Institutional origins of WOFS formal contracting: A judicial arbitrariness perspective

George O. White IIIa,⁎, Thomas Hemphilla, Thomas Weberb, Kaveh Moghaddamc

a School of Management, University of Michigan-Flint, 2104 Riverfront, Flint, MI, 48502, USA
b Romain College of Business – BIC 2089, University of Southern Indiana, 8600 University Boulevard, Evansville, IN 47712, USA
c School of Business, University of Houston Victoria, 14000 University Blvd, Sugar Land, TX 77479, USA

A R T I C L E   I N F O

Keywords:
Judicial arbitrariness
Rule of law
Uncertainty avoidance
Formal contracting
Interorganizational relationships
Institution-based view
Neo-institutional theory
Emerging markets

A B S T R A C T

In drawing from neo-institutional theory and the institution-based view, this study provides new insights concerning how home and host country norms influence wholly owned foreign subsidiary (WOFS) formal contract utilization. Our analysis of 171 WOFSs operating in the Philippines suggests that parent home country uncertainty avoidance, as an institutionalized organizational practice, is positively related to WOFS utilization of formal contracts in governing interorganizational relationships. Our results also reveal that managerial perceptions of local judicial arbitrariness directly influence formal contract utilization, and moderate the positive relationship between parent home country uncertainty avoidance and WOFS formal contract utilization. Furthermore, when compared to managerial perceptions of national judicial arbitrariness, perceived local judicial arbitrariness will exhibit a stronger negative direct and indirect influence on WOFS formal contract utilization. Implications and future research directions are discussed.

1. Introduction

Doing business abroad is deemed a risky proposition for multinational enterprises (MNEs) (e.g., Brouthers and Brouthers, 2000), especially in emerging market environments (Hoskisson, Eden, Lau, & Wright, 2000). Nonetheless, globalization has spurred increased investment by MNEs in emerging markets, often taking the form of wholly owned foreign subsidiaries (WOFSs) which are often established in order to protect valuable proprietary resources via structural integration (via complete ownership and management control) (Keupp, Beckenbauer, & Gassmann, 2010; Li, Yang, & Yue, 2007). Due to this structural integration, an important advantage WOFSs possess over other modes of foreign market entry is that they typically have greater control over their operations and assets (such as intellectual property, including product and process related trade secrets) (Brouthers, 2002; Feinberg & Gupta 2009; Luo, 2001). Because they possess both equity and operational control, WOFSs will be particularly inclined to look for ways of mitigating external exchange hazards associated with interorganizational relationships in their value chain partners (i.e., with suppliers, buyers, banks, local affiliates) (hereinafter interorganizational relationships) through the utilization of formal contractual governance arrangements. However, consider the possible tension that may exist concerning the transference of MNE parent (hereinafter “parent”) organizational practices influencing commercial contract utilization and WOFS managerial perceptions of a judicial system’s partiality (i.e., arbitrariness) when ruling on (and enforcing) laws established to govern contractual arrangements in a host country. For example, Apple has been heavily involved with legal actions in numerous host countries against organizations associated with its value chain. These legal actions have followed parent organizational practices, based largely on institutional norms established in its home country, to purposefully use courts in resolving contractual issues against partners causing external exchange hazards (Casarin, 2015). In general, Apple’s strategic behavior in judicial arenas has afforded the organization competitive advantages even where judges in many of these jurisdictions have “well-defined preferences” adjudicating a case grounded on “the basis of personal rewards, which may include bribes, and under conditions of threats and intimidation” (Casarin, 2015: 141).

Past research has explored host country and firm-level determinants of contract utilization in international joint ventures (e.g., Luo, 2005) and buyer-supplier relationships (Zhou & Poppo, 2010) in emerging markets. Although, to date, the international business literature has yet to investigate how the transference of strategic practices influenced by norms established in the parent’s home country, and managerial perceptions of a host country’s judicial system, will affect WOFS formal...
contract utilization in its value chain. This is an important theoretical and empirical gap in the literature, considering that emerging markets often consist of substantial appropriation risks (Oxley, 1999), as well as institutional uncertainty (Luo, 2007) and voids (Doh, Rodrigues, Saka-Helmhout, & Makhija, 2017), that can often counteract the competitive advantages associated with governing interorganizational relationships through formal contracting.

Our efforts are focused on addressing these important gaps in the international business literature. Therefore, we suggest that not all WOFs will utilize formal contracts to the same extent in governing interorganizational relationships in an emerging market environment. We propose that, while influenced by host country institutional factors that are tied to managerial perceptions of judicial arbitrariness in enforcing court decisions, variation in WOFs utilization of formal contracts as value chain governance mechanisms may also be shaped by organizational practices stemming from parent home country norms (cf. Kriauciunas & Kale, 2006; Roth & Kostova, 2003). Specifically, drawing from neo-institutional theory (Kostova & Zaheer, 1999; North, 1990), we consider that a WOFs propensity to utilize formal contracts in governing interorganizational relationships will be influenced by current institutional norms within its home country (Rosenzweig & Singh, 1991). These home country norms can lead to institutionalized strategic practices within the MNE that are transferred to foreign subsidiaries (Gamble, 2010; Kostova, 1999; Kostova et al., 2008). This theoretical proposition is based on the notion that the legitimacy of a WOFs operations in a foreign market will be contingent on the continued support of the parent firms approval of strategic behavior in a host country (Hillman & Wan, 2005).

