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**CONTESTED FUTURE(S):
THE SOCIAL OPPOSITION TO THE OECD-MAI**

by

Catherine Schittecatte

**Submitted in partial fulfillment of
the requirements for the degree of
Doctor of Philosophy**

at

**Dalhousie University
Halifax, Nova Scotia
July 2001**

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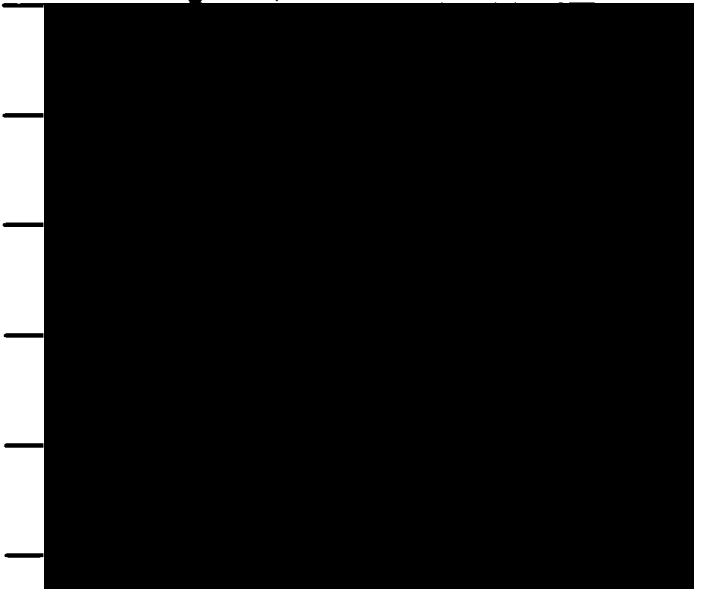
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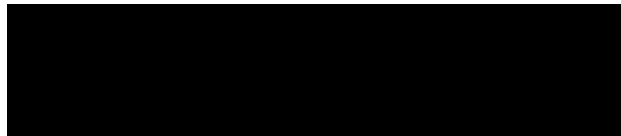
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DEDICATION

*To the memories of my mother Christiane (Schittecatte) Moreau née Van Gend
and her mother Simone (Van Gend) née Levril whose spirits animated this endeavour*

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ABSTRACT

This thesis concerns the social opposition to international negotiations for a Multilateral Agreement on Investment (MAI) that took place between 1995 and 1998 at the Organization for Economic Cooperation and Development. The results obtained from the collection of data and the application of three theoretical frameworks support the following arguments: (i) the MAI negotiations were initiated within historical and intellectual contexts that rendered the treaty controversial due to its meaning as a symbol of economic globalization; (ii) as such, these negotiations gave rise to transnational social movement networks that oppose (corporate) economic globalization; (iii) these MAI opponents in coalition with other non-state actors exercised direct influence on the MAI draft text and indirect political influence on the negotiations that contributed to their demise; and (iv) the growth of the movement and its activities since the end of the negotiations are likely to have an ideational impact on societies and the processes of economic liberalization that will affect international economic relations. In order to support these findings, the research relies upon insights from three existing theoretical frameworks and the process tracing methodology. Social movement theory provides tools of analysis with which to understand the evolution of this novel non-state actor and its likely societal influences regarding our understanding(s) of economic globalization. Social constructivist frameworks used in the study of international relations illuminate how such non-state actors influence international outcomes. Finally, critical analytical frameworks of international relations provide a historical explanation of the emergence of such opposition to economic globalization. The contested future(s) we have witnessed in the numerous protests against the World Trade Organization, the International Monetary Fund and the World Bank can thus be understood as a response to the increased liberalization of domestic markets which has been associated with the policies emanating from these organizations.

