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INTRODUCTION

RECENT M&A TRENDS

The pace of mergers and acquisitions (M&As) picked up in the early 2000s after a short hiatus in 2001. The economic slowdown and recession in the United States and elsewhere in 2001 brought an end to the record-setting fifth merger wave. This period featured an unprecedented volume of M&As. It followed on the heels of a prior record-setting merger wave—the fourth. This one in the 1990s, however, was very different from its counterpart in the previous decade. The fifth wave was truly an international one and it featured a heightened volume of deals in Europe and, to some extent, Asia, in addition to the United States. The prior merger waves had been mainly a U.S. phenomenon. When the fourth merger wave ended with the 1990–1991 recession, many felt that it would be a long time before another merger wave like it would occur. However, after a relatively short recession and an initially slow recovery, the economy picked up speed in 1993, and by 1994 the world was on a path to another record-setting merger period. This wave would feature deals that would make the ones of the 1980s seem modest. There would be many megamergers and many cross-border deals involving U.S. buyers and sellers, but also many large deals not involving U.S. firms.

Figure 1.1 shows that both European and U.S. M&A volume began to rise in 2003 and by 2006 had reached levels comparable to their peaks of the fifth wave. Deal volume began to decline in the United States in 2007 while it continued to rise in Europe. However, by 2008 the effects of the global recession and the subprime crisis began to take hold. The recession, which began in January 2008, caused potential acquirers to reign in their acquisition-oriented expansion plans. Those bidders who were still inclined to go ahead with proposed deals found that their access to financing was sharply curtailed. Many bidders who had reached agreements with targets sought to renegotiate the deals or even back out altogether. Deals were canceled with increased frequency. While the number and dollar value of M&As in 2009 were well below 2008 levels, which, in turn, were well below 2007 levels, there were some signs of a rebound in the latter half of the year of 2009. As is often the case in economic downturns, bidders with strong balance sheets and abundant cash reserves found some opportunities in the weak M&A market.

