consistently shown that only 15 per cent of mergers are successful and over 60 per cent have negative results.

In trying to assess why, despite this evidence, mergers do indeed happen, the paper concludes that much can be attributed to "bandwagon mergers" based on a so-called "minimax" strategy. In the minds of company executives, this strategy is aimed at minimising regret as far as is possible. Therefore, when they observe other companies around them being involved in merger activities, they consider whether the level of regret would be greater if they sat tight and did nothing and saw other ventures succeed or become an acquisition target themselves, or whether regret would be greater if a merger was initiated which eventually failed. As the latter would be the experience of a majority of their peers, regret would be minimised.

The impact of mergers and acquisitions on employees in the financial services sector

Tina Weber, ECOTEC

Introduction

The process of restructuring in the financial services sector has been gathering pace since the early 1990s, in Europe as well as world-wide. Within the European Union (EU), this process started in Northern Europe and is continuing to spread southwards. It is a trend which started in banking and is now increasingly engulfing the insurance sector. Initially, purely national restructuring was often followed by restructuring involving companies and employees from different EU countries and beyond. In its totality, it has significantly changed the profile of the financial services landscape in the EU, with a concentration among larger providers of general banking and insurance services, increasing specialisation among smaller institutes, the emergence of "banc assurance" and mixed provision and the proliferation of new distribution channels such as telephone and the Internet.

The main aim of this paper is to look at the impact of M&As on employees in the financial services sector. It will assess the overall impact these processes have had on the number of individuals employed in the sector in the EU. In doing so, it is important to distinguish between the impact of the general global restructuring process and the impact of M&As in financial services in particular. This paper seeks to highlight how these processes are interlinked. It goes on to describe how recent changes in the sector have affected the occupational and skills profile of jobs. The way in which financial services companies have effected restructuring will also be assessed and the question will be asked whether companies have made any efforts to limit the impact of restructuring and M&As on employment.

The paper seeks to establish to what extent working conditions and workers' rights have been affected by mergers and what impact these events have had on the industrial relations climate. It will also analyse the role of trade unions and employee representatives in this process, and the level of involvement of European Works Councils (EWCs) in transnational merger processes which are more likely to have a significant impact on the workers they represent. Finally, recommendations are developed on trade union strategy in dealing with M&As.

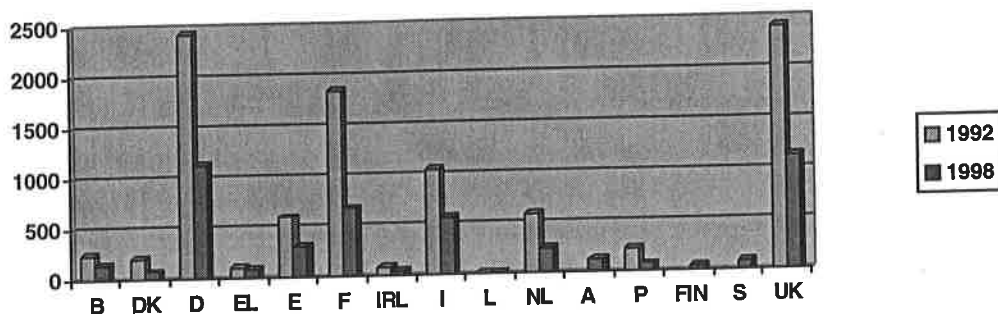
Trends in employment in the financial services sector

Data from the Eurostat Labour Force Survey show a significant decline in employment in the EU financial services sector between 1992 and 1998. However, such data needs to be viewed with caution, as the precise delimitation of the sector by Eurostat is unclear. National data sets are also sometimes different in relation to whether they count all employment or only full-time equivalents. Furthermore, it is unclear to what extent outsourced activities are captured by these figures. Nevertheless, the data provided shows a significant drop in employment, which is in line with the findings of the UNI-Europa survey which estimates that 130,000 jobs have been lost in the last ten years as a result of M&As alone in the financial services sector. On the whole, job losses in banking have been more severe than in insurance, as the restructuring process began earlier in the banking industry.

It is clear that not all job losses in the sector can be directly associated with the fall-out from M&As. Other factors, such as technological innovations and the globalisation of systems of production and labour, have also clearly played their part. For example, the increasing automation of data processing has led to the disappearance of a number of back office functions. Advances in technology and the globalisation of the economy have also allowed many companies in the sector to outsource tasks, such as claims handling, to locations outside the EU, such as the Indian sub-continent, where labour is cheaper.

The increasing use of call centres and the Internet for sales and customer services functions has led many banks to reduce the number of branch offices and has reduced the market share of insurance intermediaries.

Table 1: Employment in financial services, EU, 1992 and 1998



Source: Eurostat, Labour Force Survey, 1999

Having said that, it is clear that the global restructuring of the economy and the resulting increasing competitive pressures are among the causative factors for the current "merger mania" in the financial services sector. In the early 1990s, mergers primarily took place at the national level, as companies strove to achieve competitive advantage over other national or European rivals. In recent years, M&As have increasingly become global, as the market place has expanded geographically. Coupled with this process, M&As have become increasingly diverse, not only geographically, but also in terms of the nature of businesses involved, as many financial services companies have sought greater diversification in the services they can offer. Thus, whereas mergers originally largely took place between banks, such deals now increasingly involve banks and insurance companies.

While technological change and global restructuring have contributed to the increasing occurrence of mergers in the financial services sector, mergers themselves are also accelerating the process of restructuring and technological change, as merged companies seek to capitalise on newly established synergies and strive to reach the cost savings targets set in merger plans for the benefit of their shareholders. Indeed, pre-merger announcements of staff cut-backs are very often associated with rises in the share prices of the companies involved.

It could be argued that the precise impact of M&As on job losses could be monitored by studying such pre- and post-merger announcements. For example:

- In France, the adaptation plan presented following the merger between BNP and Paribas and covering the period between 2000-2002 calls for the elimination of 6,200 jobs in France (of which 1,400 are directly attributed to the merger) and 2,000 jobs abroad (mainly in Great Britain and Asia).
- In Great Britain, the merger between National Westminster Bank and Royal Bank of Scotland is to cost 18,000 jobs.
- In Great Britain, following the merger of CGU and Norwich Union, the elimination of 5,000 jobs was announced (4,000 of which in Great Britain).
- As a result of the AXA/Guardian Royal Exchange merger, 2,500 jobs were to be eliminated in Great Britain and 800 in Germany.
- In the merger between Royal and Sun Alliance, the company originally announced the loss of 4,000 jobs (3,000 in the UK). Actual figures subsequently rose to 4,000 in the UK alone.

However, as some of these examples show, pre-merger announcements in particular are often an unreliable source to future merger-related job losses, as they are often targeted at shareholders, rather than reflecting

precise post-merger strategies. Post-merger announcements, on the other hand, often underestimate the number of actual job losses. Therefore, such pronouncements can only be taken as an indication of the employment impact of mergers.

It is similarly difficult to distinguish between the employment impact of a merger and a take-over, although it has been argued that the latter is potentially more likely to cost more jobs. The question of the employment impact of inter-bank mergers versus bank and insurance mergers is a similarly complex one, with the latter, on balance, likely to have a more limited impact on employment, as it generates less duplication of activities.

On the whole, it should be noted that there are significant difficulties in distinguishing between the precise employment impact of a merger or take-over and that of the process of global restructuring. The two trends are clearly interlinked and together exert significant pressures on employment in the financial services sector. Before looking at the impact of these processes on the nature and quality of employment in the sector, it is worth noting that, in some cases, mergers have been identified even by the trade unions representing workers in certain companies as the only way of keeping the companies alive. According to the UNI-Europa survey on *Mergers and take-overs in the finance sector* (2000), this was seen to apply in case of the merger between United Friendly and Refuge Assurance.

Trends in the nature and quality of employment in the financial services sector

As mentioned above, the process of automation, which may not have been directly caused but is often advanced by the merger process, has led to the disappearance of a number of low-skilled administrative functions. In addition, many labour intensive services have been outsourced to the low wage economies of the African and Indian sub-continent. Outsourcing has been one of the most significant trends in employment not only in the financial services sector, but also in the economy as a whole. In many cases, this is also true in the merger process, as companies seek to reduce their fixed costs. Outsourcing initially affected companies' so-called "non-core" functions such as cleaning, catering, maintenance and IT. However, in more recent years, outsourcing is increasingly being used to provide a number of core functions, such as customer services. Customer services and sales functions are today more likely to be provided by call centres, which handle high volumes and generally operate with low-skilled, low-paid staff. As a result, job satisfaction in call centres is generally low and staff turnover rates are high, which necessarily has an impact on the quality of service provided. Other industries have seen examples of call centre facilities being used because of a high level of customer complaints. Another concern about the increasing use of call centres in the financial services sector is the low level of unionisation among the work-force in these facilities. The outsourcing of services in general can lead to affected workers being covered by a different, less favourable collective agreement and, in some cases, no collective agreement at all. Some respondents to the UNI-Europa survey gave an example of this.

Crucially, the elimination of low-skilled jobs through automation, the outsourcing of non-core functions (with the exception of IT) and the low levels of pay and working conditions in call centres primarily affect female staff in the sector.

Among employees remaining within the direct employment of financial services companies, demands for the handling of higher workloads, the requirement for higher-level skills and greater flexibility are increasing. This particularly relates to the requirement of a higher degree of computer literacy and higher professional competence allowing for multi-tasking. The demands placed on staff for higher skills and greater flexibility are often not matched by a similar commitment among companies for improved in-house training facilities and more flexible working conditions to meet their employees' requirements for the achievement of a more satisfactory work-life balance. This is especially true in the case of mergers, where the need to make cost savings often affects expenditure on training. There are also examples of companies going back on commitments to introduce more flexible working time arrangements made prior to a merger announcement. The UNI-Europa survey provides an example from

France where, prior to the merger between AXA and UAP, trade unions at AXA had been on the point of signing an agreement on the reduction of working hours. Since the signature of the merger agreement, reduced working hours are to be imposed by law and unions are in the process of negotiating the details. However, no such agreement has been foreseen at UAP.

The nature of restructuring in the financial services sector

As mentioned above, outsourcing is one of the ways in which companies have sought to reduce their fixed employment costs. However, the most common way of achieving reductions in employment has been through the use of early retirement. This was either encouraged through company early retirement schemes, through national measures available to encourage early retirement or through a combination of both.

Early retirement is widely considered to be the most "socially responsible" way of achieving job reductions and this process is often part of a negotiated settlement with works councils. In AXA, for example, early retirement was offered at age 52 on 70 per cent of an employee's previous salary. In Germany, "Model 55" allows an older employee to enter early retirement at the age of 55, upon which he or she receives 90 per cent of his or her salary until 60 years of age.

However, a number of question marks need to be raised over the large-scale pursuance of such a strategy. Firstly, it is unclear to what extent early retirement is really voluntary in the light of limited alternatives. Secondly, the cost of early retirement on public pension systems is leading governments increasingly to seek to reverse their support for early retirement strategies, which date back to the 1970s and early 1980s, when they were introduced to deal with high levels of youth unemployment. As public pension systems are changed to reverse this trend in policy, compensation measures for older workers affected become less favourable and, in many cases, their full pension entitlements are reduced as a result of taking early retirement. Thirdly, there is an issue of the drain of valuable experience from companies which cannot be replaced. Fourthly, the trend towards early retirement has been widely argued to contribute to discrimination by employers towards older workers, as they are increasingly perceived to be incapable of adapting to new business requirements and learning new skills. Finally, the question is raised as to the shock which will be experienced as mergers and restructuring continues and the early retirement route is increasingly precluded, as this age group is no longer represented in the company age profile.

Without the development of alternative strategies by companies and trade unions, companies will be forced to rely on redundancy measures. Alternatives, such as working time reductions, should therefore be considered not only to limit job losses, but also to create new jobs in a climate where new recruitment in the financial services sector has been limited by restructuring.

Another alternative would be the re-training of existing staff for new roles in expanding sectors of the business. In other industries (and particularly in Scandinavian countries), there are examples of companies offering those affected by restructuring the option of early retirement or company funded re-training, either for a role within the company or for a new profession. There are examples from Sweden, Portugal and Luxembourg on the use of retraining and re-deployment, but the extent to which these have been applied has generally been limited, although they were widely demanded by trade unions. Where a merger brought about a geographical move in operations for some staff, assistance with transport costs was often given for a transitional period and higher skilled and paid staff were often entitled to re-location packages.

The impact of restructuring and mergers on working conditions and the industrial relations climate

As in other industries and sectors, the announcement of a merger creates a high degree of anxiety among the work-force, as individuals begin to fear for their jobs and the security of their working conditions. The UNI-Europa

survey shows that in many cases such fears are well founded. Merger processes often provide an opportunity to revise and re-negotiate regulatory frameworks and working conditions.

In addition, they lead to the revision of business units and therefore collective bargaining units. It is not uncommon for employers to seek to use the need to renegotiate agreements to revise levels of pay and working conditions in their favour, particularly if this goes hand in hand with the outsourcing of certain functions. Alternatively, as in the French example given above, mergers can lead to previously agreed points being reneged.

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In some cases, trade union representative structures can suffer serious blows as a result of a merger, although in many countries, the possibility for re-negotiation of trade union and employee representative structures is restricted by law. In Finland, for example, where the banking sector has a unionisation rate of 90 per cent, every bank is covered by a collective agreement negotiated between the bank union SUORA and the employers' organisation. Under labour legislation, every bank has to follow the agreement as a minimum requirement. While negotiations of interpretations of the collective agreement are possible, these cannot lead to lower levels of pay and conditions. This example clearly shows the importance of strong collective agreements and national legislation to protect terms and conditions and employee representative structures post-merger.

Until recently, the UK was one of the few countries which had no legal structures underlying trade union recognition (although this has now changed with the introduction of the Employment Relations Act in 2000). This highlights the importance of such legislative or policy-based underpinning. Ireland provides a strong example of the power of inclusive national policy strategies on industrial relations which can filter down to impact on the industrial relations climate. In the UNI-Europa survey, the IBOA in Ireland reports a significant improvement in industrial relations as a result of the national "Partnership Agenda", which emphasises the importance of social partnership in policy- making as well as in the work place.

While the industrial relations climate often suffers as a result of mergers, following the merger of United Friendly with Refuge Assurance in 1996, British trade union MSF union actually reported an increase in employer-union dialogue. As the new management took on some of the more positive elements of the human resources management inherited from United Friendly, industrial relations were seen to have improved. This example is clearly more likely to be the exception rather than the rule as the experiences of other mergers have shown:

- Following the merger of Midland Bank with HSBC in 1992, HSBC, which had its own staff association, did not recognise BIFU (now UNIFI) in the UK. In 1996, Midland Bank, which had previously recognised BIFU, subsequently de-recognised the union for managerial grades.
- In Ireland, trade unions have reported a significant worsening in the industrial relations climate following the take over of Northern Bank by National Australia. The new company witnessed a series of national strikes in 1995 and a subsequent virtual de-recognition of the union.

These examples show that problems are often most severe where global mergers bring a strong clash of cultures and industrial relations regimes.

The role of employee representation in mergers and restructuring

In order for trade unions and employee representative structures to play an informed part in merger or take-over decisions – either by offering alternatives, or through being involved in the negotiation of the implementation and outcome of the merger process in relation to the workers they represent – it would be necessary for them to have access to timely and accurate information on merger intentions, the rationale behind them and prospective outcomes to allow them to develop and, if necessary, to co-ordinate a response between different sites and employee representative structures.

However, the UNI-Europa survey clearly shows that companies planning a merger or take-over rarely consulted or informed their work-force on their upcoming plans. The trade unions concerned were even less likely to be consulted. Very often, staff first hears of merger plans in the media or in the work place after the event. Where consultation did take place, it was generally very shortly before the merger decision was to be taken and did not give the union or staff representatives the final power of veto over any decision taken by the company.

Some differences in the level and quality of information and consultation taking place prior to the merger can result from the availability and enforceability of strong national legislation relating to the information and consultation of staff before decisions are taken, which are likely to have a significant impact on the work-force. The overall industrial relations climate and the level of unionisation in the sector and at company level have also played a part.

In Finland, for example, where legislation is in place and the single trade union representing workers in banking has a 90 per cent unionisation rate, negotiations over the impact of mergers on employees are obligatory for the new employer after a merger or take-over. If there are job losses, a minimum time limit is set for these negotiations. Nevertheless, it is argued by the trade unions that decisions are usually already taken before employees are consulted and these negotiations are therefore no more than window dressing.

Similarly, in Germany, where rights to information and consultation exist for the supervisory board and the central works council, such information is often not given in good time contrary to legal requirements. For example, it was only in March 1999, four months after the announcement of the take-over of Banker's Trust by Deutsche Bank, that the works council was officially informed of this development.

Thus, with few exceptions, the procedures for information and consultation on M&As are insufficient or are not sufficiently applied and enforced. This is true both at the national and transnational levels in the case of European Works Councils (EWCs). The role of the latter is seen by many to be crucial in cases of M&As which involve companies with European operations. Within the EWC Directive and its national implementation in the Member States, there is clearly some provision for workers to be informed before an event which is likely to influence a significant number of workers in more than one Member State.

However, the UNI-Europa survey shows that the level of effectiveness and activity of the EWCs varies widely from country to country. Indeed, in many cases, EWC agreements have yet to be established. Where they are in place, management often only pay lip-service to these structures. Experience has shown that EWCs have generally not received prior information of any merger intentions and have not had any involvement in consultations on post-merger strategy. A new agreement taking account of the revised structure after a merger or take-over is not always entered into, even where both undertakings involved previously had individual EWC agreements.

Together with the barriers which remain in relation to the understanding of different countries' industrial relations systems and language, the reticence of employers to make EWCs an active forum for exchange and consultation at transnational level is limiting their effectiveness where M&As are concerned.

Recommendations

Current legislation and employee representative structures are insufficient to ensure that trade unions and employee representatives can play an effective role in the process of change currently engulfing the finance sector as a result of restructuring resulting from technological advances, the globalisation of the economy and the wave of M&As. Current provisions do not always allow trade unions to effectively fulfil their role in ensuring that workers' rights and working conditions are protected in merger and take-over situations.

A number of steps can be taken by trade unions to seek to improve this situation.

Legislation

Trade unions must play their part in national and European level negotiations and re-negotiations of legislation governing the rights of employee representatives to be informed and consulted about merger and take-over decisions in a timely fashion. This can be done through national and transnational social dialogue channels and lobbying. It is particularly relevant in the framework of the renegotiation of the EWC Directive, ongoing discussions on European legislation on national information and consultation and employee representation in the European Company.

Where legislation already exists, but companies fail to implement it, they should consider whether legal action could be taken to penalise employers for not respecting such provisions. Relevant legislation includes:

- Directive on information and consultation (EWC Directive);
- Directive on Collective Redundancies;
- Directive on Transfer of Undertakings.

Preparation and national and transnational co-ordination

The unions represented in UNI-Europa have already taken steps at transnational level to formulate a trade union strategy on M&As. This strategy builds on the work of the European social dialogue in the banking and insurance sector and the links established between participating national unions. With regard to taking legislative action against errant employers, the strategy recommends that unions in Europe discuss the establishment of a network of lawyers in different countries working on cases relating to M&As on their behalf. This would allow unions to benefit from each other's experience and to exchange information.

UNI-Europa already plays an active role in the preparation and negotiation of EWC agreements in the sector and will continue to do so. Unions are urged to exploit the terms and conditions of the Directive in order to obtain as much detailed and regular information as possible from management on a merger or take-over. The Trade Union Guidelines set down in UNI-Europa's merger strategy document provide unions a list of key questions to ask management. EWC members can (as much as any confidentiality agreements allow) use their links with national trade unions to provide information and seek to develop a common response.

In order to be able to prepare more effectively for the impact of M&As on employees, trade unions need to study the impact of past mergers more closely in relation to their impact on employment, working conditions and pay, but also on quality for the consumer and outcomes for shareholders. This information should be widely shared and can allow unions to provide a stronger response to employers' claims on the economic necessity and wisdom of M&As. National and transnational exchange of information is key to the establishment of a strategic response in the case of merger announcements.

