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Global (Stateless) Corporations and the Internationalization of Business: Implications for Canada and Canadian Marketplace Framework
(Interim Report)

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Executive Summary

As a medium-sized open economy heavily dependent on foreign trade, investment and technology, Canada is significantly influenced by the structure, strategy and decisions of transnational corporations. In response to rapidly changing patterns of comparative advantage in the world economy and the intense international competition for markets, a growing number of international corporations are following a genuine global strategy in terms of markets, production, investment, R&D and innovation, as well as the sourcing of all inputs.

According to many commentators, many of these multinationals are becoming stateless (footloose) corporations, with apparently decreasing loyalty to any particular community or country. The purpose of this interim report is to explore in a preliminary manner the causes and consequences of the emergence of the international or "stateless" corporation for Canada's competitive position, and for a number of the marketplace framework laws which up to June 25 1993 were the responsibility of Consumer and Corporate Affairs Canada, and are now generally under the purview of Industry and Science Canada (ISC). This report is based on integrating the results from an extensive review of the literature with consultations with officers in and outside ISC and the federal government. The report is designed to set the stage for more detailed quantitative analysis, and the extension of the analysis into other policy fields, to take place through the rest of FY 1993-94.

The report recognizes that there is considerable controversy regarding the "stateless" nature of current multinational corporations, and where we are now in the evolution of the traditional MNC towards a "stateless" corporate world. Moreover, while some Canadian based companies like Northern Telecom and Bombardier are becoming globalized, recent research has suggested that the vast majority of Canadian located companies -- particularly the Canadian subsidiaries of U.S. parents -- are mainly North American in their outlook and mindset. Regardless of these caveats, work at the OECD and elsewhere has highlighted that the footloose or stateless nature of the modern corporation is particularly important to smaller, more open economies; and therefore that even if the "stateless" corporation is no more than an astute forecast, it is a forecast that Canada and its governments would ignore at their peril.

Increased global competition for markets in combination with the reduced payoff from innovations, the large and increased cost of R&D and the

increased uncertainty and risk regarding the creation of new technologies and their commercialization, have compelled the modern multinational corporation to adopt global and cooperative strategies with respect to production, sourcing, innovation, raising capital, marketing and distribution. Even the most well known and self-sufficient firms are entering cooperative deals with other international firms at an unprecedented rate.

Global corporations could make a substantial contribution to improving Canada's total factor productivity; moreover, the available empirical evidence suggests that many of these positive effects are already being realized. At the same time, the fierce competition among countries and global firms for markets and technology would intensify the adjustment pressures in Canada, and could pose new dangers with respect to domestic competition, tax avoidance, and biasing policy development in favour of the largest international corporations. A receptive domestic environment to competition and change would substantially reduce the adjustment difficulties and dangers in the short to medium term and accentuate the longer term benefits to Canada from the internationalization of business.

The new international corporation also has a major effect on the development of Canadian positions for multilateral trade and investment negotiations. The increased integration of markets across national borders would greatly reduce the ability of national policies to influence industry and market structure or the behavior of marketplace participants; and will create a powerful internal dynamic for policy convergence across countries, increasing the need and scope for policy cooperation and coordination among national governments, especially the OECD countries. In particular, the growing importance of the stateless corporation in the world economy could result in the increased internationalization of many Canadian market framework laws and policies. Specific implications for different policies and statutes are discussed below.

The growing internationalization of business will considerably increase the importance of **competition policy** for facilitating the necessary structural adjustments and improving Canada's competitive position. At the same time, the increasing importance of stateless corporations in the global economy, and their complex ownership and business strategies, could significantly complicate the formulation and implementation of competition policy in Canada as well as elsewhere. Cooperation and coordination among national antitrust authorities, and the convergence of antitrust laws and enforcement practises, would ease international antitrust conflicts and facilitate the rapid pace of global economic integration.

The activities and strategies of global corporations over the last decade or so have been heavily influenced by the rapid pace of global change in technology, and the growing importance of intangibles to corporate strategy and profitability. The innovative activities of global corporations are critical to improving the real incomes and well-being of Canadians. Adequate and effective **intellectual property protection** in Canada and other countries would enable global corporations to appropriate a larger portion of the social benefits from their innovations. It is necessary however to balance the needs of IP creators and users as well as industry and consumers, in light of the potential ability of large international corporations to lobby national governments to obtain ever higher levels of IP protection. Balancing the needs of different stakeholders is achieved in part through enhanced international cooperation and coordination, supplemented by a vigorous case by case approach under competition policy regimes to deal with IP related abuses.

The global perspective adopted by the modern international corporation has a number of implications for **company laws**. These include: the locations of corporate headquarters; the global integration of securities markets which expands the potential for insider trading scandals and fraud as well as irregularities in conducting takeover bids; and, structural adjustment and the growing number of complicated international insolvencies. All of these call for greater cooperation and coordination among national authorities.

Turning to **consumer programs**, international harmonization of product and safety standards, testing and certification procedures, labeling requirements, weights and measurements, would be needed over the long haul to facilitate the activities and operations of global corporations, and to ensure the consumer interest is effectively addressed in the global economy. In the meantime, mutual recognition of national standards and testing procedures might be a more practical means to facilitate the rapid pace of global integration without compromising consumer safety and interests. A major issue for a small open economy like Canada is the selection of jurisdiction with which to harmonize or establish mutual recognition systems. Canada should continue to play a leading role in international fora, and strongly resist any attempts to significantly lower international product and safety standards either by global corporations or by national governments.

In sum, globalization and the stateless corporation will considerably increase the federal government's international activities and responsibilities in these policy fields. The growing influence of stateless corporations in the world economy would complicate the formulation and implementation of these framework policies, while at the same time increasing their importance and efficacy. The government may wish to continue to monitor its regulations, programs and priorities in these policy fields, with a view to further increase their efficiency and effectiveness, and to ensure the current regulatory framework continues to respond appropriately to the demands of globalization and the modern international corporation.

Global (Stateless) Corporations and the Internationalization of Business: Implications for Canada and Canadian Marketplace Framework

1.0 Introduction

Canada is a medium-sized open economy. It depends heavily on foreign trade, foreign investment and foreign technology. For instance, exports of goods and services constitute about 30 percent of Canada's gross domestic product, and imports account for a similar proportion. Therefore, future prospects for growth in output, employment and real incomes critically depend on Canada's ability to sell its products in international markets and to remain an attractive place to invest in plant and equipment, R&D and people. Our future growth also depends on our capacity and to promote a faster and wider dissemination of new product and process technologies among Canadian industry.

Transnational corporations play a major role in the Canadian and world economies via their production, trade, investment, innovation and marketing and pricing activities. The largest 600 global corporations, for instance, account for over one quarter of the gross domestic product of world market economies and their importance is steadily growing. Their role in world trade is even greater -- over half of the world's exchange takes place between and within global enterprises.[1]

These transnational corporations play even a larger role in the Canadian economy. Between 80 and 90 percent of Canada's trade in goods and services is carried out by transnationals. In addition, over 40 percent of the total trade between Canada and the United State is intra-firm in nature. Moreover, foreign-controlled firms account for about 50 percent of sales and employment in the Canadian manufacturing sector. Hence, global enterprises, both Canadian and foreign owned, play a major role in shaping Canada's competitive position.[2]

In response to the challenges of rapidly changing patterns of comparative advantage in the world economy and the intense international competition for markets, a growing number of multinational corporations are following a genuine global strategy in terms of markets, production, investment, R&D and innovation, and the sourcing of all inputs. Corporate decisions about the location of production and R&D and the source and method of financing are based for the most part on pure cost and profit considerations. In short, multinationals are increasingly becoming stateless (footloose) corporations, with apparently decreasing loyalty to any particular community or country. Their main goal is to maximize performance enhance market share and leadership and increase shareholder value. Their playing field is the world.[3]

Hence, a better understanding of the characteristics, the ownership, investment, innovation, production, marketing and pricing strategies, and the business practices of global corporations, and the causes and consequences of their dominant and growing role in the world economy is essential to assess their current and future impact on Canada's competitive position. Such in-depth research is also crucial for understanding the possible interactions and linkages between the strategies and activities of global corporations and Canada's market framework laws and policies.

The objective of this study is to a make a modest contribution in this important area. It will examine the causes and consequences of the internationalization of the activities of multinationals for Canada's competitive position -- Canada's ability to compete in international markets in terms of price, quality, variety and service, while maintaining and improving its real per-capita income -- and to promoting the fair and efficient operation of the marketplace in Canada. This research, therefore, will examine the interactions and linkages between the activities of global (stateless) corporations and many of Industry and Science's marketplace framework laws and policies.* In particular, it will focus on the impact of the activities of global corporations on:

(a) the coverage and effectiveness of competition policy, focusing on the impact on domestic competition of the ownership, marketing and pricing strategies of global enterprises;

(b) the changing treatment of intellectual property (IP) rights in Canada and in other countries;

(c) laws regarding business insolvency and incorporation, including provisions on director's liabilities and insider trading;

(d) laws and regulations concerning product safety and product liability; and

(e) the depth and breadth of provisions concerning consumer protection.

The research is designed to answer the following broad set of questions:

- What is a stateless corporation? How is it different from a traditional multinational enterprise (MNE)?

- What are the forces behind the evolution of global (stateless) corporations?

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* Previously under the responsibility of Consumer and Corporate Affairs Canada.

- What are their ownership, asset and investment strategies?

- What are their marketing and pricing practices?

- How important is intellectual property protection to them?

- Do their activities enhance productivity (dynamic efficiency) and real incomes globally?

- Under what circumstances could their negative effects on market concentration, market power, competitive behavior, policy autonomy and income distribution offset their positive impact on innovation, productivity and real income in Canada?

- What are the general policy implications of the evolution and the increased role of stateless corporations in the global economy for Canada? And, most important,

- What are the implications of the activities and strategies of stateless corporations for the Canadian market framework laws and policies (listed above)?

To achieve these research objectives, an outline of the important research issues was prepared in October 1992. It proposed to analyze these issues using three complementary research methods: pulling together existing research, new qualitative analysis, and quantitative research.

The long-term research strategy is designed to provide a systematic integration of ideas and results from the earlier research in several closely related topics: international business, globalization, innovation, international competitiveness and their relation to market framework laws and policies. The literature synthesis will subsequently be supplemented by the results from our new qualitative and quantitative research (see the research outline, Appendix A for details).

Over the last number of months, consultations have taken place with many people both inside and outside of CCAC -- now Industry and Science Canada -- (see the attached list, Appendix B), in order to discuss the Project in some detail. These meetings were designed to solicit their views of the issues raised in the project outline, as well as their views of the implications of the global corporation for Canadian economic policy in general, and more importantly, to many of the market framework laws and policies now under the responsibility of Industry and Science Canada.

The quantitative work began in the Spring of 1993 and is expected to be completed later in the current fiscal year. The purpose of this interim report therefore is to provide an integration of the findings from the literature review and synthesis and the consultations to date, and to set the stage for a more detailed quantitative analysis, and for extending the analysis to other policy fields, to take place later in 1993 and beyond.

2.0 What is a Global/Stateless Corporation?

2.1 Major Features

In the Post War period, American corporations dominated their European and Japanese counterparts in terms of size and technology. The productivity and cost advantages associated with scale economies and technological superiority gave them an unassailable competitive edge over their competitors. The American companies gradually changed their emphasis from solely exporting to foreign markets to local assembly or manufacturing in different parts of the world, largely in response to the strong trade protection in the importing countries and to high transportation costs.

Towards the goal of local production, they established subsidiaries around the world. The subsidiaries formerly produced and sold more or less the same products as the parent company. They were operating as miniature versions of the headquarters organizations. All important decisions about production, investment and R&D were taken by the parent company at the headquarters. The ownership and management of the parent and the subsidiaries were dominated by the nationals of the home country. Thus the citizenship of the multinational had an important bearing on the economic performance of the home and host countries. In this paradigm the competitive position of the home country was closely related to the competitive position of its multinationals.[4]

In the last ten years or so, however, there have been dramatic changes in the nature and methods of international business. The marked shifts in the comparative advantage and competitive positions of countries around the globe and intense international competition, largely due to the rapid pace of technological progress and the liberalization of trade, investment and financial flows, have brought about a drastic change in the attitudes and business strategies of multinational corporations. They are increasingly adopting global strategies for markets, production, sourcing, innovation and financing.

In these global strategies, the whole world is seen as a series of markets for sales and the sourcing of inputs, and a series of production, assembly and R&D centers by the multinationals. These new global corporations will undertake activities anywhere in the world that will maximize their productivity and profit performance and increase their global market share. Hence, their outlook is cosmopolitan and their playing field is the world; and the distinctions between the domestic market and the foreign market are becoming blurred. In this scenario, the historical home market could even be served by production facilities elsewhere, depending upon the competitive positions of the home and host countries.