Yet, at the same time, strategic decisions are often determined by senior manager perceptions of legal institutions and the subsequent influence of these legal institutions on their strategic choices in managing the daily operations of the WOFs (cf. Luo, 2007; Peng, 2002; Roy, 2012). Thus, we also apply the institution-based view (IBV) (Peng, 2002; Pinkham & Peng, 2017; White, Bodewyn, & Galang, 2016) when considering that host country institutions can influence the extent to which foreign subsidiary managers strategically utilize formal contracting practices when governing interorganizational relationships. Furthermore, in recognizing the tension that home and host country institutional factors have on the extent of WOFs formal contracting, we ask the following research question: how will uncertainty avoidance and the rule of law in a parent’s home country, as opposed to managerial perceptions of national and local judicial arbitrariness in a host country, influence the extent of a WOFs’s formal contract utilization in governing interorganizational relationships?

Focusing on this key research question, we seek to extend the current state of the international business literature by synthesizing neo-institutional theory (Kostova & Zaheer, 1999; Kostova, 1999; North, 1990; White et al., 2015) with the IBV (Meyer, Estrin, Bhaumik, & Peng, 2009; Oliver, 1997; Peng, 2002; Peng, Wang, & Jiang, 2008) to help us explain how the tension between home and host country institutional factors influence the heterogeneity of a WOFs’s formal contract utilization in governing interorganizational relationships. Specifically, we argue that the level of uncertainty avoidance and rule of law in a WOFs’s home country, which we characterize as home country institutional norms that are reflected in the transference of institutionalized strategic practices by the parent (Ahlvik & Bjorkman, 2015; Makino, Isobe, & Chan, 2004), will positively influence a WOFs’s propensity to utilize formal contracts governing host country interorganizational relationships with partners in its value chain.

We further argue that the variation in managerial perceptions of host country judicial arbitrariness, meaning that the enforcement [of laws] will often be erratic and partial in legal systems that lack uniform and transparent governance standards set by judicial officials” (White et al., 2015: 345), will diminish the positive relationship between the transference of internalized strategic practices influenced by home country norms (i.e., uncertainty avoidance and the rule of law) on the WOFs’ strategic utilization of formal contracts as governance mechanisms. Further, in recognizing the importance of disaggregating judicial court decisions at the national (i.e., federal) and local (i.e., city or provincial) levels, we compare how the effects of managerial perceptions of host country judicial arbitrariness directly and indirectly influence these contractual relationships.

We test our proposed hypotheses by employing unique survey data from the Philippines with other sources of archival data, including data derived from the GLOBE study (House, Hanges, Javidan, Dorfman, & Gupta, 2004). We contribute to the literature in at least three ways. First, we employ neo-institutional theory and the IBV in theoretically exploring how the interaction between home and host country institutional factors affects WOFs strategic utilization of formal contracts as governance mechanisms in interorganizational relationships within its value chain. Past research has largely focused on how host country institutions (e.g., Gong, Shenkar, Luo, and Nyaw, 2007; Luo & Shenkar, 2002; Luo, 1999, 2002, 2005), rather than home country institutional norms, drive heterogeneity in managerial decision making with regard to the extent of foreign subsidiary utilization of formal contracts. Hence, we theoretically explicate how the interaction between parent home country institutions, reflected in internalized strategic practices within the MNE, and host country institutions drive heterogeneity in foreign subsidiary formal contract utilization.

Second, our findings extend the institutions and parent-subsidiary literature by suggesting that the transference of MNE strategic practices, influenced by parent home country uncertainty avoidance (i.e., informal institutions), but not necessarily home country rule of law (i.e., formal institutions), directly influences a WOFs’s propensity to utilize formal contracts in governing interorganizational relationships. We also find that managerial perceptions of local judicial arbitrariness (at the city and provincial levels), but not national judicial arbitrariness (at the federal level), directly and indirectly influence a WOF’s propensity in utilizing formal contracts within its value chain.

Third, the literature has largely ignored foreign subsidiary formal contracting practices in Southeast Asian emerging markets; past research on formal contracting has predominantly focused on China as the context of analysis (e.g., Gong et al., 2007; Li, Poppo, & Zhou, 2010; Luo, 2002, 2005). Thus, we set out to empirically extend the contextual scope of inquiry by exploring institutional drivers of formal contracting practices concerning 171 WOFs operating in the Philippines. Fig. 1 depicts the theoretical framework of our study.

1.1. Literature review

A formal contract is created between business entities when three conditions are met. First, there is a written document with an offer identifying the parties involved, describing the subject matter of the contract, and detailing the time of performance and price. Second, consideration has been given for an exchange of legal value. Third, clearly expressed acceptance of specified terms has taken place (Ben-Shahar, 2004; Folsom, Gordon, & Spanogle, 2002). Consequently, a
دریافت فوری متن کامل مقاله

امکان دانلود نسخه تمام متن مقالات انگلیسی
امکان دانلود نسخه ترجمه شده مقالات
پذیرش سفارش ترجمه تخصصی
امکان جستجو در آرشیو جامعی از صدها موضوع و هزاران مقاله
امکان دانلود رایگان ۲ صفحه اول هر مقاله
امکان پرداخت اینترنتی با کلیه کارت های عضو شتاب
دانلود فوری مقاله پس از پرداخت آنلاین
پشتیبانی کامل خرید با بهره مندی از سیستم هوشمند رهگیری سفارشات