Financial services mergers and acquisitions: Consumer impacts

Professor Andrew Leyshon, University of Nottingham

Introduction

Mergers and acquisitions are an important part of the European retail financial services landscape and will continue to be so for the foreseeable future. They are indicative of a re-scaling of financial service activities within Europe as organisations endeavour to expand and diversify their operations across financial services markets, regions and countries. They are a means by which firms are able to increase market share and capitalise upon scale efficiencies within an increasingly competitive market for financial products and services.

There is a strong case for arguing that M&As within the European financial services industry are better seen as a consequence of, rather than a direct cause of, competitive change within the European financial services industry. In other words, the growth in merger and take-over activity may be interpreted as an outcome of the destabilisation of the competitive environment for financial services over the last 25 to 30 years. The market for financial services has become more competitive over this period for at least two reasons.

First, successive rounds of national and European re-regulation have removed the 'structural' regulatory barriers that previously kept firms corralled within narrow parts of the financial system, and which has encouraged firms to expand into new financial markets so raising levels of competition within them. Second, successive rounds of financial innovation have also raised levels of competition, which have changed the bases upon which firms compete with one another for customers and market share. Perhaps the best example of this is the growth of electronic databases as a means of sorting and managing customers. The use of relational databases in combination with automated credit-scoring and 'forensic' marketing systems has reduced the dependence of established financial services firms upon their traditional branch networks, which are an expensive way of distributing products and services to customers.

The ability of firms to contact and discriminate between customers 'at a distance' through the use of these technologies has encouraged extensive branch closure programmes and the growth of alternative distribution channels, such as call centres and, more recently, Internet-based financial services. This development has delivered short-term benefits for financial services firms because such delivery systems produce significant efficiency savings in the provision and processing of customer services. Nevertheless, it has also increased the level of competition within the industry as a whole and has emerged as a real threat to the long-term survival of many established financial services firms. In the past, the requirement to have an extensive network of branches to be able to participate in many financial services markets was a fairly effective barrier to entry.

However, the growth of electronic information systems and alternative distribution channels means that it is now far more cost-effective for firms without a branch network to enter financial services markets. As a result, a host of non-financial services firms have entered the European retail financial services market, increasing levels of competition still further for established firms, and adding further pressures for consolidation through merger and acquisition. This circular process of competition will be given a further spin by the growth of electronic banks offering services over the Internet.

Most accounts of merger and acquisition activity within the retail financial services sector tend to gloss over the impact on consumers in favour of a focus upon employees and shareholders. This is understandable in that the impact upon employment levels and share values is more immediate and quantifiable, whereas any impact upon consumers tends to be observable only over the medium- to long-term. Moreover, and to reiterate the argument made earlier, it is important to see the impact made on consumers by M&As as part of a wider process of reorganisation within the financial services industry more generally. It is difficult to disentangle the direct impact

that M&As have upon the consumers of retail financial services, although they may well exacerbate and amplify existing trends and processes.

Service provision in retail financial services

What has been the impact of mergers on levels of product provision/choice/cost?

The number of financial products available to consumers has increased markedly over the last decade or so. This has been brought about by a number of related developments. First, by the growth of competition between financial services firms referred to earlier, which has included competing on the number and range of products offered. Second, the number of financial products has increased as financial services firms have increasingly sought to provide investment and insurance products that substitute for welfare services that have been degraded or even withdrawn by governments in areas such as pensions, health and education. Third, and finally, changes in regulation across Europe have made it easier for firms to enter new geographical and product markets.

In addition to greater choice, there are grounds for arguing that the cost of such products for the majority of financial consumers has also fallen in real terms. Many new entrants to financial services markets have chosen to compete on the grounds of price, particularly through the use of virtual or 'at-a-distance' distribution methods such as call centres. This can be seen in the case of mass insurance markets, such as car and household insurance, and for products such as credit cards. In addition, such services give consumers greater time flexibility. Firms using such systems are able to undercut more traditional competitors through efficiency savings, as it is more cost-effective to deal with customers through technologies such as call centres than through a branch, but also because such firms actively discriminate in favour of certain types of customer and against others.

Consequently, while most customers have benefited from such developments, through a proliferation of choice and the increase in price competition, a significant minority of financial services consumers have lost out. The losers are consumers who are seen to be particularly bad risks or insufficiently well-off for financial services firms to justify the costs of servicing them as customers. These individuals and households also lose out in another way. The financially excluded tend to be those with low levels of literacy and educational attainment and experience difficulty in navigating their way through the increasingly complex world of retail financial services. They face problems of decision-making even when they are presented with the opportunities to make choices about the purchase of financial services.

Therefore, the landscape of European retail financial services provision is increasingly complex, but increasingly divided. There is very little evidence of the impact that mergers make on product provision, but one would suspect that they do not necessarily lead to the disappearance of products. Indeed, given the current climate for product innovation, it would be more likely that mergers might be motivated by a desire to expand the product range.

Have staff reductions decreased standard of service?

A clear motivation for merger and acquisition activity within retail financial services is to reap efficiency savings. The most effective way to do this is to close branches, as firms are able to economise on staff, property and equipment costs. It should be noted that financial services firms have been undertaking extensive branch closure programmes from at least the late 1980s onwards. UK banks and building societies closed 20 per cent of their branches between 1989 and 1995, largely independent of merger and acquisition activity. However, programmes of branch closure tend to accelerate in the wake of mergers. For example, the British banks, Lloyds and TSB plc, were already pursuing their individual strategies of bank branch closure ahead of their merger in the late 1990s. The merger meant that even more branches were closed as the new bank, Lloyds-TSB, began to eradicate branch overlaps. A similar acceleration of branch closures will occur following the merger between National Westminster and the Royal Bank of Scotland. However, in some cases the reverse can happen. For example,

Midland Bank began a major branch closure programme in the late 1980s which ended when the bank was purchased by HSBC. In the main, the drastic closure programme had been driven by Midland's severe financial problems which were resolved when the bank was bought in the early 1990s.

The closure of branches has undoubtedly reduced the level of physical service provision for some customers. Most customers have to travel further to use a branch and this disproportionately affects those who are less mobile, either for reasons of low income or physical disability. This development has also had a negative impact upon those with low levels of financial literacy, for it makes it more difficult for consumers to be able to engage in face-to-face discussions with branch staff which can help clarify confusion in financial services publicity material and documentation.

While the growth of 'remote' service facilities, such as ATMs and telephone banking, are more than adequate substitutes for branches for many customers, they may not suffice for disadvantaged groups who are less likely to have access to a telephone. These growing physical, social and technological distances between the most disadvantaged members of society and the formal financial services industry has encouraged the growth of predatory financial services providers, such as money-lenders, who charge high prices for debt-products but who also provide a 'door-to-door' service and offer cash-based service and the possibility of irregular repayments.

Have mergers restricted competition/created monopolies?

One of the major motivations of merger and acquisition activity in all industries is to counteract competitive pressures by pooling and redistributing market share. In that sense, the *raison d'être* of much merger and acquisition activity is precisely to counteract the effects of competition upon the organisations concerned. It would seem that the danger of monopoly within the retail financial services sector is very strong. This is partly a legacy of decades of financial regulation within Europe that was designed to encourage stability within the financial services industry for fear that too much competition would lead to a crisis.

This crisis, through a process of contagion, could then spread to the rest of the economy. As a result, for most of the post-war period, many financial services firms have been able to develop dominant market positions without intervention from government agencies. Therefore, although there has been a growth in competition and product availability in recent years, this has taken place from a low base. This state of affairs was acknowledged by a recent government report on competition in UK banking that recommended any future bank merger be referred to the Competition Commission because the tendency towards monopoly in the industry would be counter to the consumer interest (*Competition in UK Banking: a Report to the Chancellor of the Exchequer*, HMSO, London: www.bankreview.org.uk).

What has been the impact on quality of products?

It is very difficult to isolate the impact of M&As upon the quality of products. As indicated earlier, the range of products offered by retail financial institutions has increased. Moreover, the industry insists that its move to an 'at-a-distance' mode of service provision is demand-led. From the industry's perspective, branch closures are as much a product of consumers opting to use ATMs and telephone banking facilities in place of branches, for example, as it is the fact that remote facilities are more cost-effective for financial services firms. For example, Barclays Bank claims that less than 40 per cent of its customers now use branches due to the availability of cash machines, telephone and Internet banking. 20,000 of its 13,000,000 customers, 0.15 per cent, registered for Internet banking in one week.

However, there is also some anecdotal evidence to suggest that not all customers are happy with the introduction of centralised enquiry systems, whereby telephone enquiries to branches are fielded by operators in centralised call centres, and only routed through to branches if the enquiries cannot be dealt with remotely. Some customers

feel that this represents a degradation of the relationship they have with their financial services provider. Moreover, as the financial services industry becomes more competitive, so the danger of firms selling inappropriate or bad products to customers increases (as in the case of the pension selling scandal in the UK).

Does the impact on consumers differ depending on the nature of the merger/take-over?

Mergers of financial services firms serving professional markets (such as investment banks) will have only indirect effects on consumers, whereas mergers of retail financial services firms will have a more direct impact. There is insufficient evidence to be able to make a more precise qualification of this statement.

Impact on smaller and larger consumers

Have mergers deepened social exclusion, e.g. through branch closures, increasing use of new technology such as Internet banking?

Mergers between financial services firms have not necessarily deepened social and financial exclusion. However, as indicated earlier, a significant minority of people do not have access to basic financial services, and these individuals and households tend to be geographically concentrated. Research undertaken by the author has revealed that bank branch closures tend to be disproportionately concentrated within the poorest parts of towns and cities. Because these individuals and households tend to be the most economically marginal members of society, they are the least able to make personal investments in the kinds of basic infrastructure needed to participate in developments such as telephone-based financial services or Internet-based services. For the latter, customers would need not only to be connected to a telephone service but also be able to afford an expensive personal computer and accompanying software. In some of the poorest parts of European cities significant, proportions of the population are unable to afford a telephone.

Social and financial exclusion may well be deepened by parallel developments in the area of credit scoring. Increasingly, diagnostic software programmes determine the potential profitability of customers through analyses of information provided on application forms for various products and services. Financial services firms use these programmes because they reduce bad debt and increase profitability. But credit scoring systems may also prevent some consumers from gaining access to financial services because they have certain social and financial characteristics that mean they will not gain approval and be offered services or products (see Leyshon and Thrift, 1999).

Has there been a differential impact on larger and smaller consumers/investors?

New technology and the increased ability of financial institutions to offer a wider range of products and services have benefited those with the means to access them. Consumers with a regular income and a good credit history are able to borrow money more readily and cheaply than ever before, although this has often led to widespread debt encumbrance. Consumers of retail services with more restricted incomes, with poor credit histories or unstable social backgrounds, are finding it more difficult to get access to the mainstream financial services sector traditional banking services.

Have consumers benefited from windfall payments?

A process that has run in parallel to that of merger and acquisition activity within the financial services sector has been that of 'demutualisation'. Insurance companies and building societies have been prominent mutual organisations, effectively owned by their members, that is, by consumers who held policies or debt products and who have the right to vote on policy and other matters at Annual General Meetings. In recent years, there has been a wave of demutualisation as building societies and insurance companies have converted to public limited

companies, effectively buying the ownership from members in the form of windfall payments of up to several thousands of pounds each, based on the level of business that customers did with the organisation. These payments have undoubtedly enriched many individuals and households in the short-term. Moreover, they have the capacity to do so over the long-term too, to the extent that customers retain shares that continue to rise in value, or where customers have used the money from the sale of shares to invest in other long-term investments.

However, set against these benefits is the calculation that products offered by public limited companies tend to be more expensive over the long-term because they have to be priced at a level that generates sufficient profits to allow dividends to be returned to shareholders. Thus, it has been calculated that over the life of an average mortgage or life insurance policy, products purchased from a public limited company are more expensive than those purchased from a mutual organisation. There is some anecdotal evidence to suggest that some customers take advantage of the windfalls but then move their financial services business to another mutual organisation. Whether this is due to a preference for cheaper long-term financial services or merely in anticipation of a short-term gain from yet another demutualisation is impossible to determine from the evidence currently available.

Several demutualised organisations have subsequently been bought by large European financial services firms, and have so provided further momentum to the wave of M&As in the financial services industry.

Reactions by consumers to mergers

What has been the impact on consumer brand loyalty (e.g. evidence of client moving to or away from the new company as a result of the merger)?

Again, it is virtually impossible to determine the exact impact of specific M&As on levels of customer loyalty from the available evidence. This kind of information is highly sensitive and is not easily released by firms. However, it is generally known that the industry sees declining levels of customer loyalty as a problem, although levels of customer mobility vary markedly between sectors. Levels of mobility are relatively high in price-sensitive sectors, such as car and household insurance, whereas it is lower for more complex products, such mortgages, and lower still for banking services.

In all product areas, a growing number of consumers are prepared to move their business from one firm to another. Although on the whole financial service customers tend to be highly conservative, it tends to be the more affluent and financially literate customers that are most prepared to shop around for products and to relocate their financial activities if necessary. This is seen less as a boon and more of a burden for the financial services industry. Such developments add to the marketing costs of the industry as firms seek to develop attractive brands and retain and attract customers through advertising. In addition, while these are exactly the kinds of customers firms would like to attract from other firms, as they are more likely to buy additional financial products, they are also the customers firms would least like to lose from their own customer rosters. The problem is complicated by the fact that in the case of products such as current accounts, customers rarely engage in activities as clear and precise as closing one account and opening an alternative, substitute account elsewhere. Rather, they tend to open additional accounts to run alongside their existing service and move their business across gradually, while maintaining the original account, to provide maximum flexibility and to leave open the possibility of reversing the account transfer should they need to in the future. This adds costs to the banking sector as a whole, as additional accounts have to be serviced without a net addition of capital to the system. This contradictory development is exacerbated by the development of packages to encourage and facilitate the movement of business from one account to another as firms agree to take responsibility for transferring items such as direct debits and standing orders.

Perhaps the clearest evidence of customers abandoning firms in protest at strategic decisions made by financial services firms may be seen in the case of protests against bank branch closures in the UK. As banks have closed

branches in communities, many individuals have voted with their feet and moved their accounts from the 'runaway' branch to the branches that remain. However, in some cases, individuals and households in particularly marginal or remote communities have sometimes moved their accounts from one branch to another only to find themselves in a similar situation when their 'refuge' bank subsequently makes a similar decision to abandon that particular community.

Conclusions

The main conclusions to this brief overview are as follows:

- It is difficult to discern specific impact on consumers from merger and acquisition activity within the European retail financial services sector.
- Merger and acquisition activity should be seen as an outcome and a response to the intensification of competition across the retail financial services industry.
- Increased competition is a product of wider regulatory changes and a reduction in the entry barriers to retail financial services. This has involved a move away from a dependence upon collecting and utilising face-to-face knowledge accumulated within branches towards the use of electronic databases which can be used to discriminate between and communicate with consumers 'at-a-distance'.
- Retail financial services markets are becoming increasingly polarised as a result of processes of financial inclusion and financial exclusion. This process will intensify with the growth of Internet banking which will increase choice and reduce costs to those consumers who buy their financial services on-line.
- The problems of finding readily accessible information on consumer responses to changes suggest the need for a more effective system of monitoring the social accountability of the European retail financial services market. Within the United States, for example, it is possible to determine the impact of bank mergers on consumers because of the existence of regulation that requires banks to disclose information on the markets they serve (the Community Reinvestment Act) and the outcomes of decisions on applications for home mortgages (the Home Mortgage Disclosure Act) (see Dymski, 1999). Such legislation has enabled communities and unions to monitor the impact of M&As within the banking sector and to mobilise objections to mergers that might produce socially regressive lending outcomes. There is a clear need for parallel legislation to require disclosure within the Member States of the EU.

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The performance of banking mergers: Proposals and policy implications[1]

Hans Schenk, Professor, Tilburg University and Chairman of GRASP Research at Erasmus University, Rotterdam

Abstract

Using ex-ante and ex-post methodologies, this paper discusses the performance of mergers in banking. The discussion is set against a more general background and concludes that it is unlikely that mergers among large banks, as well as take-overs of small banks by large banks, are able to create much economic wealth. Also, such mergers and take-overs do not generally create positive shareholder returns. The generality of this finding is demonstrated by a discussion of findings on non-financial mergers. Since the ubiquitousness of ill-performing mergers is at odds with both conventional wisdom and economic theory, the paper discusses briefly why then such mergers and take-overs take place at all.

It is suggested that especially large banks may be incapable of checking value-destroying strategies because of the incidence of so-called minimax-regret behaviour both among their large clients and among themselves. The paper touches upon some wider effects on economic efficiency and comes up with several policy implications. It is argued that competition policies should address issues of productive efficiency along with issues of allocative efficiency and that industrial policies should improve the access of retail clients to investment funds.

Introduction

The 1990s have seen a merger and acquisition wave with unprecedented peaks in both the United States and Western Europe. With more than 1,000 billion US dollars in annual deal value during much of the second half of the 1990s, and roughly double this number during 1999, this fifth merger wave of the century easily outpaced the size of investments in equipment, machinery and corporate research and development. While a considerable share of merger activity consisted of the getting together of firms that were already large thanks to earlier mergers, a substantial number of mergers concerned the take-over of small, innovative firms. All industries, be they young or mature, seem to be affected. Banking mergers would therefore merely seem to be part of a larger phenomenon. By implication, in order to understand why mergers occur in banking, it would be helpful to understand why merger waves occur at all.

To get a feeling for the importance of bank mergers, consider the following observations. During the 1980s, more than 5,000 US banks lost their independence due to take-over, followed by the disappearance of another 3,000 during 1990-1997, implying that almost half the number of banks in existence in 1980 had been acquired twenty years later. American banks spent in excess of $65 billion to acquire other banks in 1997. In the EU, 760 financial services mergers took place between 1985 and 1995 (of which more than 65 per cent were between domestic players). During the first quarter of 1998, the number of banking mergers in the EU (excluding Germany) amounted to no less than 490. EU banks spent around $100 billion in 1998, which was up from $70 billion in 1997 and an average of $15 billion during 1994-1996. During the first quarter of 1999, EU banks expended in excess of $65 billion on M&As. As a result, the number of credit institutions in the EU has decreased from 12,256 in 1985 to 9,285 in 1997. Interestingly, the average size of mergers outside as well as within banking has increased starkly both within the US and the EU. The number of so-called banking "supermegamergers" (involving institutions with assets of over $100 billion each) increased markedly. In the US for example, based on market values, four of the ten largest mergers in any industry ever, prior to 1999, involved banks: Citicorp/Travelers, BankAmerica/Nations Bank, Banc One/First Chicago and Norwest/Wells Fargo). European banks competed with such mergers as UBS and Swiss Bank Corporation, Deutsche Bank and Bankers Trust, Royal Bank of Scotland and NatWest and BNP-Paribas. Still, most mergers in the US are between very large banks acquiring smaller institutions and a similar pattern is evolving in the EU.

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Clearly, mergers in banking and elsewhere take up considerable amounts of managerial time and talent. Since they usually require enormous funds to be implemented, it is important to know what they deliver to the economy. Is all this time and money spent well? In this paper, the author reviews the evidence for banking mergers by referring explicitly to non-financial mergers as well. Although many studies of banking mergers have been undertaken, there are still many questions left. Looking into the effects of non-financial mergers may therefore be helpful in establishing an overall view on the issue.