ABBREVIATIONS

AFL-CIO	American Federation of Labor — Congress of Industrial Organizations
BIAC	Business and Industry Advisory Committee (OECD)
CCAMI	Coordination Contre l'AMI
CCCA	Coordination Contre les Clônes de l'AMI
CCCOMC	Coordination pour le Contrôle Citoyen de l'OMC
CIME	Committee on International Investment and Multinational Enterprises (OECD)
CMIT	Committee on Capital Movements and Invisible Transactions (OECD)
CIEL	Centre for International Environmental Law
CSD	Commission on Sustainable Development
CUTS	Consumer Unity and Trust Society
DG	Drafting Group (of MAI text)
DAN	Direct Action Network
DFAIT	Department of Foreign Affairs and International Trade (Canada)
EC	European Commission
ECOSOC	Economic and Social Council (of the United Nations)
EG	Expert Group (of MAI negotiations)
EU	European Union
FDI	Foreign Direct Investment
FOE	Friends of the Earth
GATS	General Agreement on Trade in Services (Uruguay Round)
GATT	General Agreement on Tariffs and Trade
IACHR	Inter-American Commission on Human Rights
ICC	International Chamber of Commerce
IFG	International Forum on Globalization
IGO	Intergovernmental Organization
INGO	International Non-Governmental Organization
IO	International Organization
MAI	Multilateral Agreement on Investment
MEA	Multilateral Environment Agreement
MFN	Most Favoured Nation
MNC	Multinational Corporation
NAFTA	North American Free Trade Agreement
NG	Negotiating Group (of the MAI)
NGO	Non-Governmental Organization
NT	National Treatment
OAS	Organization of American States
OECD	Organization for Economic Cooperation and Development
PGA	Peoples' Global Action Network

RAN	Rainforest Action Network
REIO	Regional Economic Integration Organization
SMO	Social Movement Organization
TRIM	Trade Related Investment Measure (Uruguay Round)
TSMO	Transnational Social Movement Organization
TUAC	Trade Union Advisory Committee (OECD)
U.K.	United Kingdom
UN	United Nations
UNCED	United Nations Conference on Environment and Development
UNICE	Union of Industrial and Employers' Confederation of Europe
UNCTAD	United Nations Conference on Trade and Development
USCIB	United States Council for International Business
WTO	World Trade Organization

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SECTION I
CONCEPTUAL FRAMEWORK

CHAPTER I

THE MAI EVENTS: QUESTIONS UNANSWERED

Introduction

The events which spurred the following analysis reside in the unexpected and unanticipated outcome of what appeared to be a reasonably attainable objective among major states in the mid- to late-1990s. The Multilateral Agreement on Investment (MAI) was an international commercial agreement negotiated among the like-minded members of the Organization for Economic Co-operation and Development (OECD) between 1995 and 1998. The objective of the proposed agreement was to further foster the liberalization and protection of investment flows among OECD member countries and eventually worldwide. Not only did the OECD negotiations fail to produce such an agreement, but an unexpected transnational public opposition emerged midway through the process. The objective of the research undertaken herein is to provide an understanding of this social opposition, its role in the demise of the negotiations, and its meaning for world politics.

I begin this introductory chapter with a brief history of the events which took place over the three-year period of MAI negotiations. In closing that section I identify the questions addressed in the research. Next I describe the methodology of research. A third section explains the usage of various theoretical frameworks applied in the analysis. I close with a summary of findings and an outline of the remaining chapters.

A Brief History

In June of 1995 in Paris, the then 25 OECD ministers authorized the negotiations for a Multilateral Agreement on Investment (MAI).¹ Negotiations began in September of

¹ Since then four more members were added to the OECD: the Czech Republic (December 1995), Hungary (May, 1996), Poland (November 1996), and South Korea (December 1996).

that year. The choice of the forum for these negotiations—the OECD—albeit controversial, raised expectations of speedy success for a state-of-the-art investment agreement since its members were considered to be like-minded, and since they had already committed to several codes and instruments on investments.² Expectations were so high that the deadline for the agreement was set for May 1997. Yet, two subsequent extensions to the original mandate would be required in order to pursue the negotiations.

By the spring of 1997 it had become clear that the first deadline was unrealistic. Negotiators issued a report to the OECD ministers which, according to one official, contained “[t]he basic message that a lot of progress has been made [and that] the commitment to the process is definitely there” (*Inside U.S. Trade*, May 23, 1997: 11, 12). In spite of a number of outstanding issues, it was still believed that an agreement could be reached and the negotiations were pursued accordingly. It was agreed to extend the deadline to the May 1998 OECD ministerial meeting. Also, over these first two years of negotiations negotiators were contacted by environmental organizations that objected to some aspects of the draft treaty and they had agreed to modify the MAI draft text to reflect these concerns. Thus a third year of MAI negotiations was agreed-to and monthly negotiating sessions resumed with a meeting on June 30, 1997.

However in April 1997, as the first extension for the negotiations mandate was being agreed to, an unexpected development occurred with the emergence of a much more

² Several investment-related “codes” or “instruments” already existed at the OECD to which members were committed: the 1976 OECD Declaration and Decisions on International Investment and Multinational Enterprises which contains a National Treatment instrument, Guidelines for Multinational Enterprises, an instrument on Investment Incentives and Disincentives and an instrument on Conflicting Requirements; and, the Codes of Liberalization of Capital Movements and Current Invisible Operations adopted by OECD members in 1961 (Witherell, 1996: 18).

noticeable social opposition to the MAI that reached global dimensions. These actors made their appearance with the release of an early MAI draft text and its analysis on the Internet. Those MAI opponents included an array of groups representing diverse types of concerns. These included environmental organizations that coalesced with labour unions, development organizations and grassroots organizations, some of which were religious. From that point on, this opposition sustained an effective global public forum on the Internet that critiqued not only the agreement itself but also the alleged secretive process of these inter-state negotiations.

The pressure became such that in October of 1997, a group of international and domestic Non-Governmental Organizations (NGOs) were invited to meet with the OECD negotiators.³ Negotiators were then confronted by an unprecedented transnational coalition of activists and NGOs who requested that the negotiations be suspended. Their joint statement to the OECD was subsequently posted on the Internet and from then on the MAI opponents from diverse stripes remained united with one objective: to suspend the negotiations. Over the following months not only did the Internet campaign intensify but campaigns spread to the streets and legislatures of various member countries.

By April 1998, when it became clear that the second deadline would not be met, the agreement and its opponents had gained considerable media attention in most OECD

³ It has been observed that this meeting in itself represented a departure from OECD practice. Smythe (1998b: 247) reported that “[t]he OECD has historically provided for the views of capital and labor to be heard on economic issues, including investment, through the Trade Union Advisory Committee (TUAC), which was founded in 1948, and the Business and Industry Advisory Committee (BIAC), founded in 1963.” Indeed, aside from its environmental section that engaged in consultation with some environmental NGOs, that organization was much more closed to such consultations than were, for example, various multilateral fora within the United Nations or even the World Bank.

countries. On 27 April, 1998, OECD members agreed to suspend the negotiations for a period of six months. Before that meeting took place, France declared it was withdrawing from the negotiations, a declaration which ended them (*Inside U.S. Trade*, October 23, 1998: 5).

The apparently sudden and unexpected opposition with its use of the Internet clearly took most officials by surprise. This was reflected in the media through interviews and reports that evoked a sense of widespread shock. Thus reporter Guy de Jonquières wrote in the British *Financial Times* of April 30, 1998:

There is a memorable scene in the film *Butch Cassidy and the Sundance Kid* when the outlaw heroes are hounded for days by a bunch of armed men on horseback. After failing to shake off their mysterious pursuers, one of the hunted men asks despairingly: "Who are these guys?"

Questions Addressed in the Research

This research project began with that question. Such a visible, vociferous and geographically widespread yet united social opposition to the negotiations of such an arcane and obscure economic agreement was unusual. Furthermore, relative to the habitual protectionist claims made by specific domestic economic interests during multilateral economic negotiations, the claims made by this opposition were equally unusual. In addition, since the emergence and visibility of the transnational anti-MAI coalition coincided with the setback and eventual demise of the MAI, its impact on the negotiations has been the object of much speculation. That debate needed to be addressed empirically. The third object of curiosity was whether such an opposition was unique to the MAI or whether it would be sustained.

In the light of these, the purpose of this research was to examine the three and a half year-period of negotiations and the social opposition to the MAI in order to answer three questions. The first is, how are we to understand the social opposition to the MAI in terms of its politics, organization, motives, objectives and strategies? The second question asks, how effective was the social opposition to the MAI in achieving its objectives and how much of the failure of the negotiations can be attributed to it? Finally, a third question asks what this opposition represents for world politics? These three questions can be formulated in terms of testing three interrelated hypotheses: (i) the social opposition to the MAI influenced substantive outcomes in the treaty as well as the demise of the negotiations; (ii) the MAI opposition engendered transnational social movement networks against economic globalization; and, (iii) societal actors such as the social movement against economic globalization have, starting with the MAI events, affected inter-state relations and world politics and they will continue to do so.

Research Methodology

One of the approaches followed in the research can be broadly identified as a “descriptive-empirical approach” in that one objective of the research is to establish causal relationships (Marsh and Stoker, 1995: 17). That aspect of the analysis relies on thick description of events and is therefore inductive. In order to answer the two first questions of the research I relied upon four types of data sources. One was participant observation, the second was open-ended interviews and eyewitness testimony, and the third and fourth consisted of written documents from primary and secondary sources. Participant observation and open interviews of MAI opponents contributed to gaining an

understanding of their strategies, rationales and objectives as well as their perception of one another (See Appendix C for details on these). These were further explored in their publications, media documentation and reports.

Interviewees were selected through the “snowball sampling” method (Marsh and Stoker, 1995: 142). This method consists of asking interviewees “to nominate potential informants and the request is made at each subsequent interview” (ibid.). The objective is to obtain as great a diversity of informants as possible and heterogeneity of experience. A preliminary list of potential interviewees was drawn from secondary readings, participant observation and discussions with activists and officials. Initially, I strove for a balance between activists and officials in order to gain these participants’ different perspectives. As interviews progressed it became apparent that these interviewees drew a distinction between activists that adopted a “reformist” approach and those that adopted a “radical” approach to their critiques of the MAI. This distinction was stressed by officials and radicals. I therefore also selected interviewees in order to obtain representative insights from these two categories of opponents.

Although the anti-MAI campaigns that took place in a significant number of OECD countries all contributed to undermine the MAI negotiations, the data focused on three countries: Canada, France and the United States. Several reasons motivated these choices. First, since the emphasis of the research was placed upon the transnational dimension of the opposition rather than on a comparative analysis between countries, these three countries provided ample data to research that aspect of the opposition.

Second, each of these countries' anti-MAI campaigns offered peculiarities pertinent to the MAI.

Canada and the United States were chosen because of these countries' previous experience with the North American Free Trade Agreement (NAFTA) and its social opposition. Not only were the investment provisions of the NAFTA similar to the MAI, but the opposition to that agreement proved significant to the subsequent MAI opposition. Also, the Internet campaign against the MAI, which gave the opposition its global impetus, emerged as a result of collaboration among activists from these two countries. As such, North American activists played a significant role in radicalizing a global opposition against the MAI and generating public information strategies that engendered grassroots opposition elsewhere. The U.S. was also included because of the relevance of that country's position for the success of any international agreement. France was chosen because of its eventual withdrawal from the negotiations that effectively terminated any hope of pursuing MAI negotiations at the OECD. In addition, with the OECD being located in Paris, bureaucrats and officials who were involved in the negotiations were located there and the transnational dimension of the opposition was most visