

—DISCUSSION—
**TRADE LIBERALIZATION AND COMPETITION POLICY:
INFLUENCES ON AGRIBUSINESS AND INVESTMENT
IN NAFTA COUNTRIES**

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INTRODUCTION

Trade Policy Background

The advent of the North American Free Trade Agreement (NAFTA) laid the groundwork for negotiations to establish a Free Trade Area of the Americas (FTAA) by the year 2010. Western Hemisphere (WH) market integration reduces or eliminates trade barriers among member countries, providing more open markets and freer movement of investment capital across national boundaries. The formation and expansion of a free trade agreement in the WH increases export and investment opportunities for agribusinesses in member countries, particularly as the demand for goods and services increases with the growth in the number of consumers and their corresponding income levels.

One factor that may influence the location of production is trade policy. In December 1994, Western Hemisphere (WH) countries met in Miami to begin negotiations to establish a "Free Trade Area of the Americas" (FTAA) by the year 2010. These negotiations closely followed the passage of the North American Free Trade Agreement (NAFTA) and the ratification of the Uruguay Round under the General Agreement on Tariffs and Trade (GATT) by 125 member nations. While the GATT is a world agreement that reduces trade barriers, the NAFTA is a free trade agreement that seeks to remove barriers to trade between the United States, Mexico, and Canada over a 15-year time frame.

Thirty-two WH countries participated in the Summit of the Americas. A theme of the Summit was economic integration to provide more open markets and freer movement of investment capital across national boundaries within the WH. A WH Free Trade Agreement would expand the NAFTA to include countries in Latin

America, the Caribbean, and South America. Several trading blocs have already emerged within the WH.

Agreements among WH countries already established include: the Latin American Integration Association (ALADI); Central American Common Market (Bolivia, Columbia, Ecuador, Peru, Venezuela); Caribbean Community and Common Market (CARICOM); Group of Three (Colombia, Mexico, Venezuela); and Southern Cone Common Market (MERCOSUR - Argentina, Brazil, Paraguay, and Uruguay). In mid-1995, Chile was negotiating for inclusion into NAFTA, however, incorporating established trading blocs into NAFTA is considered simpler than adding some thirty-five independent countries individually.

The NAFTA should provide Mexico an advantage over Latin American and Caribbean countries in their exports to the United States. Foreign direct investment (FDI) also should be more attractive in Mexico than in other Western Hemisphere (WH) countries as a result of the NAFTA. For these reasons, countries in the WH will likely seek membership in the NAFTA.

Purpose

The purpose here is to briefly review and provide some comments on the Robertson, Stanbury, Kofler, and Monteiro manuscript entitled *Competition Policy, Trade Liberalization and Agriculture* presented at this Workshop. An additional aspiration here is to provide some focus on Mexico, particularly since the work by Robertson et al provides scant comment about Mexico. As a final agenda item and because this session also includes investment, the attention to Mexico focuses on the factors influencing investment, including some general economic factors and Mexican federal competition and trade policy changes which influence foreign direct investment (FDI).

COMPETITION POLICY, TRADE LIBERALIZATION AND AGRICULTURE

The lengthy manuscript by Robertson et al. offers a comprehensive treatment of competition policy in North America. On the whole, they view changes in trade policy, as embodied by GATT and NAFTA, as substantially influencing industrial and competition policies in the United States and Canada. In their view, the broad result of these policies are trade-offs where economic efficiency gains are made at the expense of national sovereignty. They even refer to the influence of these policies as "collective imperialism" (Robertson, et al, p. 54). This view is perhaps jaded given the global events which move toward capitalism and away from socialistic economic systems.

Robertson et al also assess, in some detail, the benefit of Canada's Competition Bureau linkage with the United States Department of Justice and Federal Trade Commission.

On balance, the authors conclude that the enhanced exchange of information assists Canadians in their competition antitrust law enforcement. The enhanced harmonization or cooperation and information exchange across national boundaries in terms of governments is certainly a spillover effect of freer trade policies.

A major contribution of this paper is to provide an extensive assessment of the Canadian Competition Bureau relative to agriculture. They provide the reader with detailed information concerning the interventions made by the Canadian Bureau of Competition relative to agriculture. They cite 197 total interventions between 1975 and 1995. Only 13 of these interventions involved agriculture or downstream firms in the value added food chain. The detail of these interventions provided in the manuscript is useful to all students of competition policy. However, the authors may under-value the extent of structural adjustment that will be occurring in agriculture in the Western Hemisphere over the next decade.

One topic, examined in notable detail in the Robertson et al manuscript, is merger activity, especially in Canada. The recurring theme here appears to be from the viewpoint of prejudging merger activity, in the sense of the Canadian government either allowing the merger or disallowing the merger on an *ex ante* basis. It is interesting to note that over the last decade or so, the United States government has adopted a permissive policy regarding merger formation. Concomitantly the United States has been less permissive in terms of monitoring performance of the merged companies. The United States has evolved to a point where competition policy, at least with respect to merger activity, will allow mergers but more closely monitor performance of the resulting firm. This appears to be a substantial difference in Canada and the United States regarding merger policy.

MEXICAN COMPETITION POLICIES AND FACTORS INFLUENCING FDI

Robertson et al pay scant attention to Mexico. The intent here is to provide some focus on Mexico. Robertson et al provide much information and analysis concerning United States and Canadian competition policy. However, Mexico's problem is not so much competition policy as it is investment, or lack thereof. Thus, investment is an important part of the emphasis on Mexico provided here.

There are some widely recognized factors that influence foreign direct investment over time:

- General economic conditions
- National laws relative to FDI
- Labor conditions
- Trade barriers
 - Licensing
 - Tariffs

In this context, it is prudent to examine national laws relative to FDI.

Mexico's economic policy evolution witnessed a major shift during the 1980s. In general, government intervention dramatically declined and privatization was encouraged. Prior to the 1980s, some basic laws influenced foreign direct investment in Mexico. These included the 1) Land Tenure Law, 2) Article 27 of the 1926 Organic Law, and 3) the 1973 Law to Promote Mexican Investment and Regulate Foreign Investment.

Based on the Land Tenure Law, Mexico redistributed massive landholdings. The 1910 Mexican Revolution fostered the *ejido* system of collectively held land. *Ejido* land can only be inherited — not bought, sold, or rented. Furthermore, *ejido* land comprises about 75 percent of crop area and 50 percent of the land area.

Article 27 of the 1926 Organic Law prohibited stock corporations from acquiring, owning, or operating farms. It also sets legal limits on foreign ownership of land.

The 1973 Law on Foreign Investment placed limits on foreign companies' investment in Mexican enterprises. Also, approval for investment had to be granted by the National Commission of Foreign Investment.

The contemporary situation is that *ejidos* may now legally rent or sell their land due to changes in Mexico's laws in 1992. Corporate farms may manage up to 2,500 hectares of irrigated land, even though a 100-hectare limitation applies. The 1989 *Regulations on Foreign Investment* allowed foreign investors to hold 100 percent of a new enterprise in Mexico in "unrestricted" economic activities. However, industrial projects still require prior approval by the National Commission of Foreign Investment.

As part of the landscape of Mexican competition policy and investment policy, the Maquiladora Program originally was used to circumvent strict laws against FDI. Originally a maquiladora company had to locate within 20 kilometers of the U.S. border. The situation now, however, is that maquiladoras are mostly foreign-owned businesses with a home base in the U.S., Japan, Sweden, France, Canada, Taiwan, Hong Kong, and Korea. They operate under favorable customs treatment and liberal FDI regulations in order to promote exports from Mexico. Maquiladoras import machinery, equipment, and raw materials into Mexico duty-free and value-added products are exported. The Maquiladora Program has been liberalized over time. A maquiladora company now may sell up to 30 percent of its output in the domestic Mexican market and locate anywhere within Mexico except the urban areas of Mexico City, Monterrey, and Guadalajara.

FOREIGN DIRECT INVESTMENT IN MEXICO

Investment by a company or individual in new facilities, purchasing interest in whole or part of an existing enterprise, or purchasing land in a country outside the company or individual's home country is considered to be FDI. In 1994, SECOFI, an official Mexican government data source, estimated inbound FDI to be \$8.0 billion, a four-fold increase since

1984, Figure 1. Although data are limited, an examination of the amount of direct investment by sector in Mexico is also interesting, Figure 2. The amount of direct investment in Mexico from the U.S. in 1992 was at an annual rate of US\$ 23.9 million. Of this, only US\$ 1.3 million, or 5.4 percent, was food sector investment. The impact on FDI of the liberalized federal policies of Mexico are evident in these time series data.

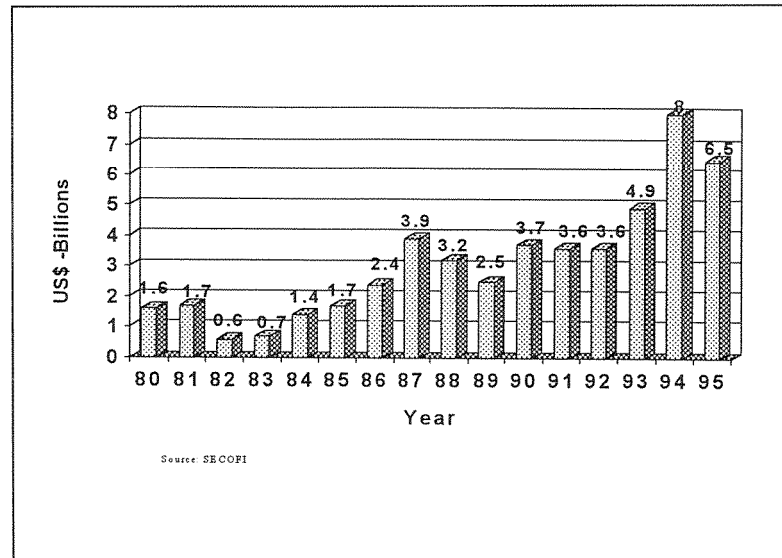


Figure 1. Annual FDI in Mexico

CONCLUSIONS

Clearly, Robertson et al. have made a significant contribution to the literature regarding competition policy in Canada and the United States. Their detail and specific accounting of interventions, for example, catalogs information that will be a useful reference for a long time.

Also, some evidence is presented here which indicates that FDI is important in investment in North American food and agricultural industries. As a consequence of NAFTA and other "free trade" agreements, substantial investment capital flows into Mexico. These flows are directly related to competition policy and other federal policies of the Mexican government.

Significant structural adjustment will occur, both in agriculture and value added food industries. For the most part, this structural adjustment will occur regardless of competition policy in Canada or the United States. Mexico and the Western Hemisphere is headed toward economic integration by 2010.

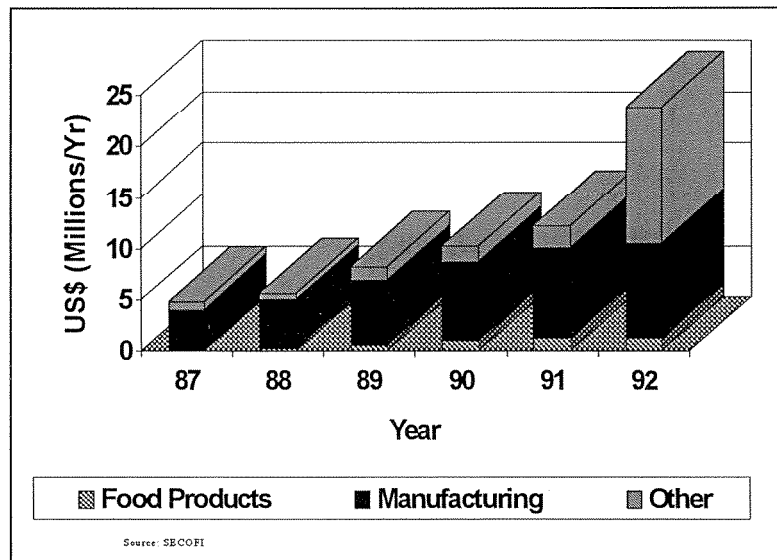


Figure 2. U.S. DI in Mexico by Sector

REFERENCES

Robertson, Gerald, W. T. Stanbury, Gernot Kofler, and Joseph Monteiro. "Competition Policy, Trade Liberalization, and Agriculture." Paper presented at the Policy and Trade Disputes Workshop entitled *Policy Harmonization, Convergence, and Compatibility* held in Tucson, Arizona, March 6-8, 1997.

SECOFI, Direccion General de Inversion Extranjera.