Methodology

The performance effects of mergers can be estimated in several ways, but two of these have received prominence with dozens of applications having been published over the last two decades:

- studies which try to assess merger performance indirectly by analysing the reactions of the stock market to merger announcements, so-called event studies or ex-ante studies; and,
- studies that pursue a direct assessment by analysing the effects of mergers on real firm performance in as far as this can be gauged from internally-generated accounting data, so-called ex-post studies.[2]

In most of the studies, the underlying assumption is that improved stock performance (ex-ante studies) or improved profitability (ex-post studies) are best indicators of true performance increases. That is, increases in productive or internal efficiency, for example, productivity and/or improvement in dynamic efficiency (i.e., process and product innovation), increase the creation of economic wealth. Although this latter criterion is the only one that makes sense when assessing mergers from a social point of view, it is evident that M&As may well be beneficial to certain stakeholders (shareholders, managers, employees) and thus welcomed by them even if no economic wealth has been (or will be) created. The most conspicuous example would be a merger that increases profitability as a result of the creation of additional market power.

In this case, wealth is merely redistributed from consumers to producers (in economic jargon, it is said that allocative efficiency has deteriorated). Other examples of merger advantages that are not related to the creation of wealth include increased bargaining power vis-à-vis suppliers of inputs and tax advantages. For example, the take-over of AEG by Daimler-Benz brought tax savings of approximately 1.9 billion Deutsche Mark (approximately 1 billion Euros) which was several hundred million DM more than the purchase price paid (Bühner, 1991). Whereas it is currently debated whether mergers seeking tax advantages should be of concern to public authorities, it is widely accepted that mergers which merely lead to a transfer of wealth from consumers (clients) to producers (banks) should in principle be prohibited.

Since it is unlikely that a merger *reduces* market power, post-merger profits would normally not be smaller than pre-merger profits. Nevertheless, if it is observed that profits have decreased after a merger, it can be safely concluded that this merger has had negative effects on productive or dynamic efficiency.

Ex-ante studies. Ex-ante studies, commonly found in finance literature, define the announcement of a merger (or sometimes its consummation) as an event in the stock price history of the merging firms. The effect of this event is estimated by assuming that changes in the share prices of the merging firms, after checking for movements in the market in general and the systematic risk of the firms concerned, represent the value of the event. In a substantial number of cases, some variant of the capital asset pricing model (CAPM) or the market model (MM) is used to calculate the expected returns for the firms in question.

Systematic changes in the residuals (abnormal returns) from these models around the event will then show the effects of a merger. When estimating the effect of mergers beyond a single case, the residuals are averaged over all the firms in a sample for various days or months before and after the event and subsequently accumulated over a period to give the cumulative average residuals (CARs). Using the CAPM or some variant makes it

[2] Other types of merger assessment include questionnaire studies (these are less appropriate due to likely response bias) and case studies (which, though very illuminating, may not have general value).

necessary to assume that the capital market is efficient, meaning that stock prices are a true reflection of the present value of the underlying assets, including all future cash flows.

A merger announcement contains new information which will be assessed by investors on its promises for future earnings. Stock prices of both acquirer and target will rise if investors estimate that the merger will lead to positive additional future earnings.

Ex-post studies. Ex-post studies usually compare, occasionally for very large samples, profitability data for merging firms with a control group of less acquisitive or non-merging firms and/or with the history of the merging firms themselves. Some studies have gathered data on real resource effects, others on market share and R&D outputs. In as far as these studies have focused on data that have been generated by the merging firms themselves, they are not without pitfalls either. For instance, it is well known that firms can use an impressive arsenal of creative accounting techniques so that published accounts may not give a true and fair reflection of these firms' financial position. For example, the incorporation of the acquired firm's profits in the year of merger and the handling of the premium paid by the acquiring firm are notorious for the extent to which they can be manipulated (Smith, 1992).

In addition, M&As can be accounted for by means of purchase accounting or pooling of interests accounting. The two methods lead to fundamentally different profit ratios while both can have a depressing effect on calculated post-merger profits.[3] Besides, it may be very difficult to define a comparable control group, especially since most acquisitive firms have become quite diversified (at least since the mid-1960s) and their diversification patterns may differ substantially. Also, many acquisitive firms undertake several acquisitions in succession, so that the effects of a specific acquisition may be hard to isolate. Finally, since the typical acquired firm is several times smaller than the acquiring firm, its contribution to profits may be overwhelmed within the much larger compass of the new parent's operations.

The empirical evidence: event studies

Turning now to the evidence, it can be concluded that event studies lead to quite sobering inferences. In a study of bank mergers consummated during 1987-1997, by management consultants Mitchell Madison (see *The Financial Times* of 10 August 1998), 60 per cent under-performed controls in terms of shareholder returns for acquirers, sometimes by as much as 17 per cent. This concurs with a survey of Rhoades (1994) who reviewed twenty-one event studies of US banking mergers. He finds that only three studies conclude that a merger announcement had a positive influence on the returns to stockholders of the bidding firm. In contrast, eight out of nine studies that analysed effects on the target bank's share performance find a positive return to shareholders. In particular, studies carried out since 1989 were found to undercut the hypothesis that the financial markets expect mergers to improve bank performance.

A recent study of 54 relatively large European mergers undertaken during 1988-1997 came up with comparatively positive findings (Cybo-Ottone and Murgia, 2000). When compared to a general market index, about half of the acquiring banks in the sample showed positive CARs. The average post-announcement abnormal gain to acquiring shareholders was in the area of 1.4 per cent, whereas target shareholders gained on average more than 12 per cent. However, the study only investigated merger effects for rather tight event windows, stretching to only 20 post-merger days at the most.

Bain & Company investigated the development of shareholder value for 50 of the largest bank mergers of the 1990s for much longer time periods (see Weimer and Wisskirchen, 1999). The assessment covered various

[3] Under purchase accounting, the assets of the acquired firm are recorded at the effective purchase price paid, while under pooling of interests accounting, they are recorded at their pre-merger book values. If a premium is paid over the acquiree's book value, an addition will be made to the acquirer's goodwill account under purchase accounting while it will be debited to the acquirer's equity account in the case of pooling of interests accounting. Both profit/assets and profit/sales ratios will be lower under purchase accounting than under pooling of interests accounting. Under either method, the net worth of the merged firms is increased upon consolidation to reflect current market values, and this results in the creation of a larger asset base and additional depreciation expenses. The effect of this is that the calculation of post-merger profitability may be biased downward relative to pre-merger profitability.

event windows, ranging from three days before the announcement to legal completion; from legal completion to one year after; from one year after legal completion to two years after; from two to three years after; and, for the full period. Unfortunately, only the results were published and not the research methodology. Thus, it is not possible to assess the merits of the study. Moreover, client opinions are likely to be biased in favour of mergers so that the study may overstate the positive effects of these mergers.

Still, the results seem worthwhile enough to replicate here (see Table 1). Whereas Bain & Company have made a distinction between mergers that were consummated before 1998 and newer deals, these have been combined in the table. Clearly, the assessment of the newer deals relies more on short-term stock market evaluations. It can be seen that roughly 30 per cent of these mergers would probably have to be qualified a success. Therefore, seventy per cent are likely not to be a success, or in other words likely to be a failure in the sense that they could not or are unlikely to realise any economic gains (in as far as these can be inferred from stock valuations).

Table 1: Assessment of the 50 largest bank mergers, 1990-1999

Probably a success	Neutral	Probly a failure
•ABN-Amro	• ABN/Amro-Banca Real	• B. Central-B. Hisp. Americano
• Ass. First Cap.-His. Avca Fin.	• Ambroveneto-CARIPLO	• B. di Roma-B. Santo Spirito/Cassa di Roma
• Ass. Generali-B. della Swizzera	• B. de Bilbao-Banco de Vizcaya	• Banc One-First Chicago
• B. de Santander-B. Central Hispano Economica	• B. Bilbao Vizcaya-B. Excel	• Crédit Agricole-Banque Indosuez
• Banco de Santander-Banesto	• Bank Austria-Creditanstalt	• First Union-Core States
• Bayer. Vereinsbank-Hypobank	• Credito Italiano-Unicredito	• Fleet Fin. Corp.-Sanwa Bus. Cr.
• BCP-BPA	• Bank of Tokyo-Mitsubishi Bank	• Monte del Paschi di Siena-Banca Agricola Montava
• Chase-Chemical	• CCB-CLF	• Realkredit-BG Bank Romagnolo
• Cred. Italiano-Credito	• Crédit Suisse-Winterthur	• St. George Bank-Advance Bank Australia
• Deutsche Bank-Bankers Trust	• Dresdner Bank-Kleinwort Benson	• Sun Trust-Crestar Fin. Corp.
• Dt. Verkehrsb.-Long Term Credit	• First Bank-US Bancorp	• Washington Mutual-HF Abmanson
• Lloyds-TSB	• IB San Paolo di Torino-IMI	• Wells Fargo-First Interstate
• Nordbanken-Merita	• ING-Barings	
• Star Bank Corp.-Firstar	• Merrill-MAM	
• Travelers-Citicorp	• Morgan Stanley-Dean Witter	
	• Nat. Australia-Michigan National	
	• Nations Bank-BankAmerica	
	• Norwest-Wells Fargo	
	• Rabobank-Robeco	
	• SBC-UBS	
	• Société Générale-Crédit du Nord	
	• Travelers-Salomon Broths.	

Source: Bain & Company

Interestingly, these findings are not much different from those found in studies that apply to non-financial industries. Reviewing 29 studies from different countries and time periods, Mueller (1996) confirmed earlier reviews to conclude that target firm shareholders enjoy substantial gains. Beginning around two months before the event, the target firm's share prices start to rise until they outperform their CAPM-predicted returns or the returns of the control group at or immediately after the event.[4] For the studies reviewed, the median gain to acquired firm shareholders amounted to 20.6 per cent. The median gain to acquirers in Mueller's review is only 0.2 per cent, but in the light of studies not covered in the review, even that result would seem upwardly biased. Reviewing ten studies that have measured CARs over a tighter event window (within five days before or after the event), Sirower (1997) finds that average acquirer's CARs in US mergers undertaken during the 1980s range from -3.35 to, at best, -0.85 per cent with only about 35 per cent of acquisitions being met with positive stock market returns on announcement.

[4] The pre-event rise could be due to insider knowledge and trading, to the acquirer building up a toehold, or to strategic buying (i.e. to investors having spotted that the firm must be a prime candidate for acquisition).

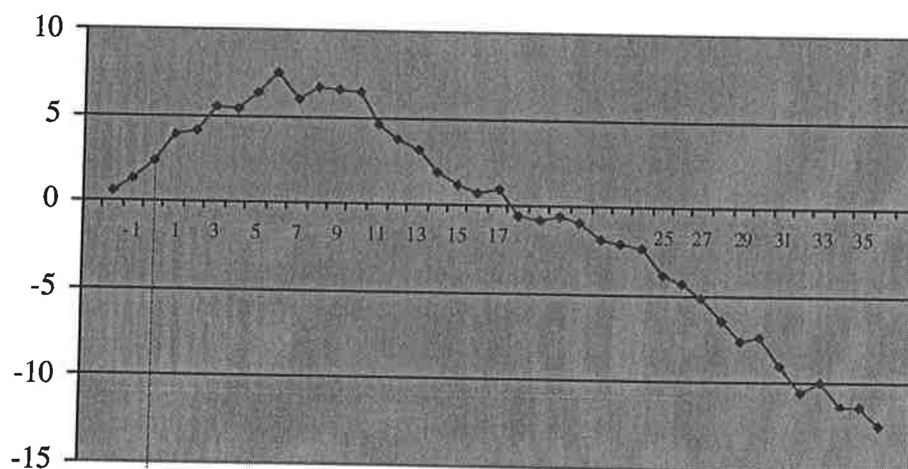
When event windows are expanded to the medium-term (six months to three years after the event), the returns to acquiring firms usually appear to deteriorate significantly. Mergers are typically consummated six months after their announcement. Out of 25 studies that have estimated the returns as of that date, 19 come up with negative abnormal returns (with a median value of -6.8 per cent for all 25). Magenheim and Mueller (1988), who estimated the performance of 78 mergers for an event window of -3, 36 with a pre-event CAPM benchmark, came up with CARs of between -15.7 and -42.2 per cent.

The studies discussed have not made distinctions between purely national and cross-border mergers and take-overs. Since the latter category has increased in importance, especially during the late 1980s and 1990s, a team at Erasmus University decided to study shareholder returns for cross-border mergers and take-overs exclusively (see Schenk, 2000c). Moreover, the team focused on returns to acquiring shareholders only, on the assumption that returns to the owners of acquired firms are more likely to benefit from bidding process peculiarities instead of economic fundamentals.

The sample included 87 foreign acquisitions by 63 Dutch firms undertaken during 1990-1995. It included services firms (trading and retailing) as well as firms from construction industries but no financial services firms. The predicted (normal) returns were calculated using the market model over an estimation window stretching from 38 months to 3 months prior to the event. In order to capture both short- and long-term returns, an event window was taken stretching from 2 months prior to the event to three years after it. Figure 1 clearly shows the stock market reaction to these mergers to be negative in the long run though positive in the short run, i.e. until about six months following the merger announcement. For the period as a whole, shareholder value of these acquiring firms dropped by more than 12 per cent.

These findings are corroborated by a recent study of KPMG management consultants (KPMG, 1999). For a sample of 107 firms taken from a list of the 700 largest cross-border deals by value completed between 1996 and 1998, it found that only 17 per cent of the deals had added shareholder value to the lead firms relative to industry matched controls. As many as 53 per cent actually destroyed value whilst the remainder produced no discernible difference.[5]

Figure 1: CAR (%) of 87 foreign acquisitions by large Dutch firms, 1990-1995, [-2, +36 m]



In conclusion, the majority of event studies that have tried to capture the results of merger in banking or elsewhere for the acquiring firms show negligible payoffs or small losses at announcement and significant negative returns thereafter. Since acquirers usually appear to be outperforming the market prior to the event, this implies that they become worse off as a result of M&As. However, the returns to target shareholders are significantly positive. To

[5] Interestingly, of the board members of the firms investigated 82 per cent believed (or at least said that they believed) that the mergers had been a success. Less than half of the lead firms had carried out a formal review process.

some, this latter finding is sufficient evidence to conclude that M&As create wealth. They would argue that an efficient market would bid away any potential gains to acquirers during the process that leads up to the consummation of the merger so that the target shareholders' gains are the net increase in economic wealth. Of course, this would be quite unsettling to the shareholders of the acquiring firm as they would see their agents spend much time and financial resources in a market of high risk and, at best, a predicted gain of approximately zero.

More fundamentally, however, there are two issues that deserve to be discussed. The first concerns the sources of any positive evaluation by investors. Positive results may be explained by expectations that the management of the acquiring firm will be able to raise the productive and/or dynamic efficiency of the target. This explanation is normally embraced by those who claim that the market for corporate control is efficient (such as Jensen, 1988). However, positive returns might equally well be explained by expectations that the new firm will have more market power. In both cases, future profits may rise thus justifying the premiums paid. Ex-ante studies cannot tell us which of the two is the real source. In fact, it has been demonstrated that the stock prices of rivals of merging firms also rise upon announcement which suggests that investors may be expecting increasing chances for collusion which would benefit their firms too.[6]

Even more fundamentally, the question is whether equity prices are unambiguously related to economic fundamentals. Since many studies have found that stock prices are sensitive to new information (i.e., that they react promptly and swiftly to news events) and that investors cannot systematically outwit the market, it would seem evident that this relationship is real. However, Summers (1986) has pointed out that these findings in themselves are not sufficient evidence to accept the hypothesis that capital markets are efficient. They would be consistent, too, with a hypothesis that claims that market valuations include large persistent errors. Summers' alternative formulation would be consistent with several important findings both experimental and empirical. On the experimental side, Tversky and Kahneman (1981) have found that subjects overreact to new information in making probabilistic judgements (see Schenk, 2000b, for further discussion). Shiller (1981) has shown empirically that financial markets display excess volatility and overreact to new information. Clearly, the capital market can easily be the victim of 'fads' or fad-like behaviour by investors (see also Shiller, 2000). Moreover, if targets are desired by multiple bidders, bidding wars may easily result in economically unjustified premiums.

These findings do not exactly boost one's confidence in ex-ante studies. In fact, it would seem that such studies do not have the systematic power to tell us anything more than that target shareholders are able to gain substantially, and that the market for corporate control requires the payment of significant premiums. Whether these gains and premiums are systematically related to economic fundamentals, instead of being the result of investors having overlooked the stock so that it was undervalued or of acquisitive managers who have overvalued it, is uncertain to say the least. Rather, one would have to rely on additional information and the next section will look at the most important findings of ex-post studies.

The empirical evidence: ex-post studies

Given the measurement problems mentioned above, and the various ways in which they have been tackled, ex-post studies have produced very consistent results.

These results paint a pessimistic picture. It appears that failure is widespread, mediocrity considerable and success only occasional. Looking first at the most important studies of non-financial mergers, Meeks (1977) selected 233 British mergers and acquisitions undertaken in the period 1964-1972 so as to give normalised profitability data for at least three years before, and up to seven years after the merger. He found that the acquirers significantly outperformed their industries pre-merger, but that performance declined subsequently, except for the year of merger. As suggested by Meeks, the relative performance improvement during the first year might well be explained by accounting manipulations and/or some sort of window dressing in order to reassure

[6] The stepped-up appreciation of rivals' shareholder value may also be due to shareholders perceiving a larger probability of these rivals becoming take-over targets now that other mergers have taken place.

shareholders of the fruits of the merger. A similar study done by Kumar (1985) on 350 M&As in the UK during 1967-1974 again showed significant profitability declines that were persistent over several post-merger years. When taken together, these two studies reveal that approximately 62 per cent of all M&As showed negative results in comparison to their proxy counterfactuals.

More recently, Dickerson, Gibson and Tsakalotos (1997) investigated whether there is a permanent shift effect on performance following a firm's first acquisition and whether there are differential returns to acquisition growth and internal growth. Their study utilised a large panel of UK-quoted firms over the period 1948-1977 and, in an effort to capture long-term performance, included only those companies for which there was a minimum of ten years of data. This implied that they had 2,941 companies with an average of 18 years of data on each Just under 30 per cent of these companies were present in the sample for the whole duration of 30 years. Out of the almost three thousand firms, 613 (21 per cent) made at least one acquisition for a total of 1,443 acquisitions. Thus, the study allowed companies once they had made an acquisition to be compared with their previous performance, as well as with non-acquiring firms. Moreover, it took account of changing levels of M&As activity over time thus eliminating any period-specific bias.

Dickerson *et al.* find that acquisitions have a systematic detrimental impact on company performance as measured by the rate of return on assets. Not only is the coefficient on acquisition growth much lower than that on internal growth, but there appears to be an additional and permanent reduction in profitability following acquisition as well. More specifically, for the average company, the marginal impact of becoming an acquirer was to reduce the rate of return relative to non-acquirers by 1.38 percentage points (i.e., in the year of the first acquisition). Taking all subsequent acquisitions into account, acquiring firms experienced a relative reduction of 2.90 percentage points per annum. Since the mean return across all non-acquiring firms was 16.43 per cent, this translates into a shortfall in performance by acquiring firms of 2.9/16.43, which is around 17.7 per cent per annum. When decomposing growth into acquisition growth and internal growth, the study shows that if a company were to double its rate of growth through growing internally, then its profitability would rise by almost 6.9 per cent in the long run. If the same growth rate were to be realised by acquisition, then profitability would only rise by 0.2 per cent.

Arguably the most exhaustive and ambitious study of post-merger performance thus far, applying to non-financial M&As undertaken by American firms was done by Ravenscraft and Scherer (1987). They examined no less than 5,966 M&As by 471 corporations in the US between 1950 and 1977, as well as 900 divestitures in the period 1974-1981. The results were subsequently tested on fifteen case studies of acquired and later divested firms. The econometric analysis is based on the Federal Trade Commission's Line of Business data set which provides a uniquely detailed collection of information on US manufacturing over the period 1974-1977. The unique character of the Line of Business data set, as its name implies, is that it provides company information that has been broken down according to 261 manufacturing industry categories. Apart from explicit information on merger accounting methods used, the data set includes information on depreciation methods, plant asset age, inventory accounting methods, growth rates, R&D and advertising intensity. Thus, most of the objections that one may have against internally generated company data were invalidated. Moreover, the data set allowed Ravenscraft and Scherer to perform analyses at the divisional level of firms so that the results of acquisitions that are small relative to the acquiring firm could be tracked as well. Besides, the high degree of disaggregation made it possible to form sharply focused control groups (divisions can be matched more easily than firms). Finally, the data set included smaller and privately held companies.