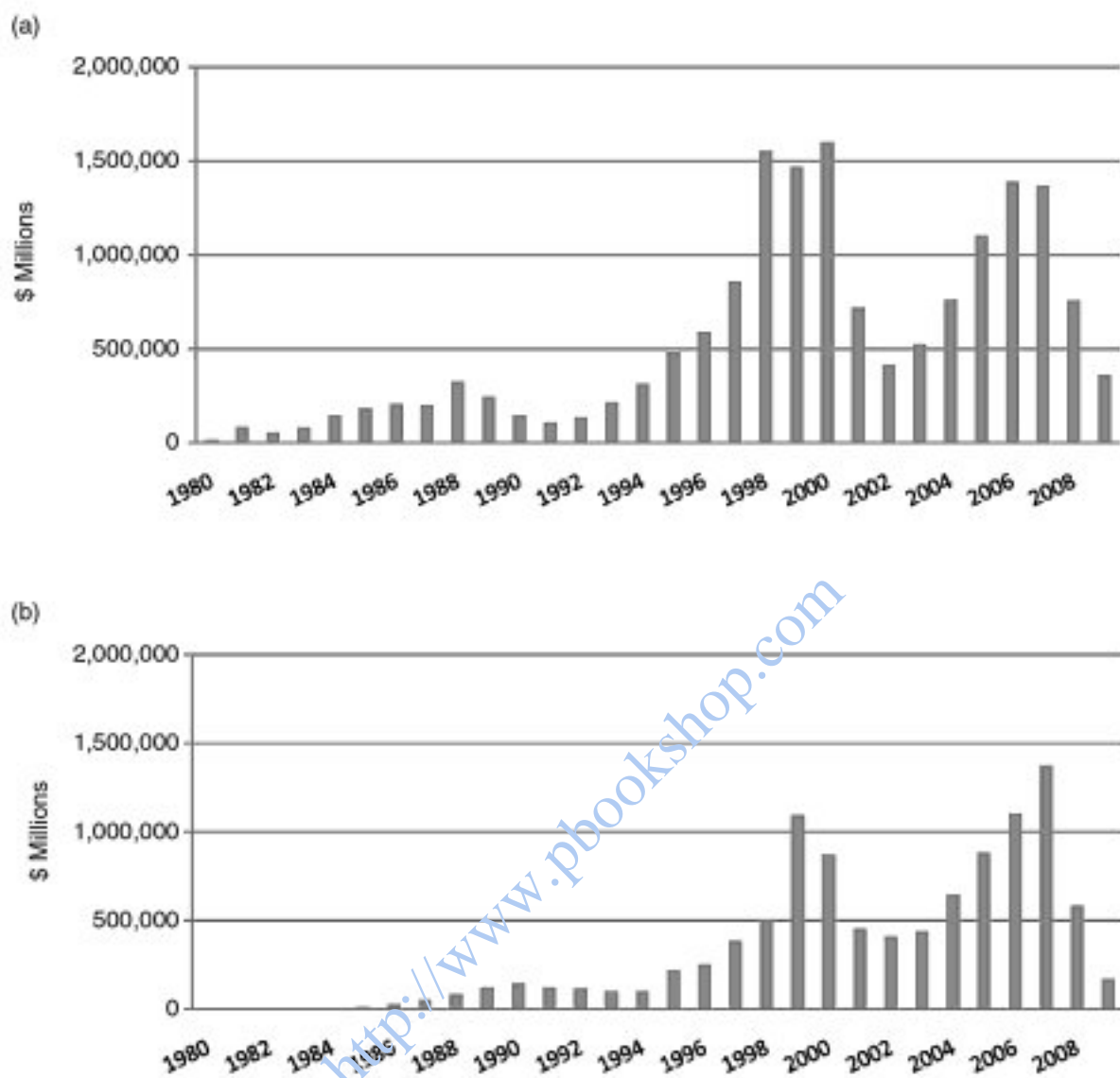


FIGURE 1.1 VALUE OF M&As 1980–2009: (A) UNITED STATES AND (B) EUROPE

Source: Thomson Financial, January 7, 2010.

Deal volume in most regions of the world generally tended to follow the patterns in the United States and Europe. Huge mega-mergers took place in both the United States and Europe (see Tables 1.1 and 1.2). Australia, for example, exhibited such a pattern with deal volume growing starting in 2003 but falling off in 2008 and 2009 for the same reason it fell off in the United States and Europe. The situation was somewhat different in China and Hong Kong. The value of deals in these economies has traditionally been well below the United States and Europe but had been steadily growing even in 2008, only to fall off sharply in 2009. China's economy has realized double-digit growth for a number of years but is still about one-quarter the size of the U.S. economy. However, there are many regulatory restrictions imposed on M&As in China that inhibit deal volume from rising to levels that would naturally occur in a less controlled environment. The Chinese

regulatory authorities have taken measures to ensure that Chinese control of certain industries and companies is maintained even as the economy moves to a more free market status.

In the rest of Asia, deal volume generally expanded starting in 2003 and declined with the global recession in 2008 and 2009. This was the case in India and South Korea (see Figure 1.2). In Japan, other factors help explain the trend in deal volume. Although Japan is the world's second largest national economy, it suffered a painful decade-long recession in the 1990s that has had lasting effects, some of which remain even today. The government has sought to deregulate the economy and take apart the myriad restrictive corporate interrelationships that had kept alive many businesses that otherwise would have failed. This helped create some M&A opportunities over the period 1999–2007. Deal volume fell after 2007 as it did elsewhere in the world.

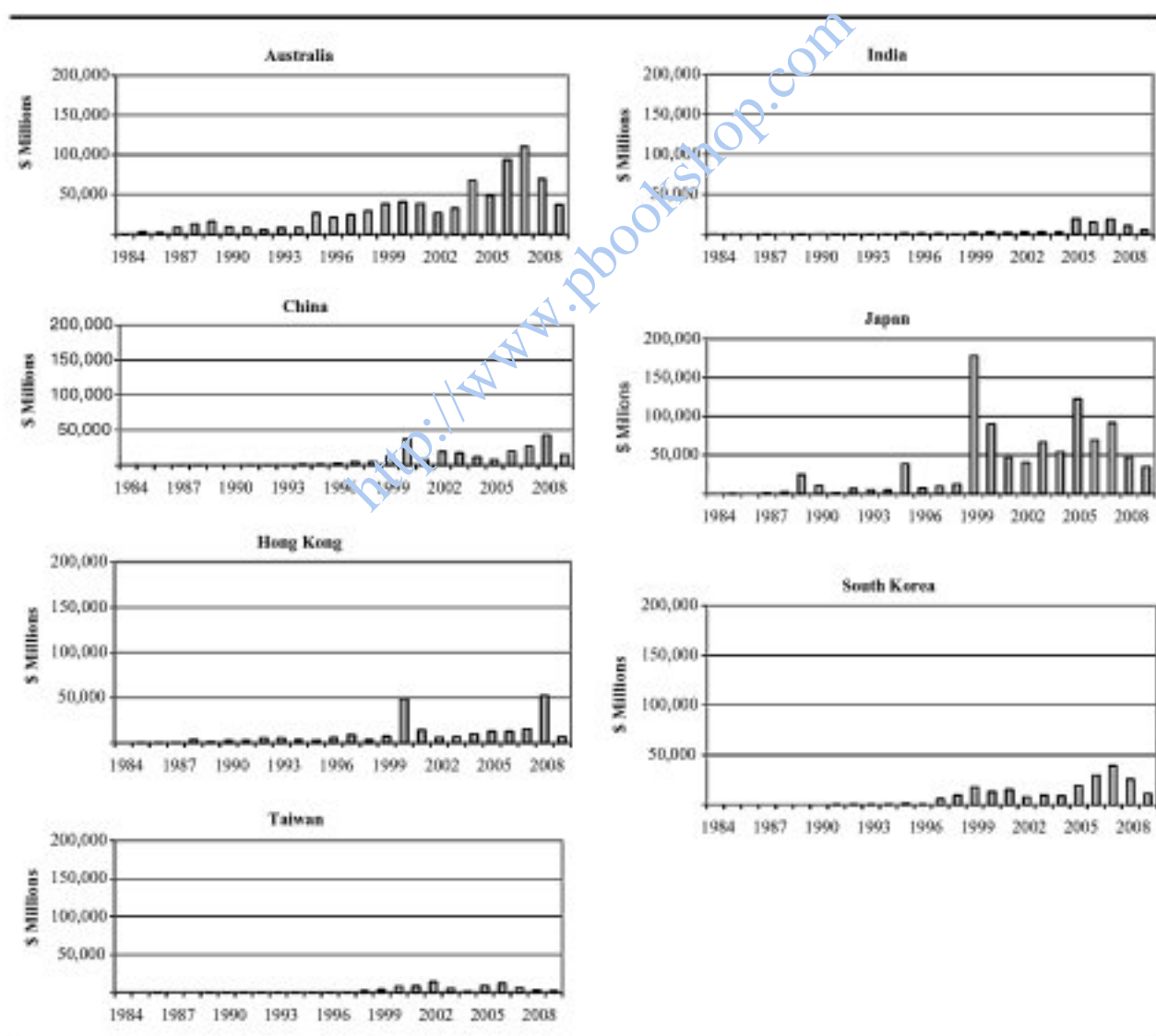


FIGURE 1.2 VALUE OF M&As, 1984–2009: BY NATION

Source: Thomson Securities Financial Data, January 7, 2010.

Date Announced	Date Effective	Value of Transaction (\$ Millions)	Target Name	Target Nation	Acquirer Name	Acquirer Nation
11/14/1999	6/19/2000	202,785.13	Mannesmann AG	Germany	Vodafone AirTouch PLC	United Kingdom
1/10/2000	1/12/2001	164,746.86	Time Warner	United States	America Online Inc	United States
8/29/2007	3/28/2008	107,649.95	Philip Morris Int'l Inc	Switzerland	Shareholders	Switzerland
4/25/2007	11/2/2007	98,189.19	ABN-AMRO Holding NV	Netherlands	RFS Holdings BV	Netherlands
11/4/1999	6/19/2000	89,167.72	Warner-Lambert Co	United States	Pfizer Inc	United States
12/1/1998	11/30/1999	78,945.79	Mobil Corp	United States	Exxon Corp	United States
1/17/2000	12/27/2000	75,960.85	SmithKline Beecham PLC	United Kingdom	Glaxo Wellcome PLC	United Kingdom
10/28/2004	8/9/2005	74,558.58	Shell Transport & Trading Co	United Kingdom	Royal Dutch Petroleum Co	Netherlands
3/5/2006	12/29/2006	72,671.00	BellSouth Corp	United States	AT&T Inc	United States
4/6/1998	10/8/1998	72,558.18	Citicorp	United States	Travelers Group Inc	United States

TABLE 1.1 TOP TEN WORLDWIDE M&As BY VALUE OF TRANSACTION
Source: Thompson Financial, January 7, 2010.