Production, investment, R&D, the sourcing of inputs, the identification and hiring of senior managers, and the issuing of debt and equity are planned and done on a global basis. The location of headquarters and the nationality of the home country, therefore, are becoming less important for decision making, since often most of the company's shareholders and senior executives are drawn from outside the home country and/or the country where its headquarters are located.[5]

In short, multinationals are increasingly becoming stateless (or footloose) in their outlook and activities. Hence, the residence and performance of a global corporation are becoming more important than its nationality for the economic interests of both the home and host countries. Since a global corporation undertakes different aspects of the production process in different parts of the world, it is increasingly becoming difficult to determine the country of origin (made in country x) of its products. For instance, it is alleged that Chrysler Corporation now has more Japanese than American content in its cars while many Honda cars have more American than Japanese content.

Northern Telecom and Bombardier, two of several Canadian multinational companies, are also following the above mentioned global strategy. Northern Telecom, with total sales of over U.S. $8 billion in 90 countries, employs more than 60,000 people across 40 countries. Canada accounts for only about one third of Northern Telecom's total employment; and the importance of its Canadian operations is expected to decline further over the long term. Like Northern Telecom, Bombardier, a Quebec based multinational, is increasingly following a global business strategy. It has plants in the United States, Austria, Belgium, France, the United Kingdom and Mexico. Over 90 percent of its sales are to markets outside Canada.

2.2 Canadian Experience

The recent Conference Board of Canada's survey of Canadian companies strongly suggest that the enterprises operating in Canada are largely North American in their outlook.[6] Despite past efforts by government and business to diversify Canada's commercial relations and the dramatic increase in the importance of the Asia/Pacific Rim Region and the European Community in the world economy, Canadian trade and investment linkages with these countries have remained relatively weak. A majority of the Canadian-located enterprises are neither ready nor planning to enter overseas markets. At the same time, some large Canadian corporations such as Alcan and Bata have relied on markets outside North America for a significant proportion of their sales and sourcing for a long time.

A similar picture emerges with respect to the sourcing of inputs. Currently, over 90 percent of raw material inputs and production services of Canadian companies are sourced from North America. Moreover, the importance of overseas sourcing is expected to increase only marginally over the next three years. However, with the NAFTA accord, the share of the United States and Mexico in total North American sourcing is expected to increase substantially over the next three years.

It seems that the Canadian (domestic as well as foreign owned) enterprises are responding to the challenges of increased global competition. This is being done mainly through rationalization -- reducing the number of employees, increased automation, cutting the number of management layers, product specialization, and similar rationalization strategies.

The marked increase in export orientation and import penetration suggests a large increase in product specialization in the Canadian manufacturing sector during the last 10 years or so. For instance, the ratio of exports to sales in Canadian manufacturing increased from 23 percent in 1980 to over 43 percent in 1991. Similarly, penetration of imports into the Canadian market has dramatically increased.[7]

What about the autonomy of subsidiaries? The Conference Board survey suggests that Canadian-located subsidiaries enjoy a large degree of independence from their parents with respect to pricing of products, advertising and the sourcing of inputs. They are, however, granted little or no autonomy in matters of acquiring assets, taking on debt and issuing shares. In addition, the Conference Board's survey results suggest that the outlook for subsidiary autonomy remains unchanged, if not a slight deterioration, over the next three years.

In short, the Canadian-based companies are mainly North American in their outlook and mind set. They have responded to the challenges of global competition largely in terms of rationalization rather than through increasing their participation in global markets. The Conference Board survey as well as our consultations with the representatives of Canadian business groups suggest that Canadian subsidiaries enjoy only a limited amount of autonomy from their parents. Decisions about new investments in plant, machinery and equipment, and R&D are still significantly influenced by the location of the headquarters as well as the nationality of the enterprise. One possible interpretation is that U.S. parents treat Canada and their Canadian subsidiaries as one part of their North American market and their operations. This trend is expected to accelerate as the FTA and now the NAFTA are fully implemented. Therefore, while a few Canadian based corporations like Northern Telecom are becoming globalized, these important caveats regarding the vast majority of Canadian located corporations have to be taken into account in analyzing the policy implications of the growing importance of global (stateless) corporations in the world economy to Canada.

2.3 Concluding Comment

The authors of this report recognize that there is considerable controversy regarding the "stateless" nature of current multinational corporations, and where we are now in the evolution of the traditional MNC towards a "stateless" corporate world.

The critics argue that the observations of Robert Reich and others are little more than interesting forecasts with little hard evidence to support their views. It is argued that the horizons of most larger European corporations are bounded by Europe, and that the Japanese MNC's remain essentially Japanese, despite their expanding operations in North America and Europe and their growing links with the NIC's in Asia. While recognizing the importance of these caveats, the authors would respond in three ways:

1. While the MNC's based in different countries are going global in different ways and at different speeds, the literature has highlighted common characteristics in the evolutionary process regardless of the nationality of the MNC.

2. The work at the OECD, UNCTC and elsewhere has highlighted that the footloose or stateless nature of the modern corporation is particularly important to smaller open economies like Sweden, Switzerland, the Netherlands, Australia and of course Canada. There is theoretical rationale and empirical evidence in support of the observation that the transnational corporations from smaller countries invest abroad at early stages of their development, to reap scale and scope economies in production, marketing, R&D and innovation.

3. Given the recent uncertainty regarding the future of the multilateral trading community, the recent successes on the regional front (FTA, NAFTA, Europe 1992, etc.), and the world-wide recession, it is not surprising that some MNC's are slow to respond to the opportunities afforded by globalization. A successful Uruguay Round, combined with stronger economic growth among OECD countries, could readily accelerate the globalization of markets and the evolution of the "stateless" corporation in search of higher global profits.

Our view is therefore that even if the "stateless" corporation is no more than an astute forecast -- and we believe it is much more -- it is a forecast that Canada and its governments would ignore at their peril. The next chapter focuses on the key factors driving the stateless corporation, and thus help to explain why such corporations are more than an "astute" forecast.

3.0 Factors Behind The Evolution Of Global Corporations

3.1 Key Trends

In the past, a large multinational, American and non-American alike, would base its business strategy on developing a new and superior technology and exploiting its full potential either on its own or by licensing throughout the world. But, the dramatic changes in the global economy, especially over the last ten years or so, have induced a decisive shift towards internationalization by the multinationals: globalization of markets, production, sourcing of all inputs (including the hiring of senior managers and directors), and R&D and innovation.

An understanding of the forces behind the rapid pace of the internationalization of business is crucial for analyzing the causes and consequences of various marketing and ownership strategies of global corporations and analyzing their implications for Canada's competitive position and for its market framework laws and policies.

Globalization of business is necessitated as well as facilitated by a number of inter-related and mutually reinforcing trends in the world economy:

(i) the dramatic reduction in transportation costs;

(ii) the communications revolution;

(iii) the accelerating tempo of product and process innovations;

(iv) the rapid pace of diffusion of new technologies around the world;

(v) the sharp increase in the importance of knowledge-based production;

(vi) the liberalization of trade, investment and financial flows,

(vii) the convergence of consumer tastes across the OECD countries, and

(viii) the intense and growing international competition for markets. All these forces have created a cycle of globalization, product and process innovations and international competition.[8]

Among all the above mentioned factors, technology has played the dominant role in the process of the internationalization of business. Marked improvements in process innovations, increased automation and the use of robots, etc., have dramatically improved the productivity of labour and resource inputs while at the same time sharply reduced their importance in total manufacturing costs. For instance, today in industries such as autos, electronics, chemicals, steel and textiles, the labour component accounts for less than 10 percent of total manufacturing costs. It means that the competitive advantage of an enterprise as well as of nations is largely determined by its superiority in process and product innovations.

The rapid tempo of product and process innovations and the faster rate of dissemination of their technologies across nations in turn have substantially reduced the payoff from new innovations, because of the increased scope for imitation by others and the shortening of product cycles. In addition, the fixed R&D cost of developing, commercializing and diffusing new product and process technologies is very large and increasing. These factors in combination with the increased uncertainty about the creation of new technologies and their commercialization have necessitated a speedier and more simultaneous entry of a multinational in all the major markets of the OECD; and joint research, production and marketing and distribution ventures with other firms internationally. This trend is true for both multinationals as well as domestic-based enterprises.

The convergence of real per capita incomes across the industrialized countries and the marked increase in the manufactured exports of the Asia Pacific Rim countries in conjunction with the above mentioned global trends have resulted in the convergence of consumer tastes across national boundaries, including the growing middle income class of the developing countries.[9] Like corporations, consumers in all countries are increasingly becoming stateless in their buying habits -- they want the best and the cheapest regardless of the origin of the product. The convergence of consumer buying habits has intensified competition for markets among global corporations and nations.

3.2 Conclusion

In summary, the rapid tempo of technological change, the communication revolution, the faster rate of diffusion of new technologies, the liberalization of trade, investment and financial flows, and the emergence of the Asia Pacific Rim as a major player in the world economy have resulted in a borderless world for both consumers and corporations, and have intensified international competition. Increased global competition for markets in combination with the reduced payoff from innovations, the large and increased cost of R&D and the increased uncertainty and risk about the creation of new technologies and their commercialization, have compelled the multinationals to adopt global and cooperative strategies with respect to markets, production, sourcing, innovation, marketing and distribution. [In other words, to maximize its performance and to maintain and increase its global market share and shareholder value, a multinational corporation has to simultaneously pursue competitive as well as cooperative international approaches with regard to production, sourcing, marketing, distribution and R&D vis-a-vis other global and non-global enterprises.] The emerging business strategies of global corporations, discussed in the next section, conform to this paradigm.

4.0 Market Penetration, Ownership and Innovation Strategies of Global Corporations

4.1 Competition versus Cooperation

As discussed above, the rapid pace of the creation and diffusion of new technologies around the world, combined with increased international competition, have resulted in international cooperative corporate ventures and relationships involving R&D, production, marketing and distribution. Even the most well known and self- sufficient firms like IBM, General Motors, Philips, Siemens, Hitachi, Olivetti and Northern Telecom are entering cooperative deals with foreign firms at an unprecedented rate. The importance of cooperative efforts between industry, university and government in creating, upgrading and diffusing technology is also increasing. However, here we are only dealing with inter-firm (horizontal as well as vertical) cooperative relationships.

The co-existence of competition and cooperation among international business enterprises has important national and international implications for innovation, the allocation of productive resources, rewards to factors of production, real incomes and market framework laws and policies. In this sub-section we will briefly describe recent trends in the strategies of global corporations, with a special reference to the Canadian experience.

To obtain access to major international markets and complementary new technologies, and to properly manage the uncertainty and risk associated with returns on huge new investments in plant, equipment and R&D, business enterprises are following various complementary ownership, market penetration and innovation strategies. These can be grouped into three broad categories: 'no ownership', 'wholly-owned', and cooperative ventures.[10]

A 'no ownership' strategy with respect to foreign operations includes four possibilities: exports, licensing, local financing and subcontracting of components.

A 'wholly-owned' strategy, on the other hand, involves all or virtually all of the foreign operation being owned by the enterprise. A wholly-owned strategy can be accomplished in two ways: acquisitions (buying of existing firms or facilities) and greenfield operations.

In the cooperative strategy a business enterprise joins hands with other firms for purposes of establishing joint foreign operations involving production, distribution and R&D. This could be achieved through four ways; mergers, minority ownership, joint ventures and less formal alliances.

An international firm could opt for one or more of the several above mentioned choices, depending on the market, product, technology, local conditions, and its needs and relative strengths. A 'no ownership' strategy is not commonly used, but is potentially more useful because it allows an international firm to circumvent local political and ideological obstacles, to resort to unorthodox methods of sourcing of inputs and improve its global competitive position.

On the other hand, a 'wholly-owned' strategy, reflected by the sharp increase in foreign direct investment flows among countries was very popular in the 1980s. It permits an international firm to follow a true global business strategy, because it allows a company to move its assets and liabilities around the world depending on economic and political conditions. However, because of the increased political and economic uncertainty, and the necessity to invest large sums of money in risky R&D projects, more and more companies are switching to cooperative ventures. In addition, the flexibility of moving operations is being constrained by local hostility, presence of significant transaction and sunk costs, cultural and institutional differences and inertia.

A cooperative strategy allows an international firm to achieve access to markets and technologies while minimizing the above mentioned political and economic risks. However, it limits the freedom of the company in responding to changes in global economic and political conditions. The recent world wide proliferation of joint ventures, minority equity participation and alliances of various kinds suggests the growing importance of technology in maintaining and/or gaining a competitive edge and getting access to markets by a global firm.

The choice among mergers, minority equity participation and cooperative alliances depends on the importance of minimizing transaction costs in relation to maintaining organizational flexibility (minimizing the organization's vulnerability and adjustment costs).

Transaction costs refer to the costs associated with coordination, monitoring and compliance. Vulnerability costs deal with the adverse impact of unanticipated changes in technology and environment on the performance of the company. Adjustment costs, on the other hand, measure the ease with which the organization can shift resources in response to changes in the company's direction.

The types of technologies being transferred, the technical capabilities of firms involved, the types of R&D projects, and the shifting locus of global competition all play a role in determining the efficiency and flexibility trade-off to the enterprise. In periods of rapid technological changes and increased uncertainty about the payoff from R&D investments, a technological alliance might be the optimum strategy.