Again, the findings of this project are quite unsettling. First, acquired firms did not appear to be systematically ess profitable than other firms. Indeed, companies which were privately held before acquisition may even have been more profitable than industry and size matched non-acquired firms. Secondly, the financial results of the nergers investigated were generally poor. On pooling of interest acquisitions without systematic asset revaluations, rofitability was barely above control group levels. Even in the best year, 1977, it was much lower than the verage acquired unit's pre-merger return. Purchase acquisitions under performed their controls partly because

of asset revaluations. Only mergers involving roughly equal firms ('mergers of equals', i.e., mergers between firms that differed from one another in size by not more than a factor of two) had a positive effect on post-merger profitability, but such mergers were extremely rare (69 out of a total of almost 6,000). Third, Ravenscraft and Scherer did not find any evidence to support the hypothesis that R&D was stimulated by the parent-subsidiary relationships following merger.[7]

In an effort to answer the counterfactual question of whether profits would have declined as much had merger not occurred, Ravenscraft and Scherer drew a special control sample of 261 'independent survivors' that had similar size and operating income/assets ratios to a sub-sample of 69 acquired lines. The 179 firms that qualified for the regressions appeared to have kept up their profitability much better than the acquired firms. Although the acquired firms' average growth rate of 8.9 per cent per year was higher than that of their home industries, all of the independent survivors grew even more rapidly, at 13.1 per cent per year. Evidently, the profitable firms that chose to remain independent were not deprived of growth capital relative to the firms that became a subsidiary of another firm and that by doing this enabled themselves to tap an internal corporate funds market.

Summarising, Ravenscraft and Scherer's investigation of divestitures leads to the following conclusions:

(a) the units acquired and later sold off were on average in robust good health at the time of their acquisition, but became gravely ill thereafter;
(b) in those cases where acquired units were doing badly already before take-over, then the problems tended to get worse after it;
(c) sold-off units fared much better after sell-off than before;
(d) between 19 and 47 per cent of all acquisitions were eventually divested, with an average lag of nearly ten years;
(e) the problems preceding sell-offs were most serious following conglomerate acquisitions.

Further insights consistent with the Ravenscraft-Scherer evidence come from a number of studies which will only be briefly summarised. Using similar methodologies, a team supervised by Mueller studied mergers in Belgium, Germany, France, The Netherlands and Sweden alongside British and US mergers. On the whole, the project concluded that "no consistent pattern of either improved or deteriorated profitability can (...) be claimed across the seven countries. Mergers would appear to result in a slight improvement here, a slight worsening of performance there" (Mueller, 1980a: 306). Copeland *et al.* (1994) report on a McKinsey & Company study of 116 acquisition programmes undertaken by firms that were represented in either *Fortune*'s list of the 200 largest US industrials or the *Financial Times*' top 150 UK industrials between 1972 and 1983. Only 23 per cent were successful in terms of the acquiring company being able to earn back its cost of capital or better on the funds that had been invested in the merger. A study of German mergers (Bühner, 1991) covered 110 transactions undertaken by the largest 500 manufacturers in the period 1973-1985. Only those mergers were included for which at minimum data for three pre-merger as well as three post-merger years were available. Both horizontal and diagonal mergers registered a decline in return on equity as well as return on assets over pre-merger values, while the effects were strongest for diagonal mergers, a result which was upheld when six instead of three post-merger years were studied.

Searching for their effects on R&D inputs as well as outputs, Hitt *et al.* (1991) studied 191 US acquisitions that were completed from 1970 to 1986. R&D inputs were defined as total R&D expenditures divided by total sales, corrected for industry influences ('R&D intensity'). R&D output was measured by dividing the total number of patents a firm held by its annual sales ('patent intensity'). After size, leverage, return on assets and liquidity were controlled for, it appeared that an acquisition variable was a significant, negative predictor of R&D intensity. Acquisitions also negatively affected patent intensity, primarily to the extent that they increase the degree of diversification. Hitt *et al.* concluded that their study found no support for the proposition that M&As created synergistic gains from economies of scale or scope in R&D activities. More recently, a repeat study was done on

[7] In interpreting these findings, it should be noticed that an important number of acquisitions were eliminated from further analysis as they were sold off before 1975, suggesting that the profitability results for the remaining firms may have been biased upwards.

a sample of 250 industrial US firms drawn from a frame of 776 firms for which R&D expenditure data over 1985-1991 was available (Hitt *et al.,* 1996). Again, it was found that acquisition intensity had a significant, negative effect on internal innovation. The evidence also indicates that the take-over of innovative SMEs in particular has a rather dramatic negative impact on the performance of these firms, from which they can normally only recover after having been spun off again (Chakrabarti *et al.*, 1994; Thompson *et al.*, 1993).

Mueller (1986) studied changes in the post-merger market shares of acquiring companies on the proposition that a deterioration in efficiency or product quality would have to show in a loss of market share. His sample consisted of all companies that were among the largest 1,000 in 1950 and were acquired by a firm among the 1,000 largest in both 1950 and 1972. In effect, 209 firms qualified (with a total of 123 acquiring firms), and their market share history was compared with that of a size and industry matched control group of non-merging firms. Exploiting detailed line of business data, he found that firms that were acquired between 1950 and 1972 retained a significantly smaller percentage of their 1950 market shares than non-merging firms, and that the decline in their market shares occurred after they were acquired. For conglomerate acquisitions, the loss in market share was nothing less than impressive. Whereas a non-acquired firm retained 88.5 per cent of its 1950 market share in 1972, an acquired firm retained just 18 per cent. In a previous study of 133 mergers between 1962 and 1972, Mueller had found a significant decline in the growth rate of the acquiring firms in the five years following the mergers compared with both a matched control group and their industries (Mueller, 1980b).

Although banking mergers appear to perform slightly better - mainly due to the fact that banks appear less rationalised than manufacturing firms - these results for industrial mergers are reflected in almost all studies of banking mergers. Tichy (2000) who has reviewed some twenty-five studies of mergers among mostly US banks concludes that roughly a third have reported positive effects in terms of either rising returns, declining costs, increasing profits or greater efficiency. Neutral effects were reported in slightly more than half of the studies whereas 16 per cent reported negative effects. Thus, about two-thirds of the banking mergers investigated in these studies were unsuccessful. However, the positive effects for the remaining cases were typically much smaller than expected.

Table 2: Selected banks ranked by asset size (cUS$), 1999

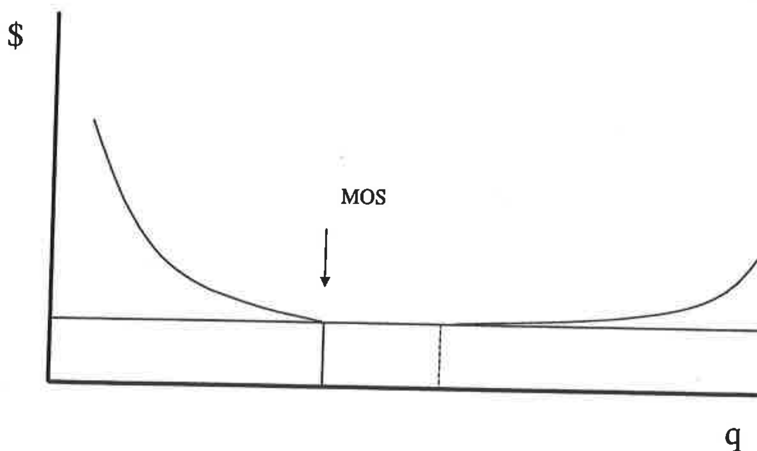
IBJ/Fuji/DKB (Japan)	1200 bln
Deutsche Bank (Germany)	700 bln
UBS (Switzerland)	700 bln
Citigroup (US)	700 bln
BNP-Paribas (France)	700 bln
BankAmerica (US)	600 bln
Bank of Tokyo-Mitsubishi (Japan)	600 bln
HSBC (UK)	500 bln
HypoVereinsbank (Germany)	500 bln
ABN-Amro (Netherlands)	475 bln
Crédit Suisse (Switzerland)	475 bln
Société Générale (France)	440 bln
ING (Netherlands)	315 bln
Canadian Imperial Bank of Commerce (Canada)	180 bln

Another survey by Van Rooij (1997) concludes that even when acquirers are relatively cost- efficient ex-ante – which should create a potential to transfer efficiency to targets – there is hardly any evidence of such opportunities being realised after the merger. Relative to non-merging banks, mergers do not show significant efficiency improvements. Similarly, Akhavein *et al.* (1997) recall that banks have costs that are typically 20-25 per cent above those of the observed best-practice banks which would suggest that cost-efficiency could be considerably

improved by merger. Again, however, they notice that such potentials are not systematically realised in practice. By and large, the consensus is that bank M&As at best lead to very little improvements in internal efficiency. Exceptions exist, of course, but they mostly pertain to mergers among very small, locally active banks. Although this cannot yet be fully substantiated, the findings look like suggesting that the larger the merging banks, especially when their size is beyond a still quite limited asset size of $10 billion, the smaller are the chances for cost improvements. Indeed, as Tichy (1990) already concluded, for the largest banks in Europe as well as elsewhere, there is no significant relationship between size and profitability, which indicates either absence of market power and efficiency effects or, more plausibly, a compensation of market power gains by decreasing returns to scale (also see De Jong, 1993). Upon reflection, this is what one would expect on the basis of estimates of minimal optimal scale (MOS) in banking. Repeatedly, such estimates have ranged between say $1 billion and $10 billion and, more recently (i.e., with regulations becoming looser and looser), $25 billion. In Europe, Van der Vennet (1996) has reported that optimal banking size from a cost-efficiency point of view would be in the range of Euros 10 to 100 billion in assets. Clearly, the difference with actual practice is enormous (see Table 2).

Recent deregulation in both the EU and the US will probably push MOS upwards while technological advance will, as usual, exercise a downward pull. However, since the typically found average cost curves are only weakly U-shaped, this is not likely to make the future much different from the past (see Figure 2 where q is output size). Some studies of banking efficiency have recently introduced a distinction between internal (or X-) efficiency and profit-efficiency. As a result of merger, a bank may be able to find superior product combinations, for example, by moving into higher-valued products like loans instead of securities. Such profit-efficiency effects have only been studied by Akhavein et al. (1997) for US megamergers undertaken during the 1980s (where these mergers are defined as transactions involving firms with assets in excess of $1 billion each) and by Berger (1998) who focused on the early1990s. Though the evidence therefore is much less definitive, and it remains uncertain in how far merging banks generally proceed to a different output mix, their results suggest that the average output mix changes such that profit-efficiency is increased by a few percent. Notice, however, that both samples virtually excluded "supermegamergers" (Berger et al., 1999), a category that has increased in importance recently.

Figure 2: Typical long-range average cost curve



Of course, several methodological criticisms may be brought against some of the established types of merger performance studies (for example, see Calomiris, 1999). Yet, since the evidence appears quite consistent with the findings for non-financial mergers as well as time periods, it would seem evident that many bank mergers miss the economic mark, although it remains difficult to state precisely by how many.

Purely strategic bank mergers: a bit of theory

On balance, the findings of ex-post studies strongly suggest that M&As cannot usually ameliorate the performance of the firms implied. Indeed, the weight of the evidence suggests that efficiency is reduced on average following

merger, especially but not exclusively when there is a substantial difference in size between acquirer and acquiree and when the merger is of the diagonal (conglomerate) type. Looking across all available studies, an educated guess would be that only around fifteen to twenty per cent of mergers could be qualified a success, the remainder being either a waste or an outright failure. Since many mergers are not able to elicit support from the acquirers' stockholders either, it would seem that shareholders in a substantial number of cases are right in guessing what the prospects of merger are.

These findings beg two questions. First, if so many mergers fail then why do they occur at all? Second, what may be the consequences of the ubiquitousness of inefficient mergers? Assuming that players are well informed, Schenk (1996) has developed a minimax-regret model that makes such mergers strategically, though not economically, rational if there is a high degree of interdependence among players and much uncertainty with respect to the prospects of individual actions. Especially when shareholders are likely to use peer grading in assessing their agent's performance, it appears that bandwagon mergers are likely.[8] When regret is defined as the loss of pleasure due to the knowledge that a better outcome might have been attained if a different choice had been made then, under conditions of uncertainty, the minimax-regret routine selects that strategy which minimises the highest possible regret.

Given a particular action of firm A that is sufficiently important to be monitored by her strategic peer, i.e. a merger or an acquisition, firms B,..., *n* (*n*=small) will have to contemplate what the repercussions for their own positions might be. Suppose that there is no way that firms B,..., *n* can tell whether A's move will be a successful one. A's move could be genuinely motivated by a realistic expectation that her cost position will improve or that her move will increase her ratings with stakeholders or even her earnings. That is, A's competitiveness position vis-à-vis her peers may be ameliorated as a result of that move, say in terms of a first mover advantage. But then again, it may not. For example, A's move might be purely motivated by the pursuit of managerial goals, or it may simply be a miscalculation caused by hubris. What should firms B,..., *n* do?

Leaving out, for simplicity, all firms but B, suppose that A's move will be successful, but that B has not reacted by imitating that move herself (which we call scenario *a*). To what extent will B regret not having reacted? Alternatively, suppose that A's move will not be successful but that B has imitated it solely inspired by the mere possibility of A's move being a success (scenario *β*). To what extent will B regret this when the failure of A's move, and thus of her own move, becomes apparent? Within a minimax-regret framework, it is likely that B's regret attached to scenario *a* will be higher than the regret attached to scenario *β*. For in scenario *a*, B will experience a loss of competitiveness, while in scenario *β* her competitive position vis-à-vis A will not have been harmed. Moreover, in scenario *a*, firm B's reputation will suffer, while in scenario *β* it will be able to share any blame of its stakeholders with A. Thus, under conditions of uncertainty, a strategic move by firm A is likely to elicit an imitative countermove by her rivals.

As Bikhchandani *et al.* (1992) have shown, this sort of imitation may easily develop into a cascade. In a sense, M&As have become "taken-for-granted" solutions to strategic interdependence. It implies that firms may have become locked into a solution in which all players implicitly prefer a non-optimal strategy without having ready possibilities for breaking away from it.

Even if some firms do not adopt minimax-regret behaviour, it will be sensible for them to jump on a merger bandwagon too. For, an M&A cascade implies that the likelihood of becoming an acquisition target increases. Since relative size is a more effective barrier against take-over than relative profitability, firms may therefore enter the M&A game for no other reason than to defend themselves against its effects. By doing so, however, they will simply help amplify a merger wave that has just started.

In conclusion, it would seem quite possible that the high incidence of non-wealth creating mergers, outside or within banking, is not the result of failed implementation techniques as many management consultants would like one to believe. Rather, the existence of strategic interdependence under uncertainty, conditioned by the availability

[8] Notice that Milbourn *et al.* (1999) have developed a model that leads reputationally sensitive CEOs into herd behaviour, i.e. into imitating first movers, as well.

of funds, may compel management teams to undertake mergers even if it is known that it is very unlikely that these will increase real performance.[9] With multi-market oligopoly omnipresent, and given the increasing weight assigned to stock market performance appraisals (which, to a large extent, are reputationally determined), the ultimate result will be an economy-wide merger boom.

Mergers with these properties are dubbed here as purely strategic mergers. These are mergers that are intended to create strategic comfort rather than economic wealth (or, for that matter, monopoly rents). A minimax-regret game can only be played if market mechanisms are insufficiently potent to block it. The repeated occurrence of non-wealth creating mergers, however, is sufficient proof of this possibility. Put differently, one implication of the minimax-regret game is that firms, instead of being disciplined by the market for corporate control mechanism, are perverting just this mechanism. They use it to prevent it from operating efficiently.

For the special case of banking, we should probably add to this that banks, being institutions that fulfil a servicing task, would by strategic necessity have to go along when their clients are becoming bigger and bigger. As a matter of fact, this motivation is frequently invoked by bank CEOs when asked for the logic of their mergers. Indeed, the evidence that we have seems to point out that economy-wide merger waves are only rarely started in services industries.

If, indeed, many mergers are strategically motivated instead of economically, then it becomes almost superfluous to ask why so many mergers fail. Still, it is obvious that the following factors will add to the difficulties of realising wealth-creating mergers:

- expenses paid to banks;
- consultants and legal experts;
- the costs of changing operating procedures;
- the high level of premiums necessary to seduce target shareholders to sell;
- the diversion of managerial attention from other important activities, particularly long-term investments such as developing and bringing new products to the market and the optimisation of attendant production processes.

In this latter respect, Hoskisson *et al.* (1994) have suggested that target firms are likely to enter a state of suspended animation in which decisions requiring long-term commitments such as investments in R&D are postponed, pending the outcome of the acquisition negotiations. Apparently, if there are any gains from consolidating branches, computer operations, payment systems, etc., then these will often be offset by control losses due to larger size, conflicts in corporate culture or problems in integrating especially electronic systems.

Effects of purely strategic bank mergers and some policy suggestions

An obvious implication of so many mergers being unproductive is, of course, that much managerial time and talent as well as significant funds are simply being wasted. It would seem that the prevalence of strategy considerations leads to significant opportunity costs from an economic point of view. In other words, economies would have performed even better if all those resources had spent productively. Yet, as long as the game is being played, no party to it can withdraw until its effects become clear in a real sense.

By that time, however, large firms in manufacturing and banking may have sown the seeds of a serious recession. For it seems quite likely that economic actors cannot indefinitely pursue such strategic behaviour with impunity. In the short run, the bill will be footed by consumers, clients and investors, but, in the long run, the economy as a whole will suffer since merger-active firms, be they in manufacturing or in banking, have become so big that their investment behaviour directly affects the fate of economies. It could be argued that the billions that are fruitlessly expended on mergers do not vanish from the economic process. Indeed, it may be so that shareholders at the receiving end instead of creating a consumption bubble, or overindulging themselves in Veblen-type conspicuous

[9] Perhaps, this explains why so many mergers remain virtual. Indeed, just like has previously been found for manufacturing mergers, there is in fact little evidence that overlapping bank operations and branches are discarded post-merger (Peristiani, 1997).

consumption (Veblen, 1899), will reinvest their newly acquired pecuniary wealth in investment projects that do create economic wealth. If so, then we would merely have to worry about a retardation effect. Still, such an effect may be significant, especially following a merger wave, i.e., a time period during which one retardation follows the other. Indeed, Mueller (1999) has suggested that the vigorous pursuit of what he calls unprofitable mergers may be one of the factors that contribute to the decline of nations. When professional managers, as well as a whole industry of investment bankers, stock analysts, lawyers and even economists, are occupied with transferring assets instead of creating them. When cash flows are used to buy existing plants, offices and new economy facilities, rather than improve their performance or build new ones, then decline is almost inevitable. Noticing that, indeed, all previous merger waves were followed by years of economic distress and restructurings, it would seem unjustifiable at the least to neglect the importance of the productive and/or dynamic losses that result from mergers.

Evidently, the fact that so many unproductive mergers can occur at all, and recurrently, indicates that neither capital nor product markets are strong enough to discipline firms into economically efficient behaviour. This suggests that many firms, within or outside banking, must presently be able to exercise market power. From a competition policy point of view, unproductive mergers should therefore be challenged. However, present policies would seem ill-equipped to handle those forms of anti-competitive behaviour Elsewhere (Schenk, 2000a), it has been suggested that competition policies should adopt a so-called "full efficiency test" (FET) - a procedure in which a proposed merger is not just tested for allocative effects, but also for productive and dynamic effects.

In comparison to the problems just observed, some effects of banking mergers in particular would seem to be quite unimportant. Whereas traditionally, banks in more concentrated markets charge higher rates on loans while paying lower rates on deposits, this relationship seems to have dissipated somewhat during the 1990s. However, the relationship between such concentration and small business loan pricing still appears to be strong (Berger *et al.*, 1999). Thus, in local markets, but in small national markets as well, the retail segment, i.e., individual households and SMEs, may be landed with the costs of purely strategic banking mergers.

Indeed, consumers' organisations during the 1990s have stepped up their criticisms of bank pricing behaviour, arguing that inefficiency forces banks to continually increase prices and cut services in claimable components (*Consumentengids*, 10, 1998). Moreover, the most common finding of US studies is that consolidation of large banking organisations tends to reduce small business lending to a greater extent than can be offset by other banks in the same local market, especially if transaction costs are relatively high as in relationship-based banking.

Similar results were obtained in a study of Italian bank mergers (Berger & Udell, 1998; Berger *et al.*, 1999; Schenk, 1995). In the Netherlands, Van Bergeijk *et al.* (1995) have estimated that the direct costs of banking concentration may have been as high as 400 million DGL (approximately 200 million Euros at that time) in 1992, to which perhaps as much as 180 million DGL in terms of indirect costs should be added.[10] Since large, multinational firms are in a better position to negotiate favourable terms, not least because they can shift much of their capital needs directly into international capital markets, it is likely that most of these costs are borne by SMEs and other retail clients.

It is perhaps indicative that a recent survey in US banking found that customer satisfaction had declined significantly over even such a short period as 1994-1997. Whereas in the earlier year, 3 per cent of customers was dissatisfied and 65 per cent very satisfied, by 1997 these percentages had changed to 8 per cent and 54 per cent respectively (Booz-Allen & Hamilton research, cited by Kolesar *et al.*, 1998).

The apparent neglect of SMEs by large and/or externally growing banks is problematic especially as these firms are often relatively innovative and/or efficient with respect to innovation (see e.g. Nooteboom and Vossen, 1995) and venture capital firms have not endeavoured to compensate for this effect (see Mason & Harrison, 1995; Bygrave & Timmons, 1992). Since the access to public stock markets is precluded to many SMEs because of the high fixed costs involved, it follows that the infrastructure of the capital market should be geared more to the

[10] Direct costs increase investment costs without impairing investment activity as such. Indirect costs are the costs to society that arise when firms abandon their investment plans because of excessively high costs.

needs of SMEs than is presently the case. Moreover, the ability to raise equity capital on the stock market at low transaction cost should be seen more as a critical component of this infrastructure. Elsewhere, the author has advocated the support of stock exchanges that are fully located on the Internet (Schenk, 1998).

Conclusions

Evidently, too many mergers, inside as well as outside the banking industry, are to be qualified as economic failures. It is in society's interest and in the long-term interest of shareholders to prevent such mergers as much as possible. Since we would not want to throw out the baby with the bath water by prohibiting all mergers that involve at least one big player, it is desirable to reconsider the ways and means of current competition policies. In this respect, this paper has suggested the incorporation of a Full Efficiency Test in these policies. Meanwhile, it would be desirable to restructure the capital market in such a way that SMEs would no longer be required to foot the bill that is presented by excessively merger-happy banks. The paper has therefore suggested supporting the creation of stock exchanges that are fully located on the Internet.

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Cross-border Mergers and Acquisitions:

Their role in industrial Globalisation

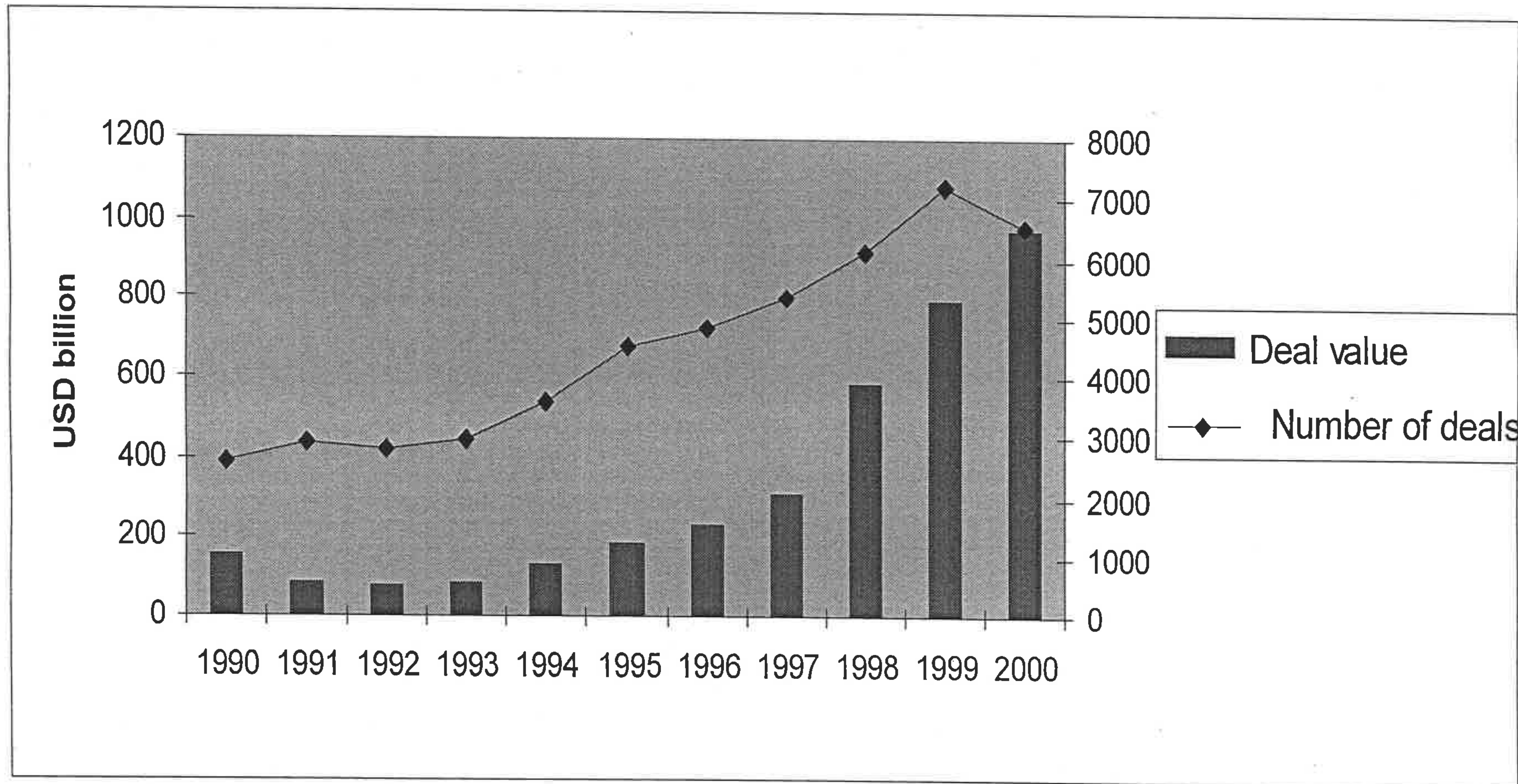
OECD

9 March 2001

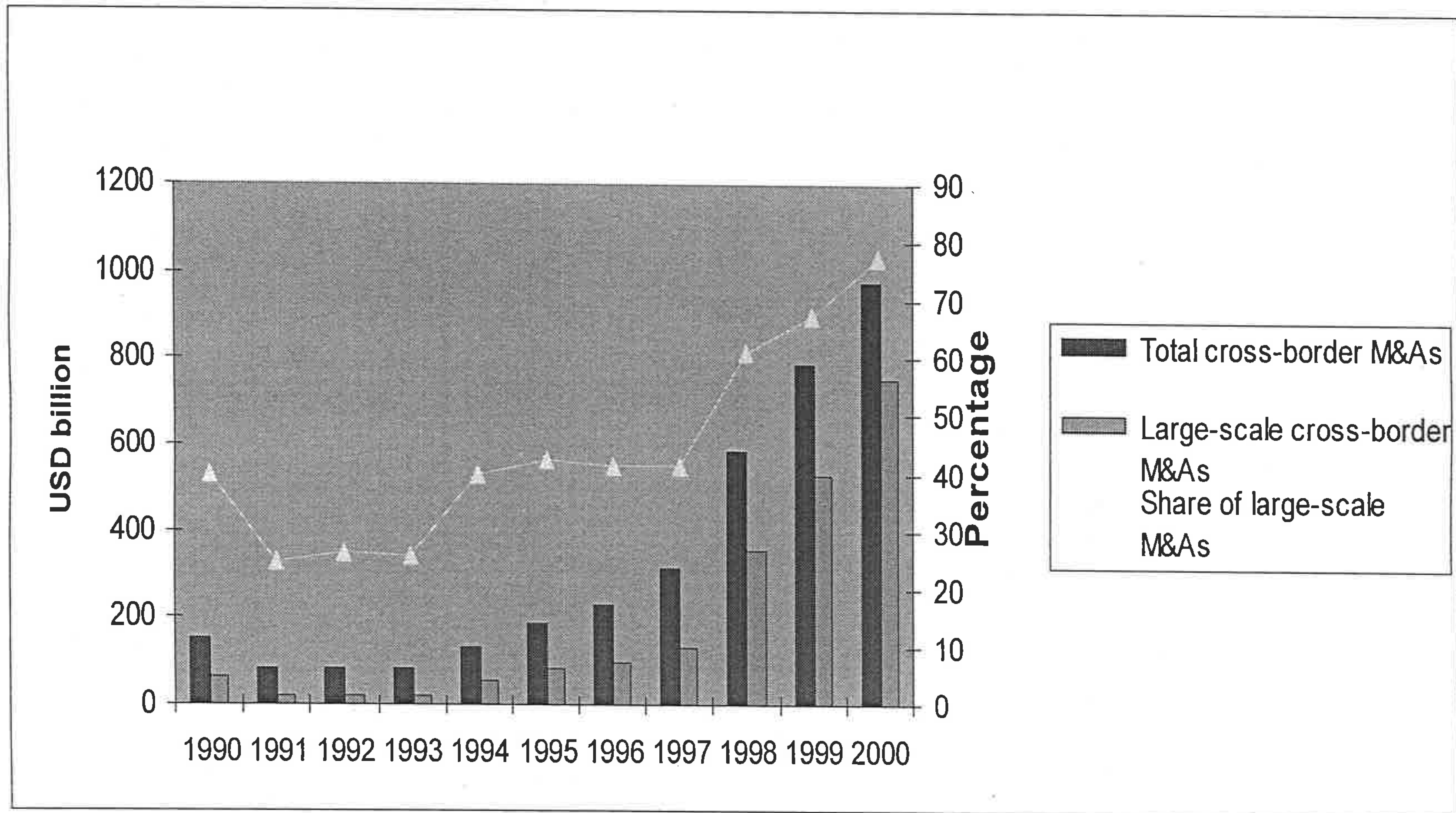
Cross-border M&As in the 1990s

- Recent trends by region/industry
- Motives and driving forces
- Performance effects
- Policy implications

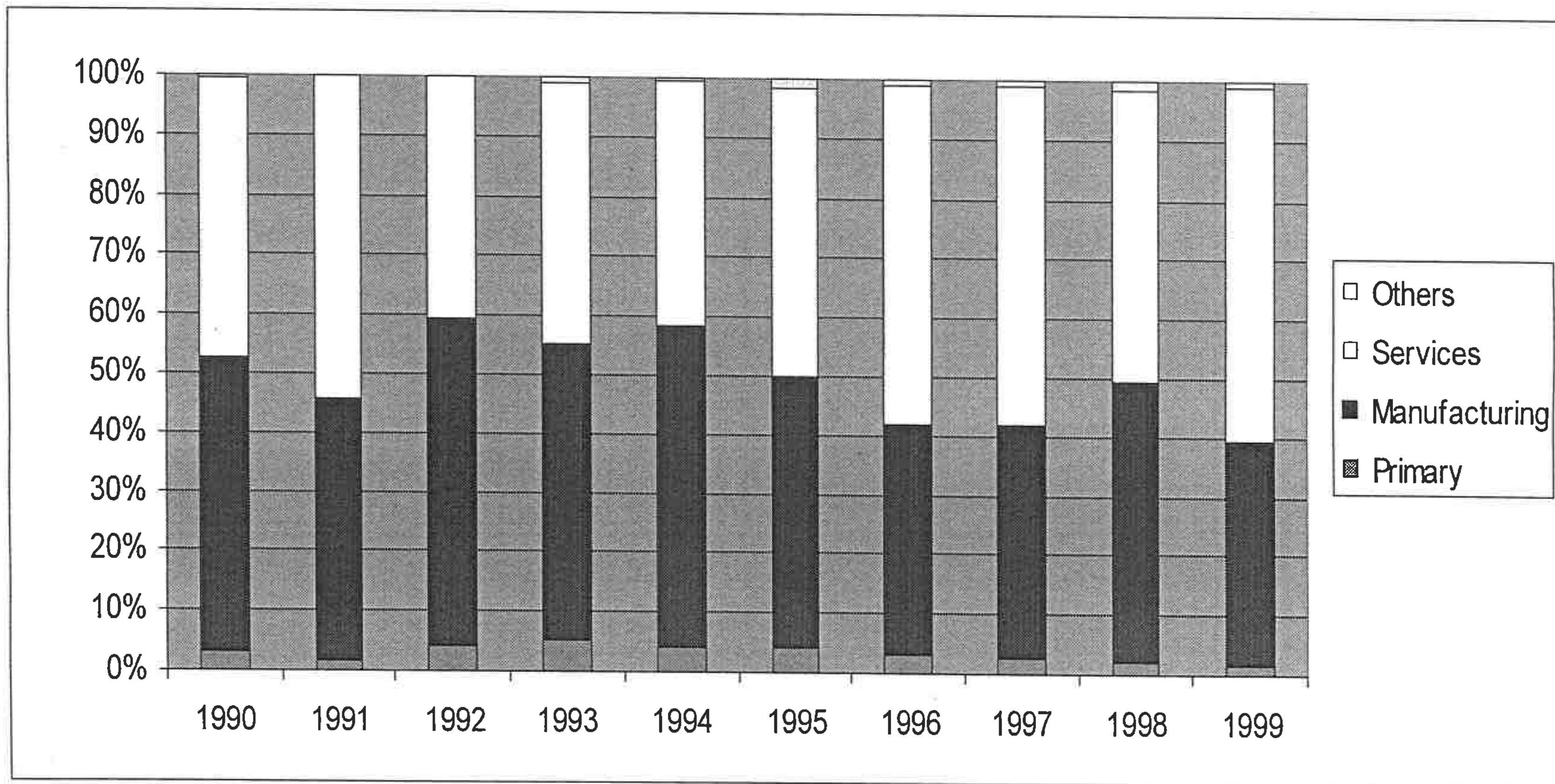
Cross-border M&As have rapidly increased in 1990s



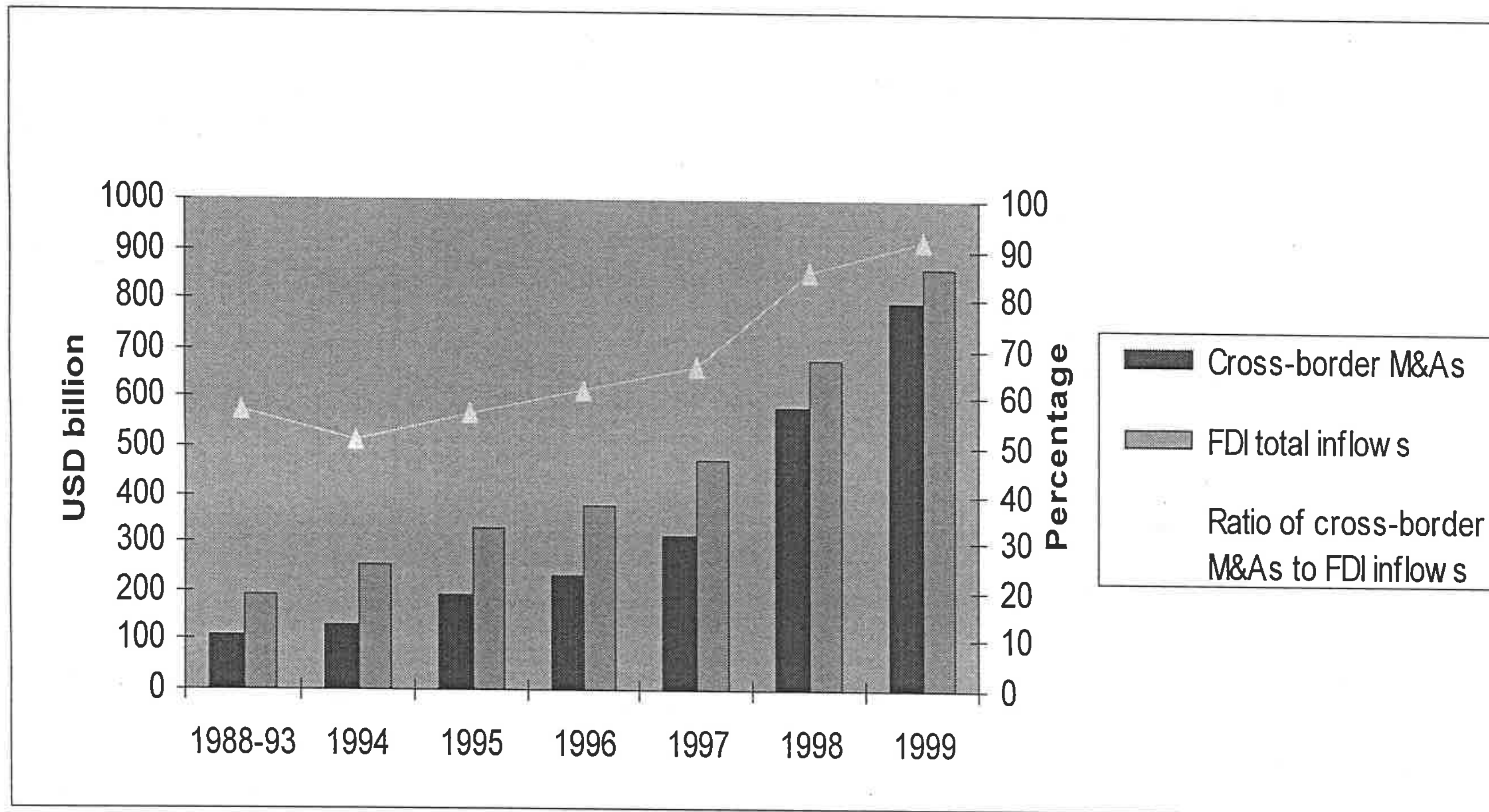
Large-scale M&As account for 2/3 of total deal value



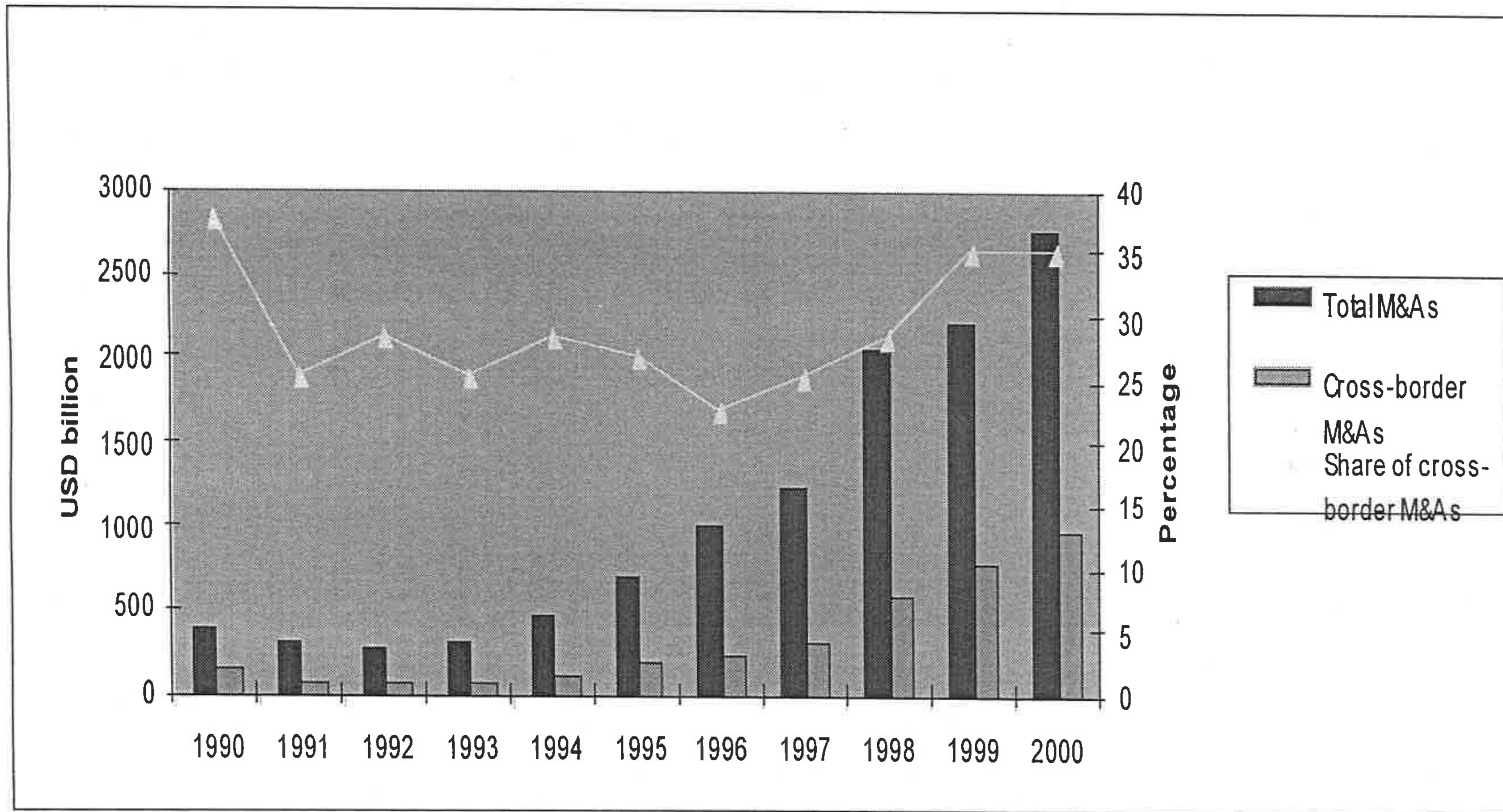
More and more M&As take place in service sectors



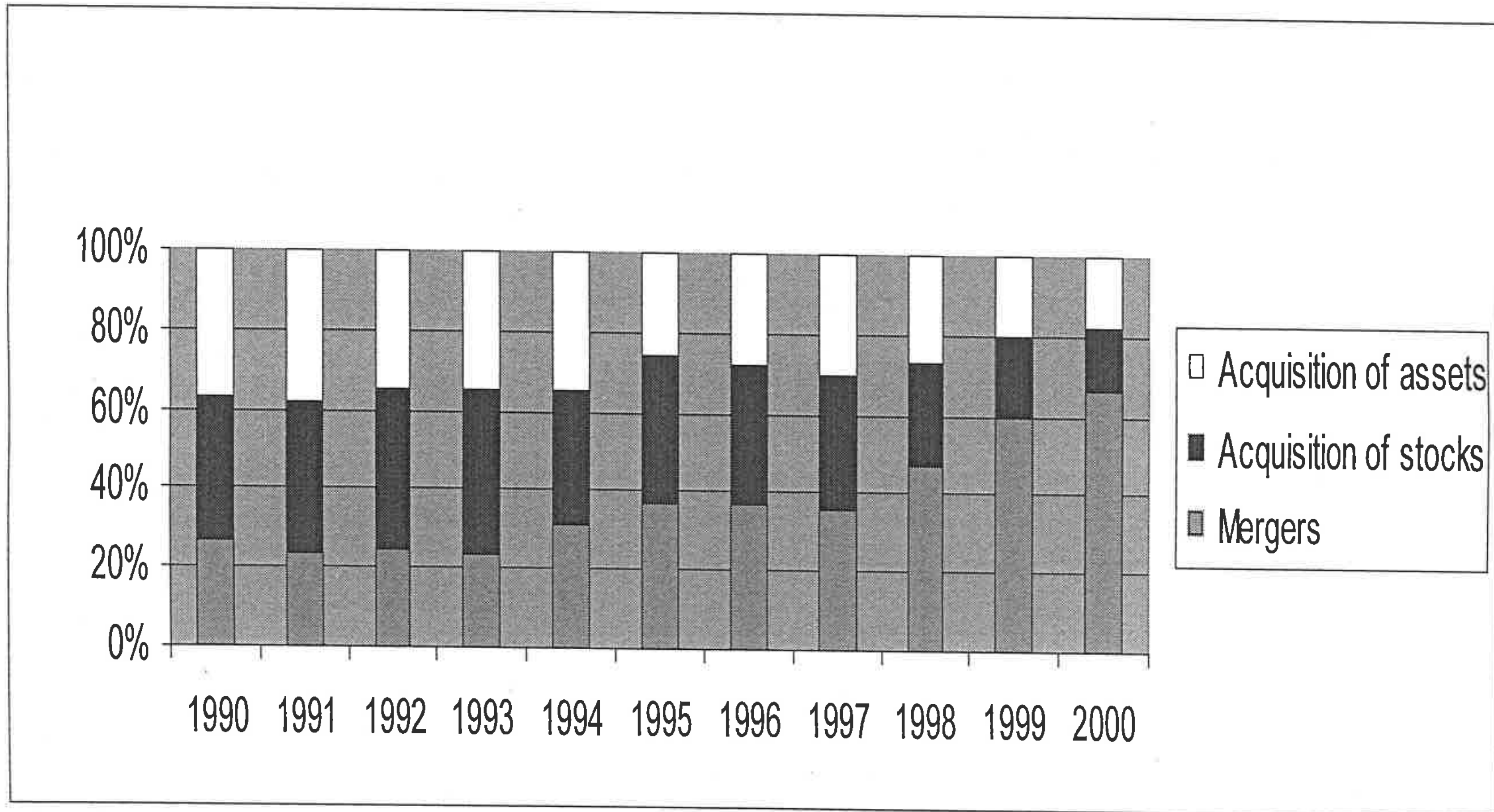
M&As account for most FDI flows



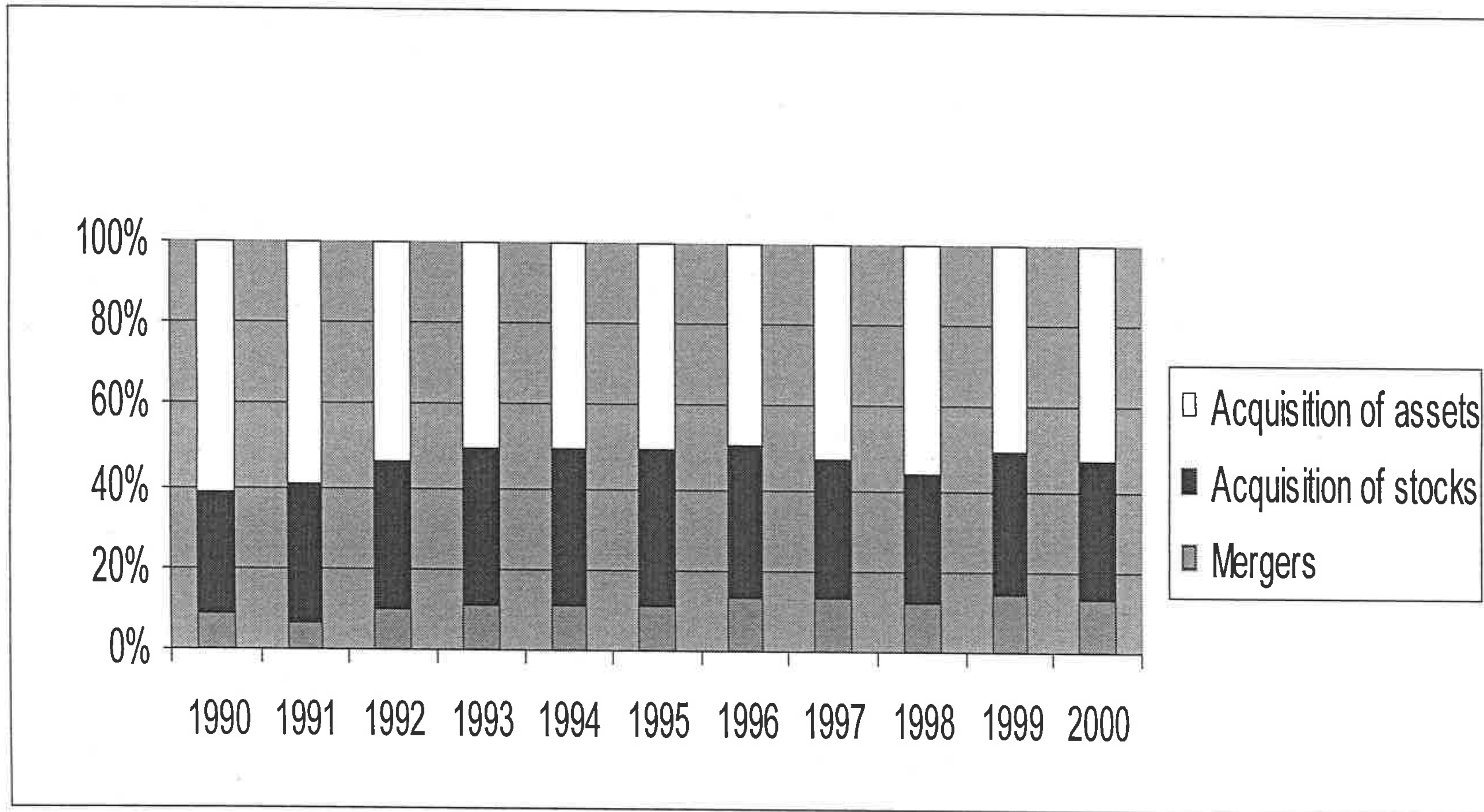
More cross-border M&As in recent years (compared with domestic)



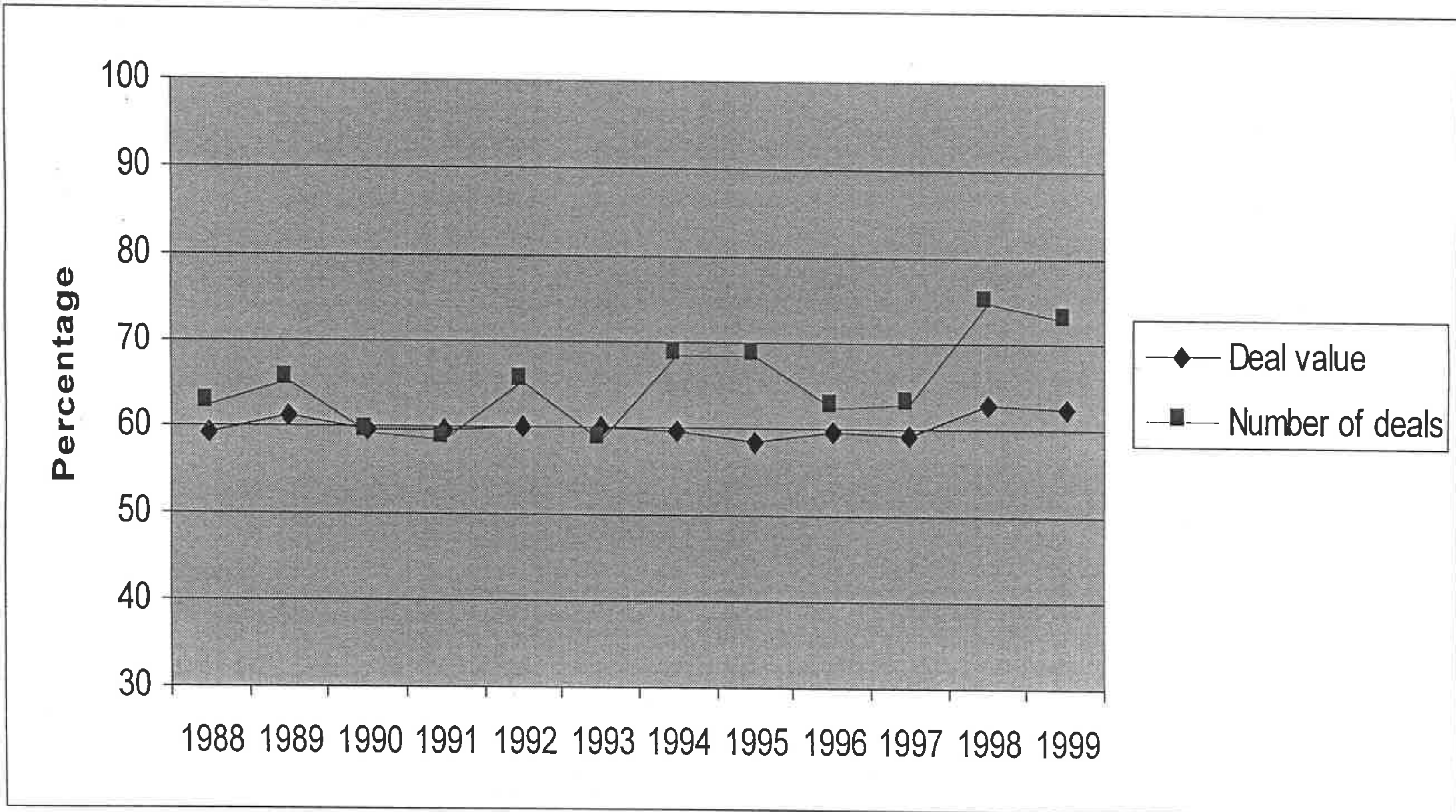
Cross-border M&As by transaction mode (deal value)



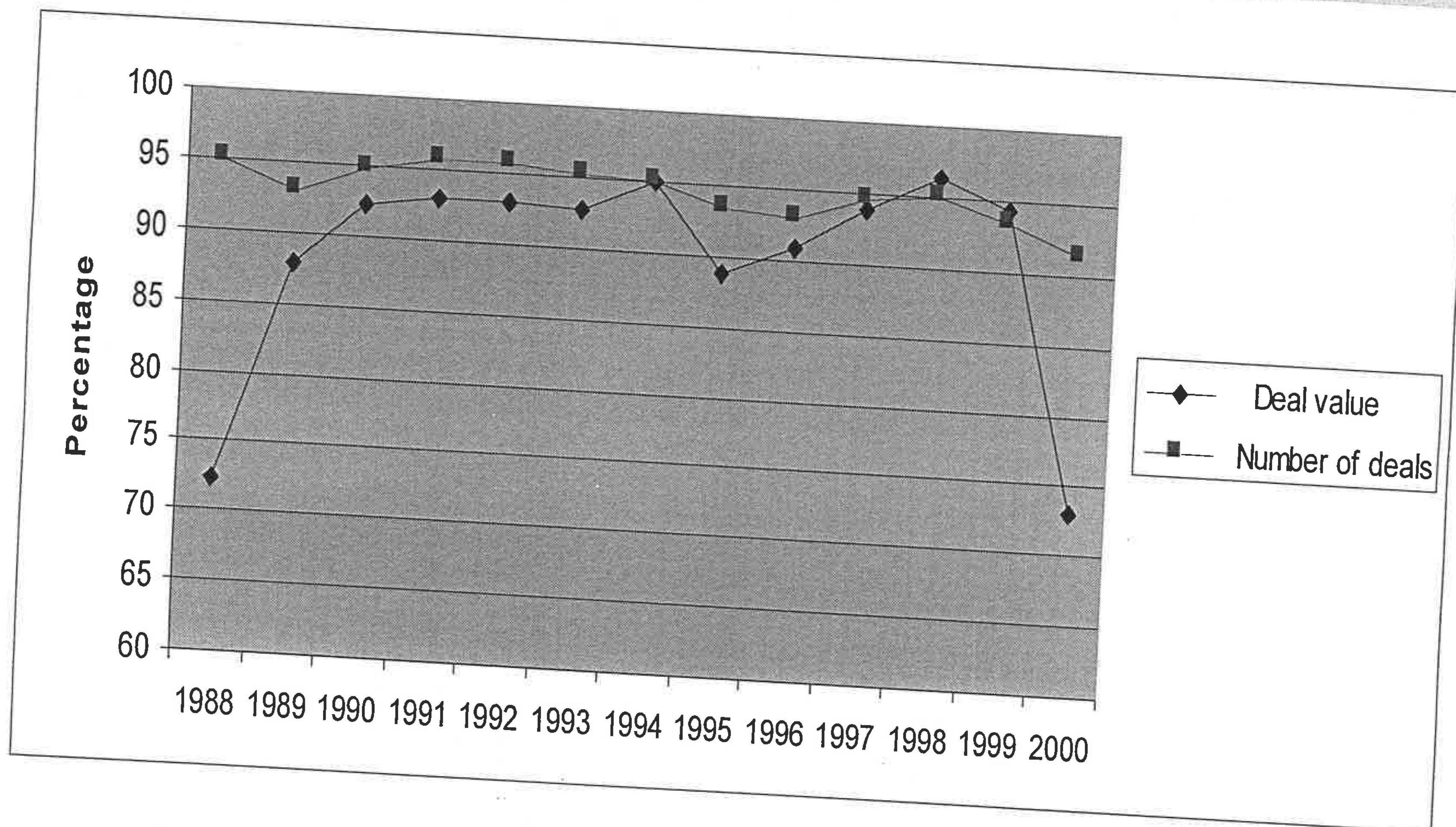
Cross-border M&As by transaction mode (Number of deal)



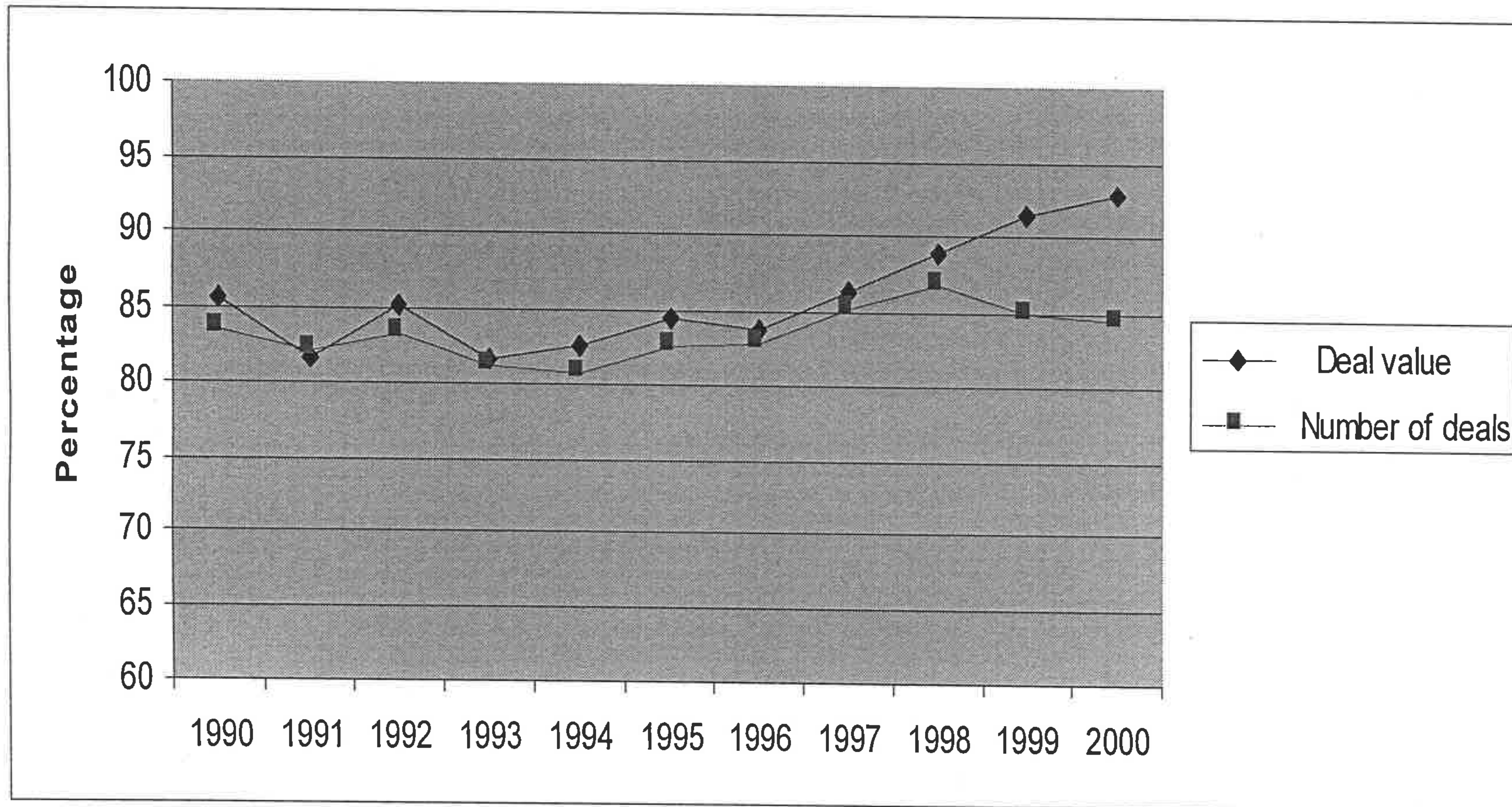
Most M&As take place in the same or related industries



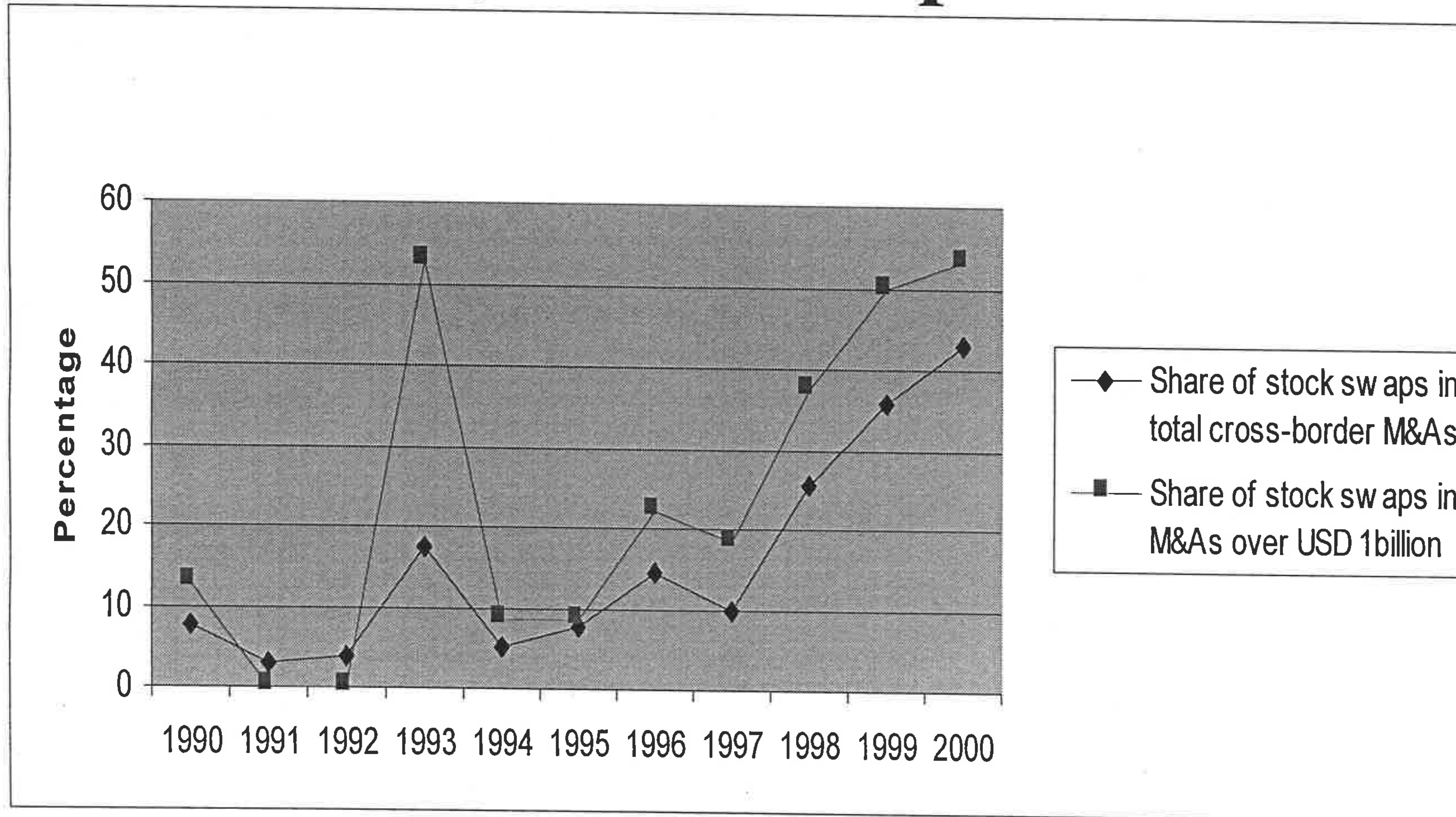
Cross-border M&As tend to be friendly



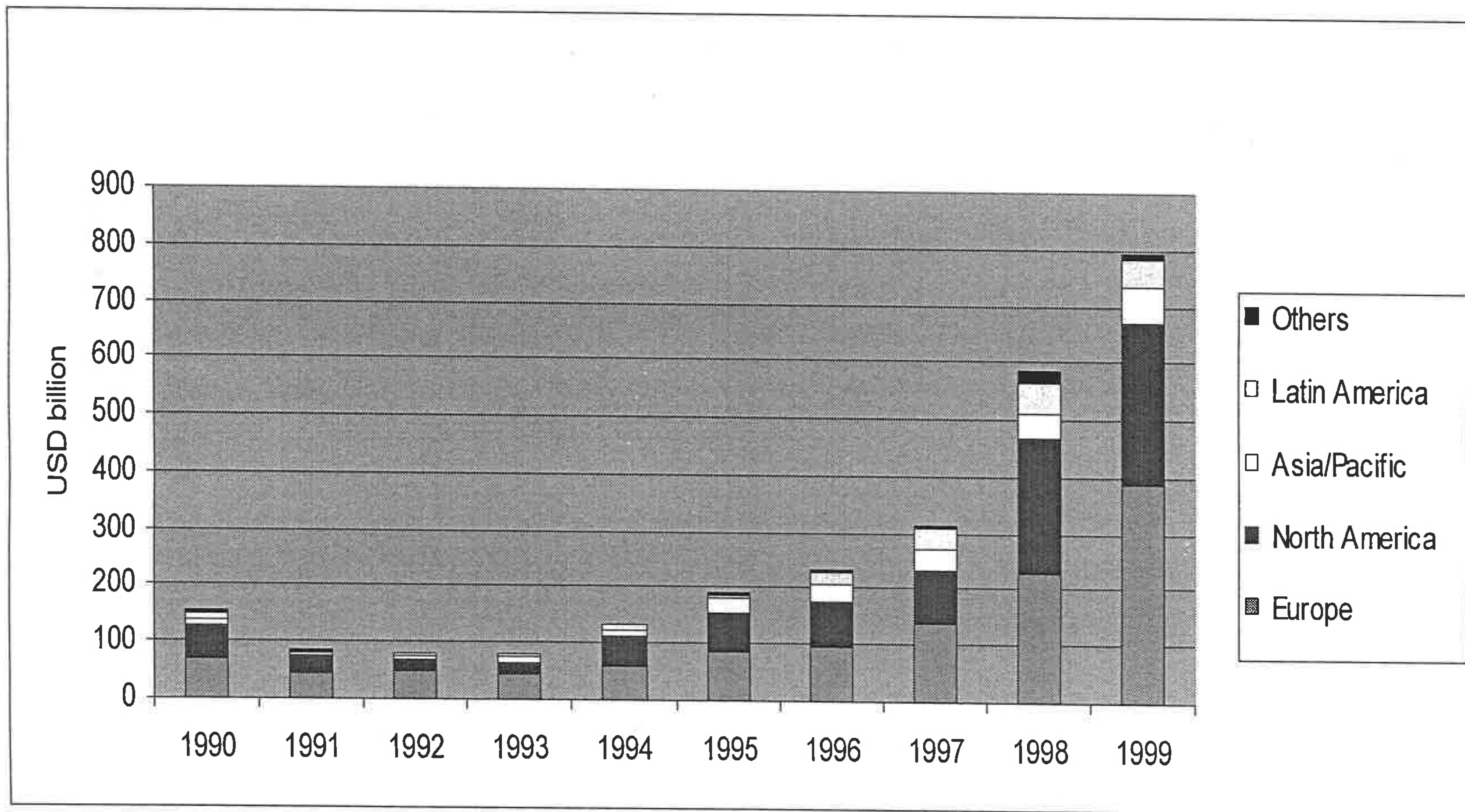
They also tend to be majority M&As



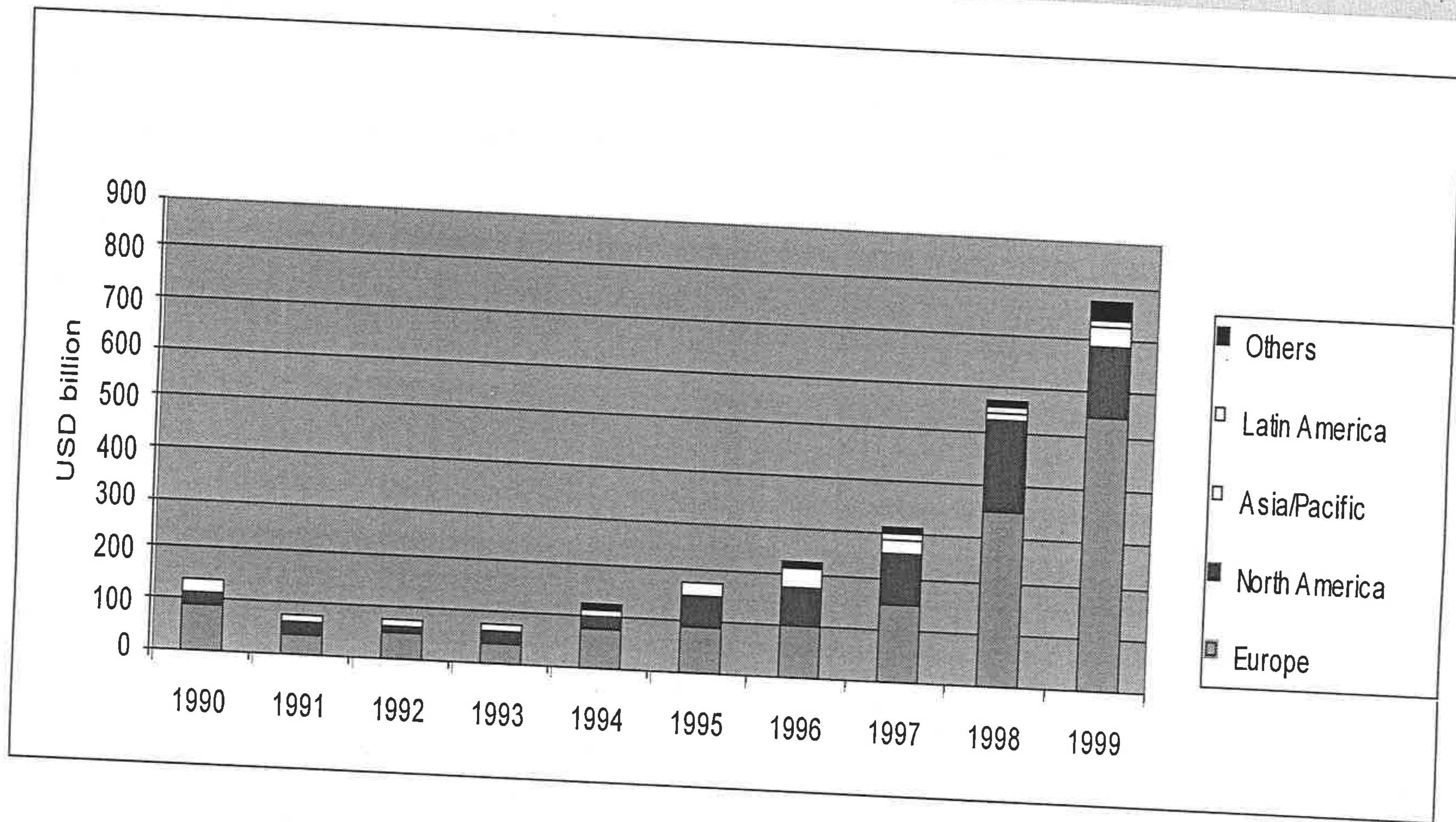
More and more M&As are financed by stock swaps



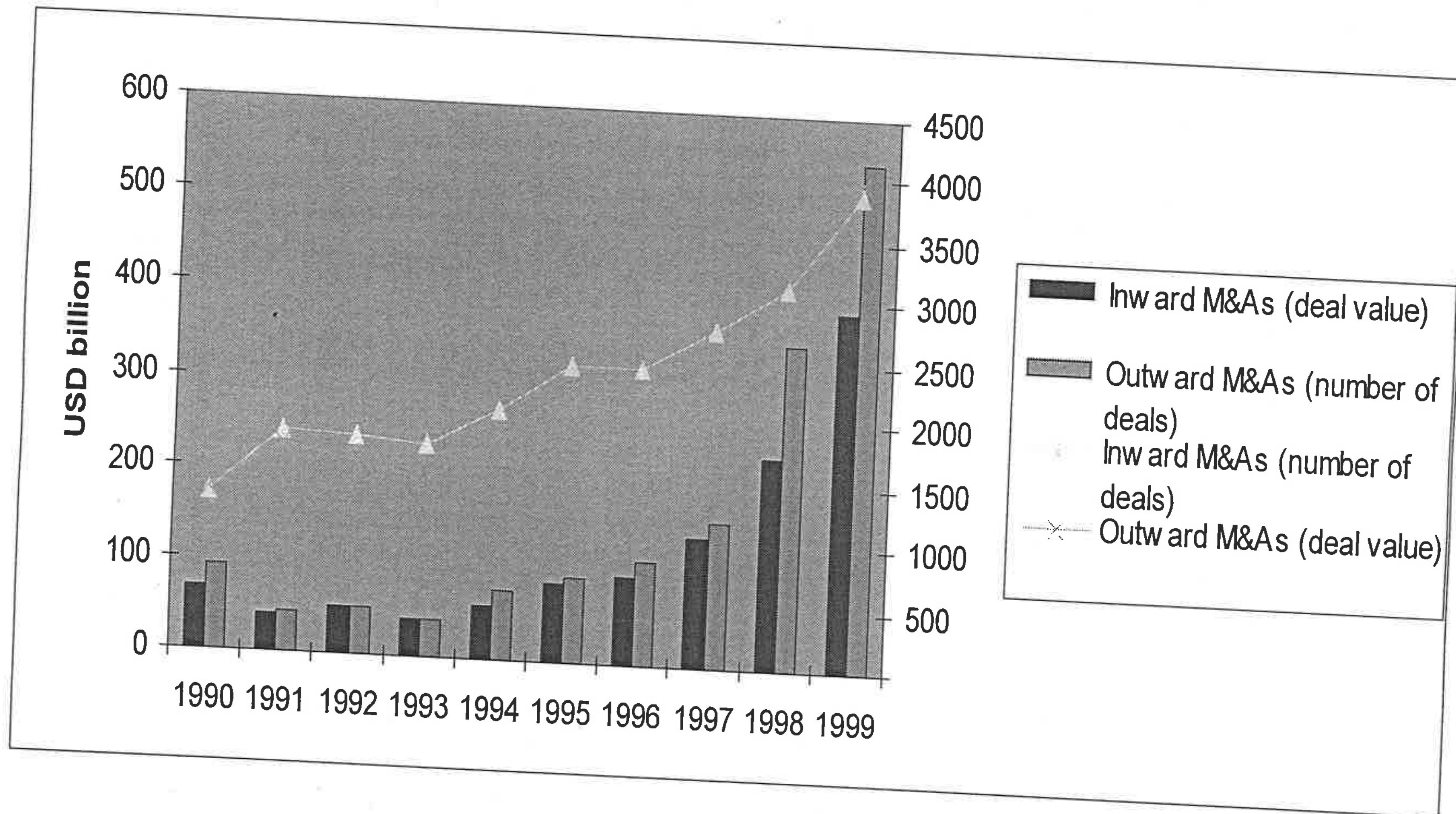
Inward cross-border M&As



Outward cross-border M&As



Cross-border M&As in Europe



Top 10 European target industries in Europe

Deal value	%	Number of deal	%
Insurance	10.3	Business services	11.1
Telecommunications	10.2	Food & kindred products	6.4
Chemicals	7.2	Computer and machinery	5.1
Pharmaceuticals	6.9	Wholesale trade (durable goods)	4.8
Commercial banks	5.6	Metal & metal products	4.8
Food & kindred products	4.8	Transportation & shipping (except air)	4.3
Petroleum	3.4	Investment & commodity firms	3.6
Investment & commodity firms	3.3	Wholesale trade (nondurable goods)	3.5
Electric & gas distribution	3.2	Chemicals	3.9
Electronic & electrical equipment	3.1	Electronic & electrical equipment	3.2
Top 10 total	58.1	Top 10 total	50.8
Industry total	100.0	Industry total	100.0

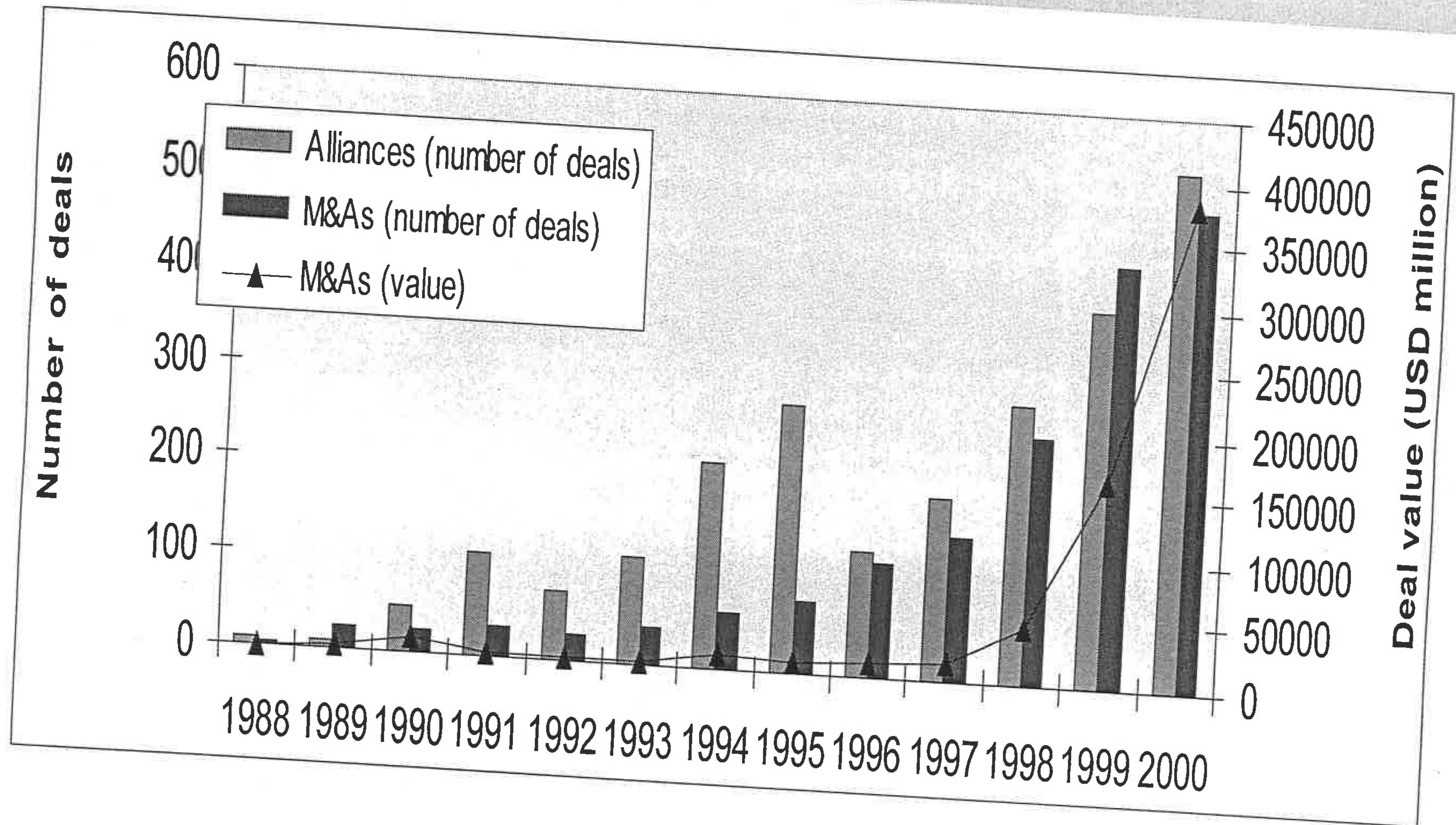
Top 10 American target industries in Europe

Deal value	%	Number of deal	%
Electric & gas distribution	12.6	Business services	21.4
Business services	9.4	Computer and machinery	7.3
Food & kindred products	5.3	Electronic & electrical equipment	6.1
Investment & commodity firms	5.1	Wholesale trade (durable goods)	5.5
Transportation equipment	4.8	Measuring & medical equipment	4.8
Telecommunications	4.7	Metal & metal products	4.2
Computer and machinery	4.6	Chemicals	4.0
Metal & metal products	3.8	Food & kindred products	3.4
Retail trade (food stores)	3.7	Investment & commodity firms	2.5
Pharmaceuticals	3.7	Pharmaceuticals	2.5
Top 10 total	57.5	Top 10 total	61.6
Industry total	100.0	Industry total	100.0

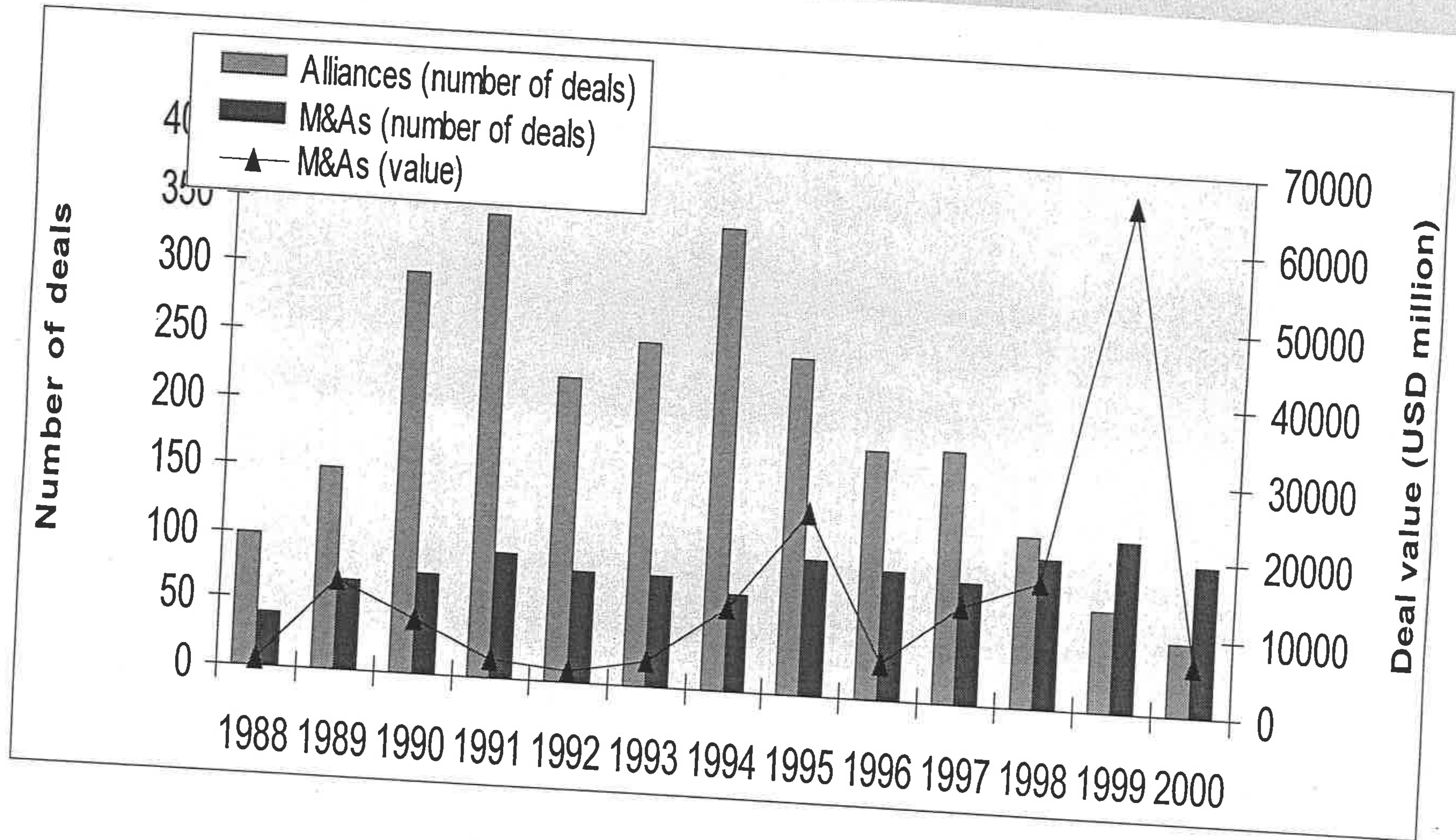
Top 10 European target industries in US

Deal value	%	Number of deal	%
Telecommunications	12.6	Business services	15.6
Petroleum	9.1	Computer and machinery	6.7
Transportation equipment	7.7	Measuring & medical equipment	5.4
Insurance	7.0	Electronic & electrical equipment	5.4
Pharmaceuticals	6.4	Wholesale trade (durable goods)	5.0
Business services	5.8	Chemicals	4.8
Computer & machinery	4.6	Printing & publishing services	3.9
Commercial banks	3.9	Metal & metal products	3.8
Electronic & electrical equipment	3.7	Investment & commodity firms	3.6
Chemicals	3.5	Pharmaceuticals	3.1
Top 10 total	64.2	Top 10 total	57.1
Industry total	100.0	Industry total	100.0

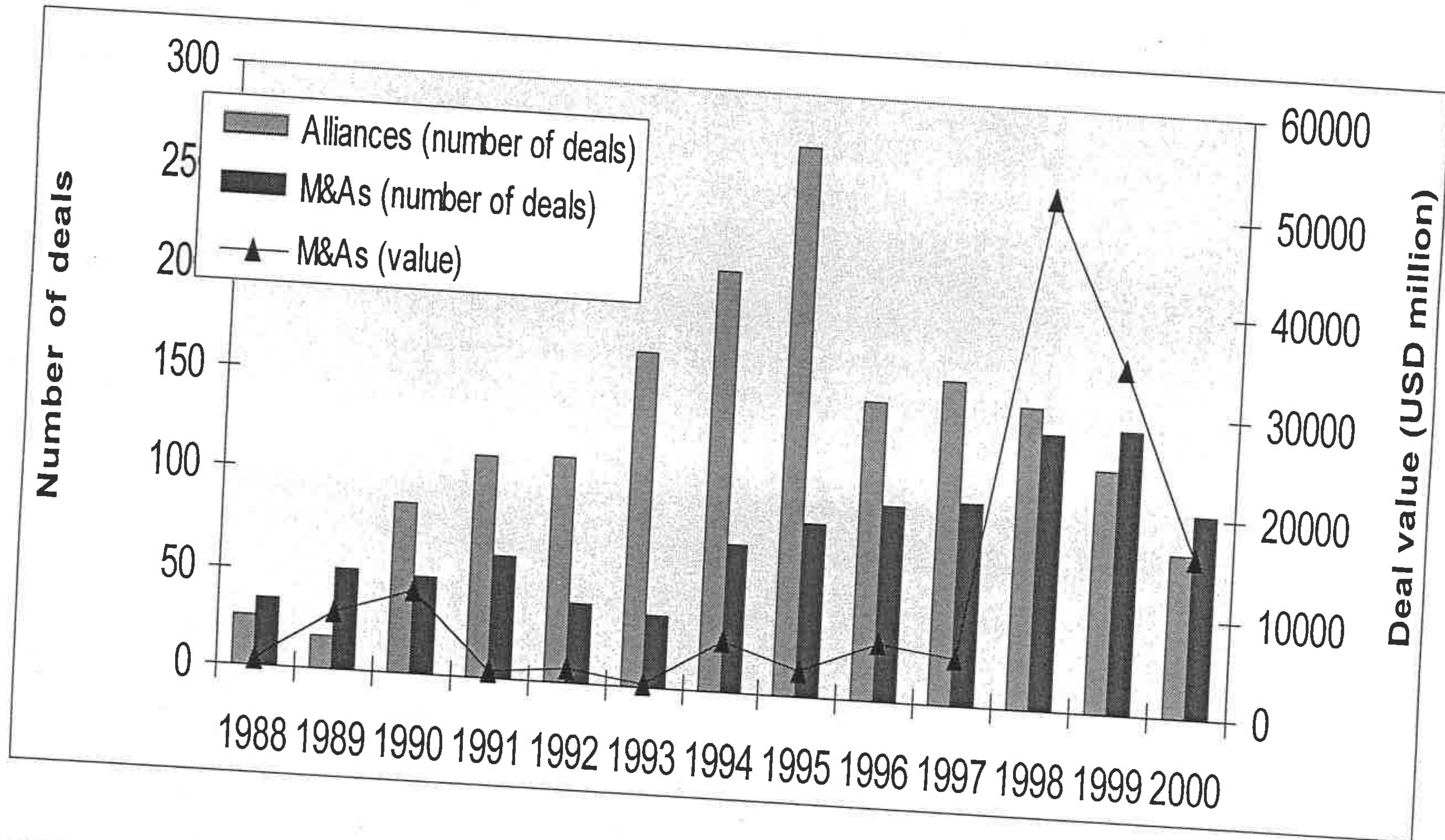
Telecommunications



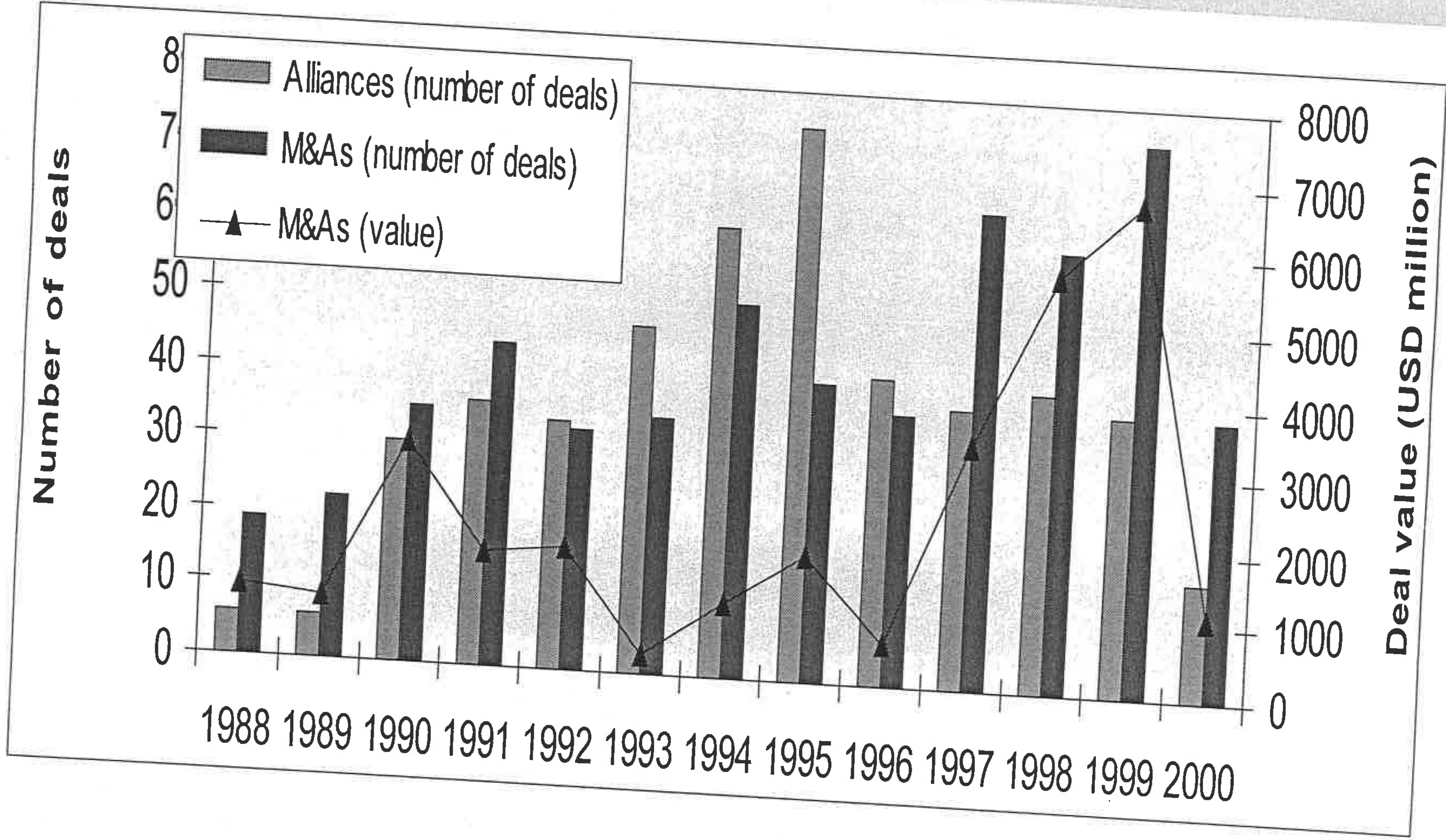
Pharmaceuticals



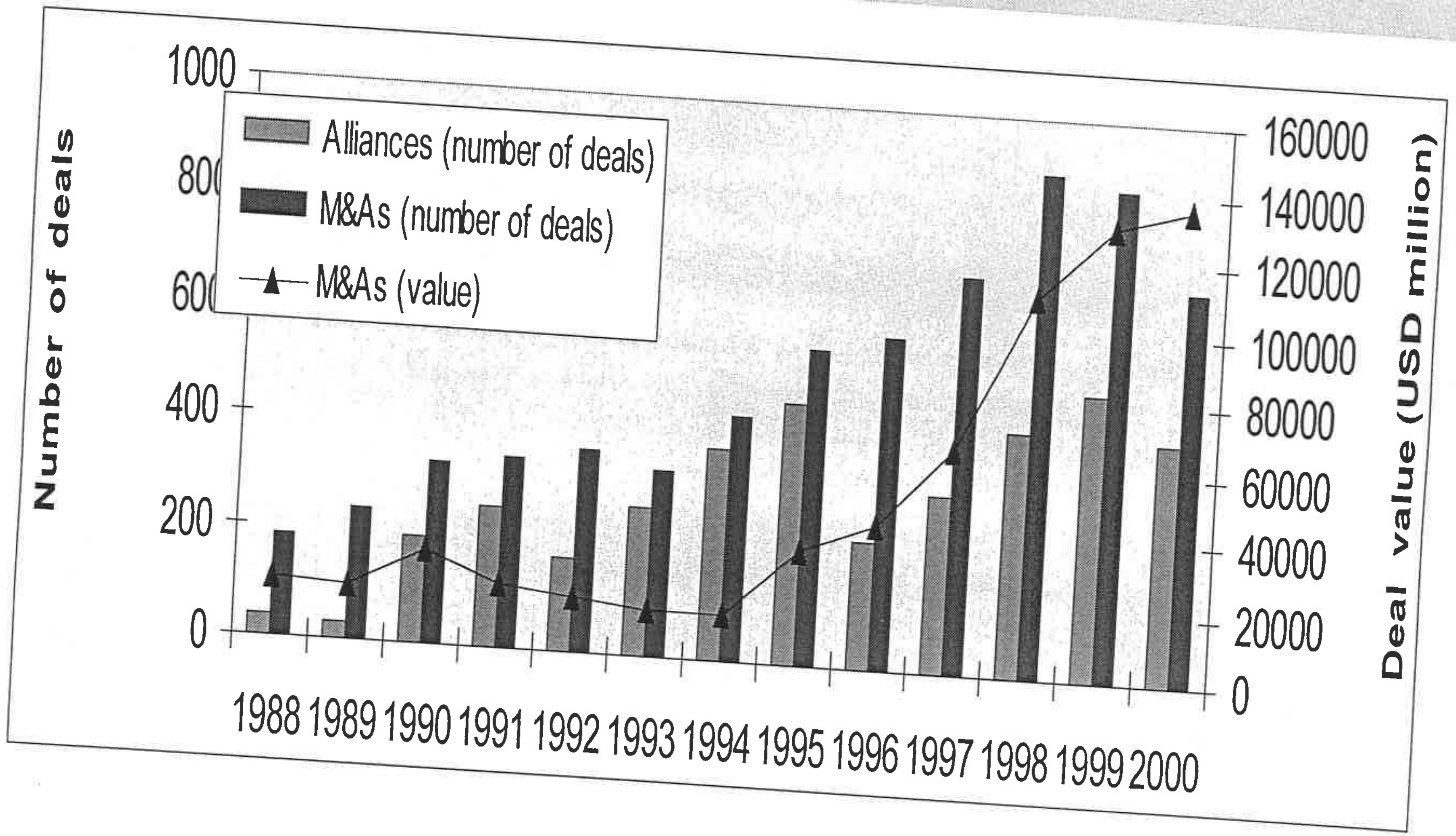
Automobiles



Steel



Financial services



Motives for cross-border M&As

- To establish an immediate critical mass of production facilities and intangible assets (quick entry into new markets)
- A speedy way to acquire technological and human resources (technology sourcing)
- To save costs and realise efficiency gains by restructuring businesses on a global scale (synergic effects).
- To spread risks across businesses and countries

Driving forces behind M&As

- **Economic factors**: economic expansion (depression) and high (low) stock prices
- **Technology factors**: falling communication costs, soaring R&D costs, new technology and businesses
- **Government factors**: liberalisaton, privatision, regulatory reform, change in corporate governance, integration of financial markets
- **Industry characteristics**: excess capacity, intensified global competition

Performance effects

- **Economy-wide effects**
  - Positive: efficiency gains, industrial restructuring, spillover effects
  - Negative: competition effects, adjustment costs (layoffs, instability)
- **Firm-level effects**
  - Positive: synergic effects and scale economy
  - Negative: wrong managerial incentives lead to unprofitable mergers
- **Empirical findings: mixed**

Policy implications

- **Appropriate framework conditions to realise the positive impacts of M&As** (e.g., flexible and well functioning factor/product market, free entry and exit, efficient national innovation system)
- **Strengthen linkages between domestic firms and foreign investors**
- **More co-operation among countries in formulating industry-related policies** (e.g., in competition policy)