Date Announced	Date Effective	Value of Transaction (\$ Millions)	Target Name	Target Nation	Acquirer Name	Acquirer Nation
11/14/99	06/19/00	202,785.134	Mannesmann AG	Germany	Vodafone AirTouch PLC	United Kingdom
08/29/07	03/28/08	107,649.948	Philip Morris Intl Inc	Switzerland	Shareholders	Switzerland
04/25/07	11/02/07	98,189.193	ABN-AMRO Holding NV	Netherlands	RFS Holdings BV	Netherlands
01/17/00	12/27/00	75,960.847	SmithKline Beecham PLC	United Kingdom	Glaxo Wellcome PLC	United Kingdom
10/28/04	08/09/05	74,558.583	Shell Transport & Trading Co	United Kingdom	Royal Dutch Petroleum Co	Netherlands
02/25/06	07/22/08	60,856.454	Suez SA	France	Gaz de France SA	France
01/26/04	08/20/04	60,243.38	Aventis SA	France	Sanofi-Synthelabo SA	France
07/05/99	03/27/00	50,070.051	Elf Aquitaine	France	Total Fina SA	France
05/30/00	08/22/00	45,967.068	Orange PLC	United Kingdom	France Telecom SA	France
11/29/99	03/13/00	38,412.856	National Westminster Bank PLC	United Kingdom	Royal Bank of Scotland Group	United Kingdom

TABLE 1.2 TOP TEN EUROPEAN M&As BY VALUE OF TRANSACTION

Source: Thompson Financial, January 7, 2010.

CASE STUDY

**VODAFONE TAKEOVER OF MANNESMANN:
LARGEST TAKEOVER IN HISTORY**

Vodafone Air Touch's takeover of Mannesmann, both telecom companies (and actually alliance partners), is noteworthy for several reasons in addition to the fact that it is the largest deal of all time (see Table 1.1). Vodafone was one of the world's largest mobile phone companies and grew significantly when it acquired Air Touch in 1999. This largest deal was an unsolicited hostile bid by a British company of a German firm. The takeover shocked the German corporate world because it was the first time a large German company had been taken over by a foreign company—and especially in this case, as the foreign company was housed in Britain and the two countries had fought two world wars against each other earlier in the century. Mannesmann was a large company with over 100,000 employees and had been in existence for over 100 years. It was originally a company that made seamless tubes but over the years had diversified into industries such as coal and steel. In its most recent history it had invested heavily in the telecommunications industry. Thus it was deeply engrained in the fabric of the German corporate world and economy.

It is ironic that Vodafone became more interested in Mannesmann after the latter took over British mobile phone operator Orange plc. This came as a surprise to Vodafone as Orange was Vodafone's rival, being the third-largest mobile operator in Great Britain. It was also a surprise as Vodafone assumed that Mannesmann would pursue alliances with Vodafone, not move into direct competition with it by acquiring one of its leading rivals.^a

Mannesmann tried to resist the Vodafone takeover but the board ultimately agreed to the generous price paid. The Mannesmann board tried to get Vodafone to agree to maintain the Mannesmann name after the completion of the deal. It appeared that Vodafone would do so but eventually they chose to go with the Vodafone name—something that made good sense in this age of globalization as maintaining multiple names would inhibit common marketing efforts.

Up until the mid-1990s, Germany, like many European nations, had a limited market for corporate control. The country was characterized as having corporate governance institutions which made hostile takeovers difficult to complete. However, a number of factors began to change starting in the second half of the 1990s and continued through the 2000s. First, the concentration of shares in the hands of parties such as banks, insurance companies, and governmental entities, who were reluctant to sell to hostile bidders, began to decline. In turn, the percent of shares in the hands of more financially oriented parties, such as money managers, began to rise. Another factor that played a role in facilitating hostile deals is that banks had often played a defensive role for target management. They often held shares in the target and even maintained seats on the target's board and opposed hostile bidders while supporting management. One of the first signs of this change was apparent when WestLB bank supported Krupp in its takeover of Hoesch in 1991. In the case of Mannesmann, Deutsche Bank, which had been the company's bank since the late 1800s,^b had a representative on Mannesmann's board but he played no meaningful role in resisting Vodafone's bid. Other parties who often played a defensive role, such as representatives of labor who often sit on boards based on what is known as codetermination policy, also played little role in this takeover.

The position of target shareholders is key in Germany, as antitakeover measures such as poison pills (to be discussed at length in Chapter 5) are not as effective due to Germany's corporate law and the European Union (EU) Takeover Directive, which requires equal treatment of all shareholders. However, German takeover law includes exceptions to the strict neutrality provisions of the Takeover Directive which gives the target's board more flexibility in taking defensive measures.