Internationalization through mergers and acquisitions, greenfield operations, minority ownership and joint ventures reduces the costs associated with coordination, monitoring and compliance by bringing the technology creation and adoption activities under corporate control. But, the vulnerability and adjustment costs could be very high.[11]

In contrast, an alliance could reduce the adjustment costs and thereby improve the corporation's flexibility and adaptability with respect to resource allocation. The limited degree of commitment allows the firm to diversify risks while maintaining adequate control over the activities of the partnership. Furthermore, if things go well, the company can always turn a temporary alliance into a long term collaborative arrangement. However, the increased flexibility could involve higher transaction costs, depending on the circumstances and type of arrangement.[12]

The recently compiled data on inter-firm cooperative arrangements indicate that the absolute number of inter-firm agreements has increased enormously over the last 20 years or so and the trend seems to be accelerating. In addition, the data indicates the growing importance of R&D and technology arrangements in total inter-firm agreements. These agreements, not surprisingly, are concentrated in R&D and technology intensive industries.[13]

More and more R&D and production alliances are being formed between distant competitors rather than geographically close competitors, because they simultaneously improve access to each other's market. For instance, there is a high and rising degree of collaboration (horizontal as well as vertical) between North American, (mostly American), European and Japanese firms in industries such as autos, computers, semiconductors, robots, air transport equipment, carbon fibers, and biotechnology.[14]

In addition to changes in market and technological conditions, political and economic conditions -- and economic, competition and industrial policies in both home and host governments -- play a significant role in the choice of business strategies. For instance, it seems that the environment in Japan and France is not conducive to takeovers and full-control establishments by international corporations. Instead, alliances and licensing are more acceptable. On the other hand, the U.S., UK and Canada generally are more open to foreign takeovers and 'wholly-owned' operations. A similar pattern emerges with respect to the influence of the home country on business strategies.[15]

4.2 Canadian Experience

It seems that market penetration and joint R&D and production are also the main motivations for the internationalization of Canadian firms. Northern Telecom is one of the most aggressive companies in pursuing a true global strategy. However, as mentioned before, many Canadian firms are still predominantly North American in their outlook. Hence, the United States accounts for much of their activity outside Canada.

Like their counterparts in other countries, many Canadian companies are increasingly looking at joint ventures and alliances as a way of responding to global competitive pressures. According to the Conference Board Survey, the most popular form of internationalization among Canadian firms are joint ventures and strategic alliances, followed by acquisitions, exports, greenfield operations and mergers. In addition, the importance of alliances and joint ventures is expected to increase substantially over the next three years.[16]

Currently 41 percent of respondents indicated that their firm was involved in 3 to 6 alliances or joint ventures, mostly with foreign firms. In addition, the average number of alliances and joint ventures is expected to increase to 4 to 7 over the next 3 years. Similarly, the importance of joint ventures and alliances in respondents' total worldwide sales is expected to increase from 18 percent now to over 25 percent in the next three years. These findings are in line with the results from earlier Investment Canada reports.[17]

5.0 Consequences of the Growing Importance of Global Corporations to Canada

5.1 Major Considerations

To explore more fully the policy implications of the activities and strategies of global corporations to Canada, we have to first know the consequences of the increased globalization of their production, sourcing, investment, and R&D for the well being of Canadians: the living standards of Canadians, fair and equitable distribution of income, protection of consumer interests and policy autonomy. In this subsection we will examine some of the possible consequences of the internationalization of business for Canada.

The major goal of economic activity is to advance the living standards of its people, as measured by the level and growth of real income per person or family. At the national level many factors affect real per-capita income: the country's endowment of natural resources, the quality of labour and capital, the aggregate unemployment rate, the age distribution of its population, and the efficiency with which all factors are used in the production process -- total factor productivity.

Thus the increased globalization of business could influence the real per-capita income of Canadians through its direct and indirect influence on total factor productivity, the quality of labour and capital inputs and the unemployment rate. On the other hand, it will likely have no significant impact on the age distribution of the Canadian population.

Total factor productivity at the national level is affected by a multitude of factors: technical progress, economies of scale and scope, product mix and product specialization, intensity and flexibility of all productive resources, quality of management, labour-management relations, market structure and competition in each industry and the allocation of factor inputs across industries.

5.2 Possible Positive Impacts

Global corporations could make a substantial contribution, both directly and indirectly, to improvements in Canada's total factor productivity in several ways: creation and diffusion of new product and process technologies, flexible and efficient utilization of inputs, economies of scale and scope, product specialization, increased investment in plant, machinery and equipment and people, efficient sourcing of inputs, expanded and more secure access to export markets, heightening rivalry in domestic markets, and the improved allocation of productive resources among industries.

They directly contribute to improvements in Canada's total factor productivity in two main ways: by raising the productive efficiency of individual industries and by improving the allocation of productive resources across industries. Their superior productivity performance is largely due to their edge in technology, management and marketing know-how, global sourcing of inputs, product specialization, and economies of scale and scope. For instance, it is estimated that the level of labor productivity (output per person hour) of the establishments run by foreign global firms in the Canadian manufacturing sector, on average, is about 20 percent higher than the productivity of Canadian (global and non global combined) establishments, after controlling for the distribution of resources among individual Canadian manufacturing industries.[18]

Global corporations contribute to the improvements in resource allocation, hence improve aggregate productivity, in two main ways. First, they tend to concentrate their activities in industries with above average and increasing levels of productivity. Second, they improve resource allocation indirectly by substantially increasing domestic competition. Increased competition from global enterprises, both through increased imports and increased domestic production, would induce rationalization and product specialization by the domestic-based firms, weeding out inefficient plants, firms and industries.[19]

Increased domestic and global competition, in addition to improving resource allocation, could improve the productivity of domestic-based firms because of the positive spillover effects on these firms: adoption and diffusion of new technologies, improvements in marketing and management know-how, efficient sourcing of inputs, increased investments in machinery and equipment, R&D and skill development of their employees, labour-management relations, etc. In addition, because these firms compete in integrated world product markets, they have to pursue distinctive ideas and innovations, contributing to the accumulation of world knowledge. Furthermore, the increased global economic integration, brought on by stateless corporations, can cause a permanent increase in the growth rate worldwide, because it encourages the exploitation of increasing returns to scale in the R&D and skill development efforts of all countries (see Rivera-Batiz and Romer (1991), and Grossman and Helpman (1991)).

In addition, the internationalization of business improves real incomes of Canadians by reducing the prices of consumer goods, because of the increased competition from imported goods as well as the increased rivalry among domestically based firms. Increased competition as well provides wider product choice, higher quality products and improved service to consumers.

5.3 The Empirical Evidence

The available empirical evidence from the United States, Canada and other countries strongly suggests that the activities of global corporations have a significant positive impact on domestic innovation, investment, productivity and living standards. For instance, a detailed and thorough analysis of the marked increase in the total number of mergers and acquisitions in United States in the 1980s by Litchenberg and his associates suggests that the ownership changes have significantly improved total factor productivity, the purest measure of technical efficiency, by eliminating inefficient plants, increasing the utilization of inputs, reducing product and industry diversification, and lowering fixed costs. It appears that almost all of the reduction in unit costs, resulting from improvements in productivity, were passed on to consumers in the form of lower prices.[20]

The results of Baldwin and Investment Canada research on the economic impact of Canadian mergers and takeovers are in line with the U.S. results. Baldwin's results indicated that mergers in the 1970s improved the productivity and profit performance of the firms involved. Moreover, the improved profit performance did not come at the expense of wages. The Investment Canada research suggests similar positive results. It finds that the economic performance of firms subjected to takeover between 1983 and 1987, measured in terms of increased profitability and investment and R&D intensities, and lower debt-equity ratios, improved considerably.[21]

The recent Conference Board of Canada Survey results are in line with the findings of Baldwin, and Investment Canada. Market penetration and market access, geographic expansion and diversification and economies of scale were mentioned by the respondent firms as the major reasons for mergers and acquisitions. The survey results also suggests that the M&A activity significantly increases production efficiency and lowers unit costs. The recent research of Wu on international joint ventures and alliances in the telecommunications and computer industries suggest similar positive impacts on the performance of the enterprises involved. In addition, his results do not support the argument that the cooperative agreements between global firms are mainly preemptive actions against competitors.[22]

In short, the increased global economic integration brought on by the activities and strategies of global firms would enhance the living standards of Canadians, and increase the flexibility and dynamism of the Canadian economy.

However, the size of the positive impacts critically depend on several important domestic factors: government policy towards global firms and competition, the efficacy of adjustment programs, the absorptive capabilities of supplying industries and other domestic firms, the attitude and reactions of domestic firms to the presence of global firms and increased competition, the environment for dissemination of technology and management skills, the structure of domestic and international markets and the pricing and marketing strategies of global firms.[23] In other words, the more favorable the domestic conditions to competition and change, the larger will be the positive influence of internationalization of business on domestic innovation, productivity and living standards. On the other hand, a slower and weaker adjustment to the rapid changes in the global economy would result in severe and prolonged adjustment difficulties in the domestic economy and more limited benefits from globalization.

5.4 Possible Negative Consequences

The fierce competition among countries and global firms for markets and technology would intensify the adjustment pressures in Canada for several reasons: large dependence on resources and resource based industries, a weak science and technology base, large dependence on foreign trade and investment, relatively weak manufacturing productivity performance, higher wage levels and weak domestic competition. The adjustment difficulties could result in the continuation, if not increase, of the current turmoil in the Canadian economy -- a high rate of firm and labour market turnover, an increase in structural unemployment, declining real wages and a large number of personal and business bankruptcies.

The adjustment difficulties will be much more severe for low- wage and low-skilled people, because of the growing competition for these jobs from the Asia Pacific Rim and other newly developing countries, that are highly cost competitive in labour-intensive and light manufacturing products. The increased import competition in conjunction with the reduced importance of physical labour input in the production process in all industries worldwide is expected to widen the wage differentials between the skilled and unskilled jobs in Canada as well as in other industrialized countries.

In addition, the growing importance of global corporations in the world economy could adversely impact Canadian interests by reducing and restricting domestic competition, increasing prices to consumers, avoiding taxes, and weakening the commitment to consumer interests and protection as well as social justice.[24]

It is often argued that global corporations, because of their global presence, huge financial resources and footloose nature, could successfully lobby national governments individually and collectively and influence the economic and social policies of home and host governments to further their economic interests at the expense of other groups. The successful lobbying by the global pharmaceutical companies for the removal of compulsory licensing and the increased patent term protection in Canada is cited by critics as one of the many examples of the influence of global corporations on public policy. However, if the growing internationalization of business forces national governments to pursue more outward looking and market/innovation oriented economic policies, this would improve the economic performance of all countries -- a positive sum game.

As mentioned above, much of world trade is carried out by large global corporations. In addition, a substantial portion of these transactions are of an intra-firm nature; and the importance of these transactions is growing. Global corporations could potentially manipulate the prices of intra-firm transactions for purposes of increasing profits, avoiding taxes, and restricting and eliminating domestic competition -- the transfer price mechanism. In the transfer price system, the book value of sales within the organization can be shown at a different price than would prevail in arm's length transactions. It is very difficult for a national government to detect and correct the transfer pricing problem. The empirical evidence on the prevalence and magnitude of this problem in Canada and other countries is spotty and inconclusive. Nevertheless, transfer pricing was one of the major issues in the recent U.S. presidential election.[25]

In addition, it is also argued that global corporations could restrict or eliminate domestic competition, restrict output, raise prices and earn abnormal profits by following several restrictive business practices: territorial market and product allocation practices, domestic marketing and pricing practices, abuse of dominant market position, and practices relating to the use of industrial and intellectual property rights, including licensing agreements. A more detailed list of possible restrictive business practices is given in Appendix C. Like the transfer pricing problem, there is no conclusive empirical evidence on the importance of restrictive business practices by international corporations for allocative efficiency and consumer prices in Canada and elsewhere. But, the absence of evidence does not mean that the problem does not exist or is not important. It may simply mean that it is difficult to detect and document these practices. Therefore, the antitrust authorities have to be vigilant about their potential use by global corporations. We will discuss this issue further while examining the policy implications of stateless corporations for competition policy.

Furthermore, the explosive growth of international capital flows in combination with the increased globalization of production and investment, and increased speculation in exchange markets has produced wide swings in nominal and real exchange rates. Instead of correcting the problems arising from differences in national productivity and growth rates, the swings in exchange rates have been the major cause of changes in the short- to medium-term cost positions of the G-7 countries, especially in manufacturing. For instance, the swings in the external value of the Canadian dollar have exacerbated the cost problems of Canadian traded goods industries over the last five years or so.[26]

5.5 Conclusion

The growing internationalization of business could have both positive and negative effects on competition, efficiency and prosperity in the domestic economy. The net impact of these influences on living standards depends on the relative magnitudes of the two effects. However, the available empirical evidence to date suggests that the positive effects are greater than the negative impacts in the medium to long term. **Moreover, a receptive domestic environment to competition and change would substantially reduce the adjustment difficulties in the short to medium term and accentuate the longer term benefits of internationalization.**

6.0 Investment and Trade Policy Implications

Up till now we have discussed the characteristics, causes, strategies and consequences of the growing importance of stateless corporations to Canada. In the remainder of the report we will examine the implications of internationalization of business for Industry and Science's market framework laws and policies, and for policy cooperation and coordination among nations, especially the OECD countries. Towards this objective, we will first explore the investment and trade policy implications for improving Canada's competitive position. Next we will discuss the implications of the growing internationalization of business for some of Canada's market framework laws and policies -- competition policy, intellectual property protection, corporate policy and consumer policy.

The discussion of the causes of the evolution of stateless corporations in section three and the continued, slow but steady, progress in eliminating barriers to international trade, investment, and technology flows strongly suggest that the rapid pace of internationalization of business is expected to continue, unless national governments engage in trade and investment wars and erect substantial barriers to trade, investment, financial and technology flows. This policy response, however, is not expected at the present time. If the Uruguay Round fails, protectionist responses are likely to take place at the regional trading block level -- E.E.C., NAFTA, etc. -- not at the national level, allowing relatively free flows of goods, services, investment and technology within each trading bloc.

Currently, Canada favours actual or potential international negotiations on trade and investment in a wide variety of areas. Despite the ongoing debate about the impact of regional and bilateral agreements on world trade and investment flows, these agreements will co-exist with multilateral agreements for the foreseeable future. Both the GATT (Article XXIV) and the OECD Codes (Article 10) permit exceptions to the MFN obligations to certain types of regional and bilateral and regional agreements. Canada and the United States will likely use all three approaches. In addition, Canada has also used unilateralism to a limited extent in the recent past -- the replacement of FIRA with Investment Canada and the recently announced changes to the policies on foreign take-overs in the oil and gas and the cultural sectors.

The policy imperative for Canada, however, is to develop its domestic investment, trade, competition and other market framework laws and policies in a dynamic international environment over which Canada has only limited influence. Canada can no longer develop its domestic policies in isolation from international developments.

The real policy issue is to define "effective access" or "equivalent competitive opportunity" in a manner that helps to eliminate various formal and informal barriers to trade and investment without imposing a subjective policy view on other countries. The analysis must identify restrictive government measures and private practices in all countries and quantify their adverse impact on global trade and investment flows.

Removal of the remaining national and international barriers to trade and investment flows would further improve the allocation of the world's productive resources and raise the productivity and real incomes of all countries.

Foreign direct investment and trade are interrelated. As discussed earlier, transnational corporations are the dominant players in world trade. In addition, intra-firm transactions (especially between parent companies and their subsidiaries) and trade among affiliates account for a large and increasing share of their global transactions. Foreign direct investment often complements and expands world trade. Firms use the instrument of direct investment to secure access to markets abroad, and this often leads to trade between parents and their subsidiaries and increased export activity. In short, foreign direct investment increases global economic integration and prosperity.

Hence, international institutions such as the GATT, IMF, World Bank and OECD are taking concrete steps to eliminate the adverse impact of all the trade related investment measures (TRIMS) as well as the investment related trade measures (IRTMS) on global trade and investment flows. Otherwise, Canada could be a loser in a managed trade system where major economic powers such as the U.S. and Japan negotiate investment and trade shares in particular sectors.

The competition among national governments to attract the activities of global corporations will likely intensify in the future. This in turn could lead to more competitive bidding of state aid to industry, with serious adverse consequences for efficiency, real incomes and government budget balances in all countries, especially a small country like Canada with a federal structure. Hence, in the next round of GATT negotiations, Canada should consider taking a lead role in setting international rules with regard to state aid to industry, with the objective to gradually eliminate the vast majority of state aids over the long term. These new rules could involve the application of competition policy principles as well as multilateral investment and trade rules. In the area of investment, the rules of the game are much less different than in trade and competition areas. This multilateral policy stance would not only enhance Canada's long-term trading interests but as well would help to address the deficit problems faced by virtually all Canadian governments.

The increased globalization of markets, production, sourcing of inputs, investment and R&D is increasingly making the traditional statistics on exports, imports and trade balances less useful in evaluating the economic interdependence among nations. In addition, they can be misleading indicators of national competitiveness and fundamental trends in the world economy. For instance, 'ownership- based' trade statistics for the United States and Japan, constructed by DeAnne Julius, contrast dramatically with the traditional trade statistics. On an ownership basis, the greater integration of the U.S. economy with the rest of the world, compared to Japan, is revealed and its net trade deficit becomes a net surplus -- that is, ownership based foreign sales exceed ownership based foreign purchases in the case of U.S. owned corporations.[27]

The internationalization of business would increase the pace of economic integration across national boundaries. As discussed in section 5, the increased economic integration could significantly improve Canadian living standards through its positive impact on domestic competition, international competitiveness, investment in physical and human capital and R&D, diffusion of new technology, new opportunities for Canadian owned small to medium sized enterprises, the allocation and utilization of productive resources, total factor productivity, government policies, and the adaptability and flexibility of the Canadian economy.

The increased integration of markets across national borders, however, would greatly reduce the ability of national policies to influence the structure of the market or the behavior of market participants. It will create a powerful internal dynamic for policy convergence across countries, increasing the need and scope for policy cooperation and coordination among national governments, especially the OECD countries. While market-led policy convergence and cooperation and coordination are generally beneficial from a global perspective, they will severely reduce the policy autonomy of national governments.[28]

The internationalization of business, in addition, could drive down the level of regulation -- the laws regulating labour, the environment and product safety -- to very low levels and thus could help to undermine the foundations of, and public confidence in the market system.[29] Therefore, Canada should take an active part in international negotiations and continue to implement domestic policies to protect the interests of Canadian consumers and wage earners.

The increased pace of internationalization of business suggests that the citizenship of a global corporation *per se* will not have significant implications for the economic performance of the home and host countries. This is because the decisions of global firms with regard to production, investments in physical and human capital, R&D, and issuance of debt and equity are taken on a global basis and they are largely based on efficiency, profit and shareholder value considerations. Therefore, only the residence of a global corporation and its investment, R&D and production activities matter for a nation's economic well-being.[30]

But, as mentioned in section 1, the Canadian subsidiaries of foreign, particularly American, global firms still enjoy only a limited degree of autonomy with respect to R&D and the issuing of debt and equity. This is probably because Canada and Canadian facilities are treated as part of the much larger 'North

American market', related in turn to the historically very close trade and investment relations, the close proximity between the two countries, and more recently the FTA and NAFTA. In addition, the available empirical evidence suggests that the decisions about R&D are still significantly influenced by the nationality of the enterprise and the location of its headquarters (see Taggart (1991) and Dunning (1988)). These results in turn suggest that Canada's competitive position can be improved by attracting the activities and the headquarters of global firms to Canada.

However, Canada's ability to attract, retain and expand the investment and R&D activities of global firms itself depends on Canada's competitive position with respect to the cost of labour, capital and material inputs, tax and regulatory burden, incentives to business, availability of skilled labour, physical infrastructure, labour- management relations, etc. Our consultations suggest that the location of headquarters is significantly influenced by the international differences in the tax rates of highly skilled people. It is suggested that currently the United States has a significant tax advantage over Canada in attracting and retaining highly skilled people. However, Canadian public expenditures on health care, training, public safety, and urban infrastructure to an important degree may offset this advantage.[31]

In addition, as mentioned in section 5, a competitive, adaptable and flexible economy is a pre-requisite for coping with and benefiting from the rapid pace of internationalization of business. Furthermore, if the domestic conditions are not receptive to competition and change, and the economy is not competitive in terms of costs (including taxes and regulatory burden), incentives to business, physical infrastructure, availability of skilled labour and stable monetary and fiscal policies, the negative effects of globalization could overwhelm the positive impacts, and increase structural unemployment and lower the living standards of Canadians.[32]

Moreover, the need for the competitiveness imperative is much greater for Canada than the other G-7 countries, because Canada is a medium sized economy with a small population base spread over a large area with a significant dependence on foreign trade, investment and technology. Other things being equal, there could be an incentive for investors to move incremental activity to larger markets like the United States, when markets are growing slowly and market access is not fully secure; and thus, to rely on existing facilities in larger markets while closing facilities in smaller markets like Canada. This is because of various types of economies associated with operating in a larger market and the increased risk of trade protection, largely in the form of anti-dumping and countervail, which favors locating in the larger market within an "imperfect" free trade arrangement. Canadian advantages are further eroded by our higher tariffs against third-country imports compared to the United States, and inter provincial barriers which further fragment the small Canadian market.

To offset the market size disadvantage, therefore, Canada's competitive performance has to be superior to the performance of other G-7 countries, especially the United States. If the domestic conditions are not favorable, global corporations will move more and more of their production and R&D facilities from Canada to more attractive locations in the United States and other countries. This in turn would dramatically increase the adjustment difficulties in Canadian industry and adversely impact the living standards of Canadians.[33]

Before these policy measures can be addressed Canada needs to get its fundamentals right. Increased investments in human capital -- improving the quality of education, skill development, training and retraining, increased labour mobility; improved labour-management relations; flexible, adaptable, and efficient government regulations; freer movement of goods and services, capital and labour across Canadian provinces; lower tariffs on third-country imports; and vigorous domestic competition; would substantially improve the flexibility and adaptability of the Canadian economy.[34]

In particular, increased federal-provincial coordination and harmonization of economic and social policies and reduced inter-provincial barriers would further promote economic integration within Canada and reduce the uncertainty, risks and costs of doing business in Canada to global firms.

As mentioned in section 1, the Canadian-located firms are overwhelmingly North American in their outlook. This mindset severely constrains Canadian industry's ability to adapt to the rapid pace of change in the global economy. Canadian governments and industry associations could raise the global awareness of Canadian firms by regularly providing them with information about the emerging international trends in new market opportunities, competitive challenges and new product and process innovations.

As discussed in section 5, the large overvaluation of the Canadian dollar during the 1987-91 period was not due to any improvement in the economic fundamentals in Canada in relation to its trading partners. Instead, it was largely the result of wide swings in capital flows and increased speculation in international exchange markets. The overvaluation of the Canadian dollar in turn compounded the cost problems of Canadian traded goods industries during the 1987-91 period. However, the presence of large intra-firm trade, especially in autos, somewhat insulated Canadian exports from the adverse influence of the deterioration in cost position.

A return to the exchange rate overvaluation of 1987-91 could induce an exodus of entrepreneurs, skilled labour and investments to other countries, especially to the United States, because of reduced economic opportunities in Canada. Similarly, a prolonged period of under valuation, unrelated to economic fundamentals, could increase the risk, uncertainty and cost of doing business in Canada by creating a vicious cycle of price-wage inflation and depreciation. It is often argued that a fixed exchange rate system would remove disruptions to trade and investment flows associated with excessive fluctuations in exchange rates. The Canada-U.S. Free Trade Agreement and the NAFTA may further strengthen the case for a more stable external value of the Canadian dollar. But there are several drawbacks to this approach as well. Therefore, a careful and through examination of the advantages and disadvantages of the fixed and flexible exchange rates is required.[35]

As discussed in section 5, global corporations could engage in a number of business practices for purposes of restricting and eliminating both actual and potential competition, increasing profits and reducing taxes. Therefore, federal and provincial governments in Canada should be vigilant and closely monitor the marketing, distribution, pricing and acquisition/alliance strategies of global firms. Canadian competition policy authorities could play a crucial role in this regard. The role of competition policy in ensuring a healthy competitive environment is discussed in some detail in the next section. In addition, Canada could work with other countries and the private sector in considering the development of an international code of business conduct for global corporations.

7.0 Global Corporations and Canadian Market Framework Laws

7.1 Introduction

In this sub-section we will analyze the impact of the increasing internationalization of business on the operation of fair and efficient markets and examine the linkages between many Canadian market framework laws and policies and the activities and strategies of stateless (global) corporations.

Our discussion in section five strongly suggests that the growing importance of stateless corporations in the world economy in general complements the federal government's efforts in promoting the efficiency and fairness of the Canadian marketplace, and in improving the well-being of Canadians. However, the increasing internationalization of business will also expand the scope for anti- competitive, unfair and welfare reducing activities by global corporations. The relative magnitudes of the positive and negative benefits to Canada, however, critically depend upon the efficacy and compatibility of Canadian government efforts in maintaining and promoting competitive, flexible and adaptable domestic markets.

At the same time, the growing internationalization of business substantially reduces the scope and effectiveness of domestic market framework laws and policies. This in turn calls for increased cooperation and coordination among national governments in the formulation and implementation of business framework laws and policies.

Thus, the growing importance of stateless corporations in the world economy could result in the increased internationalization of many Canadian market framework laws and policies. This development in turn will considerably increase the government's international activities and responsibilities in relation to these laws and policies in the foreseeable future. In addition, the need for cooperation and coordination with other government departments and other levels of government, to maintain and improve consistency and compatibility of its objectives and efforts with those of other Canadian government business framework laws and policies, would increase significantly.

Furthermore, the increased internationalization of these activities would increase the training needs of its policy and enforcement officers, to keep abreast of rapidly changing domestic and international market conditions and assess their implications for the formulation and implementation of Canada's market framework laws and policies.

All these factors in turn would significantly increase the demands on existing Industry and Science resources. In view of the ongoing need for budget restraint, the growing demands on these resources would require a substantial improvement in the overall efficiency of its operations as well as a thorough and careful review of its regulations, programs, and priorities in relation to the framework laws and policies discussed in this document.

7.2 Competition Law and Policy

Here we will examine the implications of the growing internationalization of business for the formulation and implementation of competition policy in Canada. For this purpose, we will first describe briefly the objectives and instruments of Canadian competition policy. Next, we will discuss the interactions and linkages between competition policy and the activities of stateless Canadian corporations. Finally, we will examine the implications of these interactions for Canadian competition policy in the future.

Canadian Competition Policy:

The main objectives of competition policy in Canada, similar to many other industrialized countries, are to maintain and encourage competition in domestic markets, improve the efficiency and adaptability of the Canadian economy, and enhance the product choices of consumers with respect to price, quality, variety and service. Towards this goal, the Canadian antitrust authorities take the necessary actions for preventing the creation, maintenance and strengthening of a dominant market position by a single firm or a small number of firms, and for combatting collusion among firms and the abuse of a dominant market position.[36]

The Competition Act is the chief instrument for carrying out these functions. The Act applies to all sectors of the Canadian economy and applies to all businesses (with a very few exceptions). It prohibits criminal offenses such as bid-rigging, conspiracy to lessen competition unduly, price maintenance and misleading advertising. In addition, the statute identifies a number of matters reviewable by the Competition Tribunal including mergers and acquisitions, abuse of dominant market position, refusal to deal, tied selling, delivered pricing and specialization agreements.

Interactions and Linkages:

The rapid pace of internationalization of business further increases the economic integration between Canada and other countries, especially the industrialized countries. As discussed in section 5, it could significantly increase the efficiency and adaptability of Canadian markets by increasing domestic competition, resulting from the increases in imports and the production capacity of foreign- based firms in Canada, and by inducing and facilitating rationalization and innovation. Similarly, the increasing internationalization of business also improves consumers' product choices with respect to price, quality, service and variety. Therefore, the increasing importance of global corporations in the world economy could increase the effectiveness of competition policy and improve the well-being of Canadians.

The size of the positive benefits critically depend on the initial favorable domestic conditions for competition and change. In addition, although the activities and strategies of global corporations in general are generally motivated by efficiency considerations, there is a real danger that they could engage in a number of anti-competitive and welfare reducing activities. As discussed in section 5, these corporations are very powerful in terms of technology, financial resources and market position, and have considerable expertise in international marketing and distribution. In addition, significant proportions of their global transactions are of an intra-firm nature. They could thus enter into a number of horizontal and vertical restrictive agreements with other national and international firms and resort to transfer pricing and cross-subsidization, to segregate markets, reduce or eliminate both actual and potential competition, restrict output, raise prices, and increase profits. These anti-competitive activities could also reduce innovation and the dissemination of technology.[37]

The importance of these restraints to competition, however, depends to an important degree on the market structure in which these global firms operate. The potential anti-competitive effects would be large in industries and markets with few firms, few substitute (actual and potential) products, high trade and regulatory barriers, and/or high entry and transportation costs. The cement, food retailing and manufacturing, and solid waste management industries often display these characteristics. On the other hand, in markets with a sufficient number of firms, large number of substitutes, low entry barriers and low transportation costs, the anti-competitive effects would be small and the activities of international corporations would largely be efficiency enhancing.

Policy Implications:

Competition policy will increasingly become an important instrument of Canadian economic policy for:

(i) improving the flexibility and adaptability of the Canadian economy;

(ii) facilitating national and global economic integration and industrial restructuring with minimum adjustment difficulties;

(iii) and, thus, maximizing the benefits from the growing internationalization of business to Canadians.[38]

However, the increasing importance of stateless corporations in the world economy and their complex ownership and business strategies, could significantly complicate the formulation and implementation of competition policy in Canada as well as in other countries.

As discussed in sections 3 and 4, the growing internationalization of business is primarily driven by considerations of market access and the pooling of resources and risk sharing with other firms in the creation and commercialization of new technologies. Therefore, in reviewing national and international mergers and acquisitions, joint ventures and various cooperative agreements, the competition authorities will need to thoroughly assess their potential impacts on allocative efficiency, innovation and scale and scope economies. For instance, if an arrangement is expected to increase innovation and production efficiency considerably over the long term but to involve some short term price effects and misallocation of resources, competition authorities will need to weigh these factors carefully before challenging the transaction. This is because the increases in innovation and dynamic efficiency in turn could intensify competition among firms and improve static efficiency over the longer term.

The Canadian merger enforcement guidelines recognize the internationalization of markets by allowing markets to be defined as North American and global when appropriate. It should be noted as well that the merger provisions of the Canadian Competition Act provide for full consideration of the potential efficiency gains resulting from the proposed transaction. (See pp 14-18 of the Merger Guidelines, published by the Bureau of Competition Policy in 1991). However, it is difficult to accurately identify and estimate the potential gains in dynamic efficiency. Hence, only a thorough and careful case-by-case assessment of the potential pro-and anti-competitive effects would ensure that the innovation and efficiency enhancing activities of global corporations will not be inadvertently blocked and/or discouraged.

The internationalization of business also complicates the definition of a market (product or geographic). Since global corporations plan and carry out all their business operations on a global basis, competition, market concentration and market power should be viewed where appropriate from a global perspective. If they are assessed solely from a domestic market perspective, competition policy could reduce global economic integration and efficiency, and discourage innovation. On the other hand, defining markets as international in scope is not appropriate for antitrust purposes where the effectiveness of North American competition in checking the exercise of market power domestically is limited by tariff, non-tariff and other regulatory barriers. Under these circumstances, the contestability approach could permit the realization of benefits that flow from the increased scale and scope of the operations of stateless corporations while ensuring effective domestic competition.[39]

In addition, the growing influence of stateless corporations complicates the application of competition policy. In general these corporations, like domestic-based enterprises, obey national laws and policies. But, since their business operations cut across several national boundaries, it can be difficult to detect and document the anti-competitive activities of stateless corporations. Moreover, if there are no production facilities operating within the Canadian jurisdiction, the problem would be even more difficult. This is because Canadian consumers, through imports, would be equally affected by the anti-competitive activities of global corporations in other jurisdictions. But the Canadian antitrust authorities have little control over such activities, except through international antitrust cooperation instruments which are still limited in scope and effectiveness. The proposed Gillette/Wilkinson merger which involved reviews by many antitrust jurisdictions, is a case in point.

Moreover, differences in national attitudes towards international economic and corporate links and their perceived impact on competition, innovation and efficiency could result in international antitrust conflicts.[40] The most recent example of such conflict is the proposed acquisition of the de Havilland division of Boeing of Canada by ATR. It was approved by Canada, but was blocked by the European Commission in part because the E.C. placed greater weight on the market competition effects of the transaction, whereas the Canadian Bureau of Competition Policy placed greater emphasis on such factors as the failing firm and anticipated efficiencies.

In short, international corporate links can have a differential impact on competition and efficiency in different countries, leading to serious international antitrust conflicts such as the extraterritorial application of domestic competition law and different decisions on the same merger case. International convergence of competition policy would minimize these 'system frictions' and facilitate global economic integration with minimum adjustment difficulties.[41]

However, the full convergence of competition policy requires a common antitrust philosophy, common ground rules for its conduct, common enforcement practices and comparable industrial structures. In addition, in many countries, competition policy is influenced by industrial, trade, innovation, and other policies. Hence, it is difficult to quickly achieve the full international convergence of antitrust policies with high and vigorous standards for maintaining competition.

Therefore, cooperation and coordination among national governments in the formulation and implementation of competition policy in many small steps at different (bilateral as well as multilateral) levels would contribute to the easing of international antitrust conflicts as well as to the convergence process.[42]

Furthermore, Canadian economic welfare could be enhanced through greater reliance on competition policy as an alternative to interventionist trade and industrial policies. Efforts should be made to accentuate the positive interactions between Canadian market framework laws and other policies in the areas of trade, investment, industrial, intellectual property, innovation, and other economic and social policies.[43]

The growing internationalization of business by global corporations will considerably increase the importance of competition policy for facilitating the necessary structural changes and improving Canada's competitive position. But, it will complicate both the formulation and enforcement of antitrust policies. Cooperation and coordination among the national antitrust authorities, and the convergence of antitrust laws and enforcement practices, would ease international antitrust conflicts and facilitate the rapid pace of global economic integration.

7.3 Intellectual Property Laws

Intellectual property (IP) laws provide economic incentives to encourage the creation, dissemination and exploitation of new ideas. The Intellectual Property Directorate is responsible for granting or registering equitable exclusive intellectual or industrial property rights. Intellectual property rights, like property rights in general, give the owner the legally enforceable right to exclude others from making, using, or selling his property, without having an explicit contract with them.[44]

The federal government provides statutory protection for four principal forms of intellectual property: patents, copyrights, industrial designs, and trademarks. Trade secrets, which do not fall into any one of these four categories, are protected under federal and provincial laws.[45]

The patent system is one of the principal instruments of public policy for protecting IP rights in Canada. The Canadian patent law provides the exclusive rights to an inventor for 20 years from the date of filing or for 17 years from the date of granting the patent. The grant of a patent empowers an owner to sue anyone he or she believes has been using, making or selling the patented invention without authorization.

Under the Canadian Copyright Act, the creation of every original literary, artistic, dramatic or musical work can be protected normally for the life of the creator or author, plus for 50 years thereafter. The copyright owner will have the exclusive right to copy or distribute a copyrighted work. The Industrial Design Act grants the registered owner of an industrial design sole rights to use the design for a period of five years, renewable for another five years.

A trademark is any distinctive word or symbol that is appropriated or used in trade or commerce to indicate the origin or sponsorship of goods or services. A newly registered trademark is protected under the Trademark Act for an initial period of 15 years, renewable for additional 15 year periods indefinitely. Trademarks are designed to reduce consumers' search costs by precisely identifying goods and services that have particular, well defined attributes, and to prevent fraud. In addition, trademarks by protecting the firm's goodwill encourages the company to maintain, improve and invest in the quality of its products and services.

Stateless Corporations and IP Protection:

As discussed in sections 2 to 4, the activities and strategies of global corporations over the last 10 years or so have been heavily influenced by the rapid pace of global changes in technology, and the growing importance of intangibles (patents, other IPRs, proprietary information etc.) to corporate strategy and profitability, and the comparative advantage position of countries; and these trends are expected to continue in the future. Both nations and corporations will increasingly compete in terms of new product and process innovations.

But, the creation and commercialization of new technologies require increasingly large and risky investments in R&D, physical and human capital and marketing and distribution. In addition, the uncertainty about the returns from such investments has significantly increased because of the rapid pace of technological change. Shorter product cycles in combination with the increased scope for imitation have considerably reduced the returns to innovators. Therefore, for global corporations, especially in technology, R&D and knowledge-intensive industries, IP (mainly patent) protection is an essential instrument for appropriating the returns from their huge investments in new innovations. The appropriability of returns for inventive companies, of course, depends to an important degree on the scope, duration and effectiveness of IP protection.

The treatment of IPRs in international trade has an important competition policy dimension. Ownership patterns and licensing practices pertaining to IPRs impact directly on the structure and behaviour of innovative industries. The interrelationships between competition policy and intellectual property rights are manifested in numerous antitrust cases and in specific provisions of many countries' competition legislation (for details see Anderson, Khosla and Ronayne (1991), CCAC (1990b) and Appendix C).

For instance, transnational corporations can use IPRs to segment international markets and control parallel imports of legitimately made foreign versions of products embodying their intellectual property. This practice can facilitate international price discrimination by transnational enterprises and affect the terms of access to new technology by licensees in host countries such as Canada. An excellent discussion of this practice and the potential advantages and disadvantages of applying the exhaustion principle in international trade is given in CCAC (1990b).

Policy Implications:

Productivity growth is the fundamental long-term determinant of economic growth and improvements in the living standards of Canadians. Technological change is the most important determinant of long-term productivity growth in Canada and elsewhere. Hence, the innovative activities of global corporations are crucial for improving the real incomes and the well-being of Canadians.[46]

Therefore, adequate and effective intellectual property protection in Canada and other countries, by increasing the costs of imitation/infringement, would enable global corporations to appropriate a larger portion of the social benefits from their innovations.[47] This in turn would increase their overall global investment in R&D, related machinery and equipment and skill development and upgrading, and spur the creation and diffusion of innovation. On the other hand, insufficient and ineffective IP protection would lower imitation costs and could discourage the creation and dissemination of new product and process technologies and investments in human capital, and reduce the well-being of all countries.

However, the allocation of global corporations' investment and R&D activities under a uniform global IP protection framework depends as well on inter-country differences in several other important factors: size of the domestic and regional (trading block) markets, availability of skilled professionals, investment and R&D incentives, state aids to industry, regulatory burden, overall policy framework, location of headquarters, etc.[48]

The growing internationalization of business constrains the ability of a national government to use IP laws to further national objectives and goals. For instance, a unilateral reduction in IP protection by a country would be counter productive. It would induce global firms to relocate their innovation activities to other jurisdictions, and would result in retaliation from other trading partners (e.g.; Super 301 and section 337 actions under U.S. trade law).

On the other hand, a unilateral increase in IP protection would simply result in a higher level of global IP protection, because of increased competition among countries, producing perhaps no net long term benefits to the country concerned. In addition, even if the policy succeeds in creating a more competitive research environment, the country might still suffer a welfare loss, because it would reduce the efficiency of world research resources which in turn would reduce world output. The consequent loss in global output would be shared by every country. Other consequences could include reduced dissemination of technological information and greater opportunity to use IP to enhance market power. It is necessary therefore to balance the needs of IP creators and users as well as industry and consumers.

But, both the actual and perceived differences in IP protection among countries could play a significant role in the R&D and investment location decisions of global corporations. Therefore, to attract its fair share of global corporations' innovation activities, a medium-sized open economy like Canada must remain competitive in terms of business incentives, market framework laws and policies and infrastructure.

A very generous and broad-based IP protection globally, on the other hand, might actually reduce the innovative efforts of stateless corporations, and reduce the dissemination of new technologies, by permitting them to establish lucrative monopolies. The trade-off between the gains in dynamic efficiency and the loss in static (allocative) efficiency could be improved mainly by international cooperation on intellectual property. International agreements about the scope and the length of patent term, enforcement principles and dispute settlement mechanisms could significantly improve the trade-off.[49] The draft GATT and NAFTA agreements on trade related intellectual property rights (TRIPS) are important steps in this direction. They establish minimum standards for patent protection for all technologies.

Global corporations, however, could successfully lobby national governments (individually and collectively) in order to obtain higher and higher levels of IP protection, e.g.; patent term extension to pharmaceutical companies in many OECD countries. The ratcheting up of IP protection and its negative consequences for innovation, allocative efficiency and consumer welfare can be remedied only through cooperation and coordination among national governments.[50] In this connection, Canada could take a lead role at international fora such as the GATT, WIPO and OECD and argue for appropriate minimum and maximum limits on patent protection and significant penalties for the abuse of IP rights. Penalties could include reducing the patent term and/or introducing compulsory licensing. As noted earlier, competition policy could also play an important role in this regard.

Therefore, international cooperation and coordination on intellectual property would be the best way of stimulating innovation and economic growth in Canada and elsewhere while minimizing the negative effects on allocative efficiency and consumer welfare. In addition, a vigorous case by case approach under competition policy regimes in dealing with the abuses related to IP rights and licensing practices in Canada and other countries would improve the dynamic and static efficiency trade-off. Furthermore, some policy commentators argue that, in industries with few new alternative technologies and/or products, huge investments in R&D and high product differentiation such as pharmaceuticals, governments may wish to consider instituting price guidelines or price regulations (if necessary price and profit controls), to minimize the negative effects of IP protection on consumer prices and consumer welfare.[51]

7.4 Corporate Policies:

The newly created Industry and Science Canada also has the federal government's responsibility for the formulation and implementation of Industry and Science's corporate laws and policies.

These laws govern:

- the creation, dissolution and fundamental changes of federal business and non-profit corporations;
- the relations among shareholders and between shareholders and management;
- the disclosure of some corporate/securities information (e.g., insider trading); and
- the relationship between insolvent debtors and creditors and the reallocation of the assets of all corporations, whether incorporated federally, provincially or elsewhere (i.e., bankruptcy).

The broad objectives of the government's corporate policies are: to facilitate the efficient allocation of resources; to encourage economic growth; to promote equity in the corporate environment; to facilitate and promote stable, healthy and dynamic financial markets; and facilitate organized action for charitable or social purposes.

To meet these objectives, several Acts are administered. The four most important of these are the Canada Business Corporations Act (CBCA), the Canada Corporations Act (CCA), the Bankruptcy Act and the Companies Creditors' Arrangement Act (court-managed arrangements). The CBCA primarily deals with the governance of federally incorporated business corporations. The CCA governs federal non-profit corporations.

The primary objective of the Bankruptcy Act is to assist insolvent but viable debtors to make arrangements with their creditors for avoiding bankruptcy and restoring themselves to financial health. Failing this possibility, the Act is intended to provide for a fair and orderly distribution of an insolvent company's assets among its creditors.

Implications:

As discussed in sections 1 to 5, stateless corporations plan, integrate and carry out their output, input, innovation, financing, ownership and control on a global scale, in order to maximize their performance and profitability. This global perspective has a number of implications for corporate policy.

In section 6 we mentioned that the location of headquarters still plays a significant, although declining, role in the determination of global corporations' investment and R&D decisions. This implies that to attract corporate headquarters Canada has to be competitive with other countries in terms of its corporate laws and policies. This competitive imperative is much greater for a country like Canada, because of its small market, federal structure, and close proximity to the huge and dynamic U.S. market.

In the U.S., incorporation of a business enterprise in any one of the states entitles the corporation to carry out its corporate activities throughout the United States. This provision has led to intense competition among all the states for the incorporation of firms, especially the large global corporations, the so-called Delaware Effect. Delaware has long established a policy of maximizing management flexibility to corporations under its jurisdiction and minimizing government intervention. This policy in turn has created a cycle of increased business incorporation and the development of flexible and dynamic legal institutions. At present more than half of the Fortune 500 companies are incorporated in Delaware. The phenomenal success of Delaware has necessitated and induced the other states to emulate its corporate policies.

In Canada, corporations can incorporate either federally or provincially. More than 60 percent of the top 500 business corporations have incorporated at the federal level. Some reasons given for this are that firms benefit from the prestige of being incorporated at the national level and from superior service. Others feel that the federal law is better than that offered in the provinces where their headquarters are located.

During the 1970s and early 1980s, federal provincial corporate law changed substantially and the laws were generally viewed as dynamic. Few changes were made during the last decade, particularly at the federal level. Also, in 1985, the fees for incorporation at the federal level increased by 150 percent. Meanwhile, provincial fees have largely remained the same. As a result, the number of firms incorporating at the federal level has declined significantly relative to the provinces.

Securities Law:

The growing internationalization of business will increase the integration of securities markets around the world. This in combination with the predominant role of global corporations in securities transactions could increase the potential scope for insider trading scandals and fraud, and for irregularities in conducting takeover bids. These developments in turn would undermine the confidence of investors and the general public in financial markets, with adverse consequences for the allocation of resources, freer trade and investment flows and economic growth globally.[52]

Hence, a greater degree of transparency of international securities transactions, and the convergence of national regulations regarding insider trading and takeover bids would facilitate the activities of global corporations while ensuring the stability and credibility of securities markets.

In the United States and other OECD countries, the federal government has a strong presence in the regulation of securities. In contrast, in Canada provincial governments have the primary jurisdiction in this important area. Therefore, it is necessary to further harmonize the regulations governing the securities industry and markets across Canada, building on the inter-provincial efforts of the past decade. The need for greater federal involvement in securities market regulation is further underlined by the fact that the federally regulated banks now own most of the Canadian investment dealers.

Corporate Policies and Structural Adjustment:

As discussed in section 6, the growing internationalization of business would increase the adjustment pressures in Canada and other countries, because of the constant reallocation of resources across firms, sectors and countries. In addition, the adjustment difficulties, both positive and negative -- births and deaths of firms, plant closures and openings and job loss and dislocation, etc. -- would be much more severe in Canada, because of the greater need for structural adjustment. For instance, the productivity and cost performance of Canada's traded goods industries need to be improved significantly vis-a-vis the other G-7 nations and the newly industrialized countries. In addition, Canada's comparative advantage traditionally has been in resources and resource-based manufacturing, whose importance in world trade has been declining steadily. In short, the increased internationalization of business would expand adjustment difficulties significantly. This is expected to lead to more business and personal bankruptcies, further increasing the demands on the federal government's resources in this area.

Furthermore, the growing importance of stateless corporations in the world economy would complicate the formulation and implementation of national bankruptcy laws and policies. For instance, the failure of a global corporation would affect a large number of people in many countries, such as the failures of the Bank of Credit and Commerce International (BCCI) and the Maxwell Communication Corporation. In addition, the insolvency of global corporations could have a serious destabilizing effect in many sectors and countries. Since the assets of a stateless corporation are located in many jurisdictions, the assets in one jurisdiction may not match the liabilities in that jurisdiction. Consequently, the creditors of an insolvent global/stateless corporation in one country could be fully paid, while those in another country might receive much less than their full claim or might not even be paid at all.

Currently there is no mechanism for a fair distribution of an insolvent global firm's assets. Increasing cooperation and coordination among the national authorities could avoid some of these problems. In addition, disclosure to appropriate national authorities of global corporations' activities and problems in other countries may help to minimize these difficulties.[53] For the longer term, international rules to more effectively address global insolvencies may be needed, particularly in order to address the needs of small open economies like Canada.

7.5 Consumer Policies

The Bureau of Consumer Affairs protects, assists and advocates consumer interests. Towards these objectives, it establishes and enforces an extensive system of regulations and administers a number of voluntary programs aimed at protecting the interests of consumers in the Canadian market place.[54] These measures -- together with related programs administered by other government departments -- deal with packaging, labeling, quality, quantity, composition, advertising, weight, measurement and safety of consumer goods in Canadian markets.

Stateless Corporations and Consumer Policies:

As discussed earlier, the growing internationalization of business substantially increases the variety and quality of consumer products available in the market place, lowers prices for consumers and increases real incomes in Canada, provided that Canada is receptive to increased global competition, and adjusts quickly to the rapid pace of structural change in the global economy. In addition, fierce international competition among global corporations for markets and customers would improve the quality and safety of consumer products in Canada and elsewhere. Thus, the increasing importance of stateless corporations in the world economy should complement the federal government's efforts in protecting and promoting consumer interests.

What are the implications of the growing internationalization of business for Canadian consumer policies and programs?. Both global and non-global corporations generally obey national consumer laws and policies. However, there are many linkages and interactions between the activities of stateless corporations and consumer protection policies. As a consequence, a uniform, consistent and adequate set of international standards with regard to the safety, labeling, quality, weight and measurement of consumer products is essential for maintaining consumer confidence in the national and international market place and ensuring the free flow of goods and services across national borders.

On the other hand, inter-country differences in product and safety standards could constrain the activities of stateless corporations, and thereby reduce the benefits of global freer trade to consumers in all countries. In addition, global corporations as well as national governments could effectively use the differences in national standards, testing and certification procedures and labeling requirements to segment markets, and restrict and distort global trade and investment flows, thus reducing global economic well-being and increasing international tensions.

Therefore, international harmonization of product and safety standards, testing and certification procedures, labeling requirements, weights and measurements is required to facilitate the activities and operations of global corporations, to facilitate the rapid pace of global economic integration, and to ensure the consumer interest is effectively addressed in the global economy. Greater harmonization is particularly needed for a small open economy like Canada. Otherwise, global corporations would tend to invest and locate in countries offering larger markets, particularly the U.S. and E.C. But, achieving uniform, consistent, transparent and adequate product and safety standards and testing and certification procedures across all countries is extremely difficult, because of significant inter-country differences in institutional patterns, consumer habits and preferences, industry structure and requirements, and socio-cultural factors.

Instead, mutual recognition of national standards and testing and certification procedures, provided they all meet certain basic standards and provide comparable degrees of assurance, might be a more practical means to facilitate the rapid pace of global economic integration without compromising consumer safety and interests. However, it is easier to achieve such an agreement among the OECD countries because most of them already provide sufficient, although somewhat different, protection and safety to consumers. In addition, the regional trading agreements, such as E.E.C., NAFTA and EFTA, are moving in this direction.[55]

A wider international agreement in this direction first requires international consensus on the minimum acceptable levels of product and safety standards. This in turn would allow individual countries to develop national product and safety standards within this broad framework. In addition, mutual recognition of national testing and certification procedures, provided they offer reasonable levels of assurance and credibility, is required to ensure sufficient protection and safety of consumers and to promote their confidence in the market place. International standard setting organizations such as ISO, IEC and CAC could play a major role in facilitating and promoting international agreements on product and safety standards, testing and certification procedures and labeling requirements.

A major issue for Canada is the selection of jurisdiction with which to harmonize or establish mutual recognition systems. Given the FTA and NAFTA, the U.S. would be the obvious choice in most cases but market considerations may suggest harmonization with E.C. or Japan for some products.

Increased consumer input into national and international standard setting processes could also increase the efficacy of the system, better ensure adequate consumer protection, increase the confidence of consumers in the market place, and facilitate the rapid pace of internationalization of business. However, unlike business, in many countries consumer groups are neither well organized nor well funded to undertake such activities. National governments could strengthen consumer input by increasing their funding to consumer groups. In addition, national governments could increase the confidence of consumers in the market place by providing them with clear and detailed information on safety issues and national and international product and safety standards and processes.

In the past, all governments relied heavily on regulations for ensuring the safety and protection of consumer interests. But, in a world of increasing global economic integration, rising import penetration, and the complex and rapidly changing market place, the regulation route will considerably increase the burden on business. In addition, it would dramatically increase the demands on government resources, because of the increased work load associated with the design, passage and enforcement of regulations.

Leaving the detailed specifications and enforcement of product and safety standards, testing and certification processes and labeling requirements to non-government bodies and business, within a broad international framework of approved minimum standards, could facilitate the rapid pace of global economic integration and ensure adequate safety standards and the protection of consumer interests, without unduly increasing the regulatory costs to business, consumers and taxpayers.

In the meantime, Canada should continue to play an active and leading role in international fora and ensure an adequate amount of protection and safety to consumers. Moreover, Canada should strongly resist any attempts to significantly lower international product and safety standards either by global corporations or by national governments. Inadequate product and safety standards would only lower consumer protection and safety, reduce global economic integration and discourage industrialization and innovation.

8.0 Conclusions

The main purpose of this interim report has been to provide a systematic integration of the results from the literature review and consultations to date and derive their implications for Canada's competitive position and Canada's market framework laws and policies.

Our analysis suggests that transnational corporations, to overcome the challenges of rapid changes in technology and comparative advantage patterns and intensified global competition, are planning and integrating their production, investment, R&D, employment, financing decisions and marketing and distribution activities on a global basis. Their location decisions are mainly influenced by pure cost and profit considerations and less by their nationality. In an effort to minimize risk and maximize performance, they are adopting a multitude of ownership, innovation and market penetration strategies, including a variety of international cooperative ventures and agreements with other firms.

However, it seems that many of the firms operating in Canada are predominantly North American in their outlook and mind set. This situation is not expected to change significantly over the next few years. Furthermore, nationality and the location of headquarters still play a significant role in the investment and R&D decisions of global firms. However, the importance of these nationality based factors appear to be declining over time.

The increased internationalization of business has a number of potential positive and negative consequences for Canada's economic performance. The available empirical evidence, however, suggests that the positive effects can dominate the negative impacts if appropriate Canadian policies and international rules and disciplines are in place. In addition, competitive, flexible and adaptable domestic markets could substantially reduce the adjustment difficulties of firms and workers, and accentuate the benefits of global economic integration to Canada.

However, the increased importance of stateless corporations in the global economy reduces the effectiveness of national policies in influencing the marketplace and the decisions of global corporations, and increases the need for international coordination, cooperation and convergence of national market framework laws and policies.

These developments would considerably increase the federal government's international activities and responsibilities in these policy fields. In addition, the growing influence of stateless corporations in the world economy would complicate the formulation and implementation of framework policies with respect to competition, intellectual property, corporate law, bankruptcy and consumer protection, and considerably increase the demands on the government's limited resources.

On the other hand, the activities of stateless corporations could increase the efficacy of our market framework laws and policies. The government, therefore, might wish to consider undertaking a thorough and careful review of its regulations, programs and priorities in these areas, with a view to further increasing the efficiency and effectiveness of its operations; ensuring the current statutory and regulatory framework continues to respond appropriately to the demands of globalization, and the modern international corporation; and eliminating any unnecessary regulations and programs. This review would build on the extensive work of CCAC, Investment Canada and others on globalization, competitiveness and harmonization conducted over the past three years. The current regulatory review work of the government represents an important first step in this direction.

Where do we go from here?:

The conclusions of this report need to be supported by a more detailed, rigorous and systematic quantitative and qualitative analysis of the behavior, decisions and performance of global firms, along the lines described in the research outlined in Appendix A. This research should also be broadened to further address other policy interests -- trade, investment, industrial, innovation, science and technology and financial sector policies. This research would permit us to provide more definitive answers to some important policy questions such as the sensitivity of global firms' production, investment and R&D decisions to changes in the economic environment, the importance of nationality and headquarters in corporate governance and decision making, and their impact on Canada's economic performance.

With the collaboration of Statistics Canada, we hope to complete a longitudinal database on transnational and Canadian manufacturing firms in the North American market in the next few months. This would permit us to test hypotheses relating to the perceived characteristics of global (stateless) corporations, including production, investment, R&D, employment and pricing decisions of global and Canadian-based manufacturing firms. This quantitative research would enhance the substantial body of work on foreign investment and control in Canada conducted over the last 20 years or more. It would be very useful to supplement this quantitative analysis with interviews of some of the global corporations about their decisions and practices with regard to ownership, hiring of senior executives, control, issuing of debt and equity, R&D, etc.

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1 For an excellent and detailed discussion and analysis of the growing importance of transnational corporations in the world economy, see UNCTC (1992c).

2 See Economic Council of Canada (1992), and Corvari and Wisner (1992a).

3 For a good discussion of the behavior and strategies of global corporations, see Reich (1990, 1991a, 1991b), Ohmae (1985, 1987), Cantwell (1989), and Agmon and Glinow (1991).

4 See Ohmae (1987), Livingstone (1989), Dunning (1988), Grunwald and Flamm (1985), and OECD (1991a, 1992).

5 See Ohmae (1985), Reich (1991a, 1991b), and Julius (1990).

6 For details, see Conference Board of Canada (1992).

7 These conclusions are similar to the findings of Hu (1992).

8 See Ohmae (1985), Livingstone (1989), Julius (1990), Reich (1990), Investment Canada (1990b, 1992c).

9 See Rao and Magun (1990) for a detailed analysis of the convergence thesis, and for a documentation of the growing importance of the Asia Pacific Rim Countries in the world economy, see Rao (1992).

10 For a detailed discussion on global corporations' ownership strategies, see Ohmae (1985), Livingstone (1990), Investment Canada (1990b), and Wu (1987).

11 See Livingstone (1989), Wu (1987), Investment Canada (1990c, 1990d, 1990e), and OECD (1988, 1986b).

12 See Wu (1987), Livingstone (1989) and Khemani and Waverman (1992).

13 For the reference, see Khemani and Waverman (1992).

14 For details, see Ohmae (1985).

15 For a detailed discussion, see Wu (1987). A detailed documentation of the foreign merger and acquisition activity in Farnworth and McMechan (1992).

16 For details, see Conference Board of Canada (1992).

17 See Investment Canada (1990a, 1990b, 1990c, 1990d, 1990e, 1991b).

18 See Economic Council of Canada (1992), Corvari and Wisner (1992a).

19 See Dunning (1985), Livingstone (1989), McFetridge (1991), and Rao and Magun (1990).

20 See Lichenberg (1992).

21 See Baldwin (1991), Baldwin and Caves paper in Waverman (1991), and Investment Canada (1992b).

22 See Conference Board of Canada (1992), and Wu (1987).

23 For a detailed discussion on the importance of market structure, competition, flexibility and adaptability for economic performance, see Porter (1990, 1991), Economic Council of Canada (1992), Rao and Lemprière (1992), Dunning (1985), Hay and Morris (1991), and Investment Canada (1992c).

24 For a through discussion on some of the possible restrictive business practices of global corporations, see Long (1981), Livingstone (1989), and OECD (1986b, 1988, 1989a, 1989b).

25 For a detailed discussion on transfer pricing, see Livingstone (1989), Lall (1974), and CCAC (1981).

26 For a good discussion of this issue, see Harris (1992) and Economic Council of Canada (1992).

27 For detailed description of the methodology and results, see Julius (1990).

28 See Economic Council of Canada (1992), Julius (1990), Investment Canada (1990b), Ohmae (1985), and Reich (1991a), Ostry (1991), and Lipsey (1991).

29 See Julius (1990), UNCTC (1992), and Livingstone (1989).

30 See Riech (1990, 1991a, 1991b), UNCTC (1992), Julius (1990), and Investment Canada (1992c).

31 See Porter (1991), Dunning (1985), and Langford and Barker (1991).

32 See Reich (1991a, 1991b), Porter (1991), and Economic Council of Canada (1992).

33 See Porter (1990, 1991), Economic Council of Canada (1992), and Reich (1990, 1991a).

34 See Porter (1991), and Economic Council of Canada (1992), for a discussion of the need for a substantial change in the attitude of Canadians about competition and the need for industrial restructuring and innovation.

35 See Harris (1992), Courchene (1992), and Economic Council of Canada (1992).

36 See CCAC (1992f).

37 For a very good discussion of the possible pro and anti-competitive effects of international mergers and acquisitions, joint ventures, strategic alliances, see OECD (1986b, 1989), Khemani and Waverman (1992), and Wu (1987).

38 See OECD (1986b, 1988).

39 In a fully contestable market, entry is completely free and exit is costless. The key requirement of such a market is the absence of sunk costs. Increasing international competition, should considerably reduce the importance of sunk costs and substantially increase the contestability of markets and discipline the anti-competitive behavior of both

global and non-global firms. For an excellent discussion on contestable markets, see Baumol and Willing (1982), and Baumol's paper in Jorde and Teece (1992).

40 See Ruppelt (1991), Jungnickel and Kooperman (1991), Ireland (1991b), Ostry (1991), and Olmstead (1984).

41 At present there are six such international agreements in place: E.C.-U.S., Canada-U.S., U.S.-Germany, U.S.-Australia, the OECD 1986 Recommendations, and the UNCTAD Set; and Canada and the E.C. have had extensive discussions regarding a possible arrangement between our two jurisdictions.

42 For a good discussion of the interactions of and linkages between competition policy and other policies, see Anderson, Khosla and Ronayne (1991), CCAC (1990a, 1990b, 1992d, 1992e), Anderson and Khosla (1993), Kaell (1992), and Ronayne (1993).

43 For an excellent discussion of the importance of intellectual property rights for innovation and economic growth, see OECD (1989b), Grief (1987), Jorde and Teece (1992), Rushing and Brown (1990), Jussawala (1989), Smith (1991), Gallini (1992), Stalon (1987), and Globerman and Schwinds (1991).

44 For details, see CCAC (1991b).

45 For a discussion of the importance of productivity growth to economic growth and real income improvements, see Economic Council of Canada (1992), Porter (1990), and Rao and Lempreière (1992).

46 For estimates of the gaps between social and private rates of returns to R&D and innovations, and the causes and consequences of the appropriability problems, see Rushing and Brown (1990), and OECD (1989b).

47 See Dunning (1985, 1988), Langford and Blaker (1991), Duncan and Blaker (1991), and Taggart (1991).

48 See Economist (1992), Langford and Blaker (1991), OECD (1989b), CCAC (1990c), Duncan and Blaker (1991), and Warda 91992).

49 See OECD (1989b), Economist (1992), and Jorde and Teece (1992).

50 See OECD (1989b), and smith (1991).

51 See Langford and Blaker (1991), and Duncan and Blaker (1991) for a discussion of the western European countries' experience with the drug price guidelines and price regulations.

52 See CCAC (1991d).

53 For a detailed discussion of the problems associated with the failure of transnational corporations, see UNCTC (1992c).

54 Under the previous government structure, Consumer Bureau of CCAC administered the following regulations relating to consumers' safety and protection: Consumer Packaging and Labeling Act, Hazardous Products Act, Weights and Measures Act, Electricity and Gas Inspection Act, Textile Labeling Act, Precious Metals Marking Act and Tax Rebate

Discounting Act. It also shared responsibility with other federal departments for the administration of the Food and Drugs Act, the Fish Inspection and the Canada Agricultural Products Act. The Bureau also administered voluntary programs such as Care Labeling of Textiles, Canada Standard Size, Garment Sizing, Kids Care and Work place Hazardous Materials Information System. This distribution of responsibilities has changed under government reorganization, but the Consumer Bureau of the new ISC will continue to play an important role in developing, coordinating and implementing consumer policies and programs for the Government of Canada.

55 For a detailed discussion of the interactions and linkages between product standards and international trade and investment flows and mutual recognition of product and safety standards, see OECD (1991b) and U.S. Government (1991, 1992).

P.S. Rao
December 1, 1992

APPENDIX A

STATELESS CORPORATIONS AND CCAC -- PHASE 1
A RESEARCH OUTLINE

INTRODUCTION

In response to the challenges of the rapidly changing patterns of comparative advantage and the intense international competition for markets, multinational corporations are increasingly integrating their production, R&D and innovation, and marketing and distribution activities across countries. Corporate decisions about production, location and financing are solely based on cost and profit considerations. In short, multinationals are increasingly becoming stateless (footloose) corporations, without much loyalty to any particular community or country. Their main goal is to maximize performance, enhance market leadership and increase the stock price. Their playing field is the world.

The rapid pace of internationalization of production is necessitated and facilitated by a number of inter-related developments: a marked increase in product and process innovations; the convergence of consumer tastes around the globe; the increased importance of knowledge-based production; a sharp reduction in transportation costs; the communication revolution; and the liberalization of trade, investment, financial flows and innovations in financial intermediation.

OBJECTIVES OF THE PROJECT

The main objective of the proposed **Phase 1** research is to analyze in detail the causes and consequences of the evolution of stateless corporations for Canada, with a special reference to the mandate of CCAC (now under the purview of Industry and Science Canada). The mission of CCAC is to promote the fair and efficient operation of the market place in Canada. This research, therefore, will examine in some detail the impact of stateless corporations on Canada's competitive position, and analyze the interactions and linkages between the activities of stateless corporations and the CCAC's market framework laws and policies. In particular, it will focus on the impact of the activities of stateless corporations on:

(a) the coverage and efficacy of Competition Policy, in particular the impact on domestic competition of ownership, marketing and pricing strategies of global corporations;

(b) the changing treatment of intellectual property (IP) rights in Canada and in other countries;

(c) laws regarding directors' liabilities and insider trading;

(d) laws and by-laws concerning product safety and product liability; and

(e) the depth and breadth of provisions concerning consumer protection.

In **Phase 2,** I plan to work more closely with the Bureaux most likely to be affected by the growing importance and demands of global corporations. The focus of the Phase 2 work program would, of course, depend on the issues identified from the first phase research. However, it is anticipated that some of the quantitative research from Phase 1 program will be completed in Phase 2. In addition, I will continue to work with all CCAC Bureaux to some extent during the second phase of the research program.

Our first phase research hopes to answer the following broad set of questions:

- What is a stateless corporation? How is it different from a traditional MNE?
- What are the forces behind the evolution of stateless corporations?
- What are their ownership, asset and investment strategies?
- What are their marketing and pricing practices?
- What are their strategies for protecting intellectual property?
- Do their activities stimulate innovation (dynamic efficiency) and real incomes globally?
- Under what circumstances could their negative effects on market concentration, market power, competitive behavior, policy autonomy and income distribution offset their positive impact on innovation, productivity and real income?
- What are the general policy implications of the evolution and the increased role of stateless corporations in the global economy for Canada? And, most important:

- What are the implications of the activities and strategies of stateless corporations for the CCAC's mandate and its market framework laws and policies?.

ORGANIZATION OF THE PROPOSED RESEARCH

(1) Characteristics of a Stateless Corporation

- Global markets;
- Global production;
- Global sourcing of all inputs (including management);
- Global financing;
- Not much loyalty to any country;
- Assign world product mandate to subsidiaries; and
- Plan investment and R&D on a global basis.

(2) Factors Behind the Evolution of Stateless Corporations

- Shorter product cycles;
- Separability of production processes;
- Growing convergence of consumer tastes across countries;
- Faster rate of diffusion of new technologies;
- Emergence of the Asia Pacific Rim countries as major players in the world economy;
- Increased importance of knowledge and capital-intensive production;
- Need to rely on several complex technologies;
- Liberalization of trade, investment and financial flows;
- Formation of regional trading blocks and the emergence of the TRIAD; and
- Intense and growing international competition.

(3) **Alternative Ownership and Market Penetration Strategies of Stateless Corporations**

- No ownership strategy
  Subcontracting of components
  Licensing

- Wholly owned operations
  Mergers and Acquisitions
  Green field operations

- Minority ownership

- Joint ventures and strategic alliances

- Indigenization
  Local financing

(4) **Possible Restrictive Business Practices of Stateless Corporations**

- Territorial market and product allocation practices;

- Marketing and pricing practices;

- Practices relating to the use of industrial and intellectual property rights, including licensing agreements and interfirm cooperative arrangements; and

- Possible abuse of a dominant position.

(5) **Consequences of the Evolution of Stateless Corporations**

Possible positive outcomes:

- Increase domestic and foreign competition;

- Increase product choice for consumers;

- Lower prices to consumers;

- Weed out inefficient plants and firms;

- Improve allocation and utilization of resources;

- Increase investment in physical and human capital;

- Increase R&D;
- Faster and increased rate of adoption and diffusion of new technologies;
- Transfer managerial and marketing know-how;
- Improve the cost competitiveness of domestic industries; and
- Increase the flexibility and adaptability of factor and product markets.

Possible negative outcomes:

- Increase the market power of global corporations, reduce competition and increase prices for consumers;
- Strong and effective lobbying by stateless corporations for concessions;
- Reduce scope for national policy autonomy;
- Weaker commitment to consumer interests and protection;
- Transfer pricing and avoidance of taxes;
- Increase adjustment pressures -- higher rate of job turnover, increased business and personal bankruptcies, and gradual disappearance of labour-intensive and low-skilled jobs;
- Growing intra- and inter- industry wage differentials; and
- Wide swings in nominal and real exchange rates.

(6) General Implications

- The role of stateless corporations in world market is expected to increase steadily;
- Traditional trade statistics are increasingly becoming less useful for evaluating the interdependence among nations. In addition, they can be misleading indicators of national competitiveness and fundamental trends in the world economy;
- The citizenship of a business enterprises may not be relevant for a nation's economic performance;

- A competitive, adaptable and flexible economy is a pre-requisite for coping with and benefiting from the rapid pace of globalization;

- Increased pressures to internationalize domestic policies (convergence of domestic policies across countries);

- Increased incentive for policy coordination -- especially among the OECD countries;

- Increased need for international regulation of economic activity (e.g; competition, environmental and labour standards); and

- Increased investments in skill development, training and retraining, counseling and mobility are needed to improve labor market adaptability and flexibility.

(7) <u>Possible Implications for CCAC</u>:

- The ownership and market strategies of stateless corporations will complicate the formulation and enforcement of CCAC's market framework laws and policies. A careful and thorough evaluation of potential efficiency enhancing , and anti-competitive and welfare reducing effects of the activities of stateless corporation is required; and

- Increased demands on CCAC's resources, because of the increased work load associated with the enforcement of its market framework laws and policies, the increased need for domestic and international coordination of its policies, and the growing need to balance the requirements of the stateless corporation against the demands of other CCAC client groups.

<u>Increased Demands on Competition Policy and Law:</u>

Review of transnational mergers and other commercial arrangements;

- Possible need to review the formulation as well as the enforcement of competition laws to maintain domestic competition while maintaining efficient transnational links;

- Need to examine the linkages and interactions between competition and other market framework (trade, industrial, IP, investment, environment, innovation, etc.) policies, and to take measures to minimize the negative interactions and accentuate the positives;

- Input to international fora on competition policy; and

- Increased need for coordination and co-operation with the antitrust authorities of other OECD countries;

Increased demand for competitive IP protection:

- A stronger IP protection could stimulate domestic innovation (R&D), increase capital formation, accelerate the pace of adoption and diffusion of new technologies, and thus enhance innovation (dynamic efficiency), as well as consumer and

- On the other hand, a stronger IP protection could be used to reduce competition and restrict dissemination of information, thus reduce the allocative (static) efficiency and consumer welfare;

- Therefore, need for a careful assessment of the potential advantages and disadvantages of stronger IP protection;

- Explore the ways to minimize the negative effects of IP protection; and

- Need to coordinate IP policies with the policies of other OECD countries.

Implications for corporate policies:

- Need for greater international coordination and harmonization of regulations governing takeovers, insider trading and bankruptcies;

- Need for greater national presence in the regulation of securities business;

- Greater need for harmonization of OECD countries' corporate laws;

- Need to strengthen and refine insider trading rules ; and

- Need to increase protection for debtors, employees and unsecured creditors from bankruptcies and takeovers?.

Implications for consumer protection policies:

- Need to devise effective policies to improve the ordinary consumer's market place knowledge?;
- Need to strengthen consumer laws with regard to product safety, product labeling, technical and environmental standards?;
- Need to take a leadership role in setting international standards for market framework laws and policies;
- Greater need for international harmonization of product standards, test methods, labeling requirements, certification arrangements, etc.; and
- Need to strengthen the consumer presence and the visibility of consumer issues in international fora like the OECD?.

PROPOSED RESEARCH METHODS

Pulling together of existing research:

This project, to a large extent, requires a systematic integration of ideas and results from the earlier research in several closely related topics: international business, globalization, international competitiveness, competition policy, IP policy, corporate policy and consumer policy. The research done in these areas by Reich, Ohmae, Porter, Ostry, Lipsey, OECD, CCAC, Conference Board of Canada, Economic Council of Canada, Investment Canada, and Statistics Canada would be of considerable assistance to me in writing the chapters on the characteristics, the evolution, the ownership and market strategies , and the consequences of stateless corporations (sections 1 to 3 and 5 of the research program). The results from the proposed new quantitative and qualitative research, described below, would be used to supplement the literature synthesis.

The policy research done at CCAC on the interface between competition, IP, corporate and consumer policies , and their linkages with trade, industrial, investment, and other commercial policies, in conjunction with the above mentioned literature review, would greatly help me in analyzing the policy implications of the growing importance of stateless corporations for Canada and to the mission of CAAC.The policy analysis in sections 6 and 7 of the research program will also take into account the results from our new quantitative and qualitative research.

New qualitative research:

We plan to supplement the literature review and the quantitative analysis with the informed judgments and opinions of the concerned parties: global enterprises, small and medium sized Canadian businesses, consumer groups, Investment Canada and CCAC. Towards this goal, we plan to talk to the officials of BCNI, CFIB, Conference Board of Canada, Consumer Association of Canada, Investment Canada, ISTC, CCAC and EAITC.

We plan to solicit their views with regard to the motives, and the ownership, marketing, IP, and pricing strategies of global corporations and their implications for the CCAC's market framework laws and policies, and to Canada's competitive position. In addition, we plan to obtain the views of CCAC's officials (both policy and enforcement people) about the possible restrictive business practices (see section 4 of the program) of global enterprises, and their commitment to consumer and employee protection, and to the protection of environment, compared to the record of the domestic based enterprises.

In addition, to further our understanding of the impact global enterprises on CCAC's market framework laws and policies and their demands on CCAC's resources, we plan to analyze CCAC's databases (including court cases) on mergers and acquisitions, price discrimination, predatory pricing, abuse of dominance, misleading advertisements, patents, copyrights and trade marks, product safety and health standards, etc.

New quantitative research:

Making use of various data bases at Statistics Canada, developed by John Baldwin and Paul Gorecki over a number of years, we hope to put together a longitudinal (1975-1988) data base on global manufacturing enterprises operating in Canada. Global corporations in turn will be disaggregated in to American, Canadian, European, Japanese, and others. John Baldwin will help us with the data development effort. Nevertheless, it requires some commitment of resources by CCAC. However, this data base would allow us to do some new and very interesting research on the market performance of global and domestic based enterprises in Canadian manufacturing.

John Baldwin Team will re-do the eight Firm Adjustment and Adaptation Project studies with the new data base. The eight studies are:

(a) Global and domestic based companies' shares: 1970- 1990;

(b) Entry, exit and turnover of global and domestic enterprises;

(c) Relative labor productivity levels;

(d) Technology adoption;

(e) Intra- and inter- industry wage differentials;

(f) Mergers and acquisitions, and economic performance; and

(g) X- inefficiency.

The output of these eight studies should be available in draft form by Spring, 1993.

After completing the eight studies, we plan to work on three **new studies.** They involve the development of new data bases on investment, capital stock, and R&D. We plan to undertake this new research in the next fiscal year. The three studies are:

(a) Price-cost margins and profitability of global and domestic base enterprises;

(b) Investment and employment decisions of global and domestic based corporations; and

(c) R&D intensity of global and domestic based enterprises.

The time table for the completion of the three new studies has to be discussed with John Baldwin.

<u>Timetable</u>

I hope to complete the work associated with the qualitative part of the research by the end of December, 1992. Over the next two to three weeks, I plan to prepare a set of questions with the help of the Steering Committee members to be asked during the planned interviews. A summary of the qualitative research will be prepared by the end of January, 1993.

A first draft of the Phase 1 research program, incorporating the literature synthesis and the results of qualitative research, will be prepared by the end of April, 1993. The final draft will incorporate the results from our quantitative research, hope to be completed by the end of July, 1993. However, work on Phase 2 program will begin in June, 1993.

APPENDIX B

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APPENDIX C

SOME POSSIBLE RESTRICTIVE BUSINESS PRACTICES

(a) Territorial market and product allocation practices.

Market or customer allocation arrangements;

Allocation of sales and production by quotas;

Collective tendering and bid rigging;

Collective action to enforce arrangements; and

Agreements fixing prices of exports and imports.

(b) Domestic marketing, distribution and pricing practices.

Price fixing and rebate cartels, resale price maintenance and other collusive agreements;

Collective boycotts;

Denial of access to an association, joint arrangement or facility that is crucial to competition; and

Transfer pricing and cross- subsidization.

(c) Possible abuse of dominance.

Anti-competitive exclusive dealing;

Anti-competitive refusal to deal;

Predatory pricing;

Price discrimination; and.

Non-price predation.

(d) Practices relating to the use of industrial and IP rights, including licensing agreements.

Restriction on the recipient's volume, scope and range of production and field of activity;

Restriction on obtaining competing or complementary technology and know-how through patents from other sources;

Limitations upon the diffusion and/or further use of technology already imported, requiring additional payments for the repeated use of the same technology;

Prohibition or restrictions on the use of the technology after normal expiration of the arrangement;

Use of the privilege granted under the IP protection to restrict unduly the recipient's activities;

Continuation of payments for unused or unexploited technology;

Conditional technology or licensing agreements;

Charging fixed minimum royalty payments irrespective of production performance or increasing royalty rates progressively with the rise in output;

Limitation on the R&D activities of the recipient enterprises;

Requirement by the supplier to participate in the management decisions of the recipient enterprises;

Restrictions upon the recipient from adopting the imported technology to local conditions and innovations;

Unduly long duration of contractual agreements and arrangements;

Charging royalties on patents and other industrial property rights after their expiration, termination, or invalidation;

Exemption of the supplier from any liability;

Charging royalties and payments on patents and other industrial and intellectual property rights not listed in the recipient countries;

Purchasing of exclusive rights in competing technologies;

Non-price predation (abusive litigation and other tactics to raise the cots of rival firms);

Tie-out agreement with the licensees to use only the licensor's technology; and

Cross-subsidization of IP profits by the licensor to drive out competitors in another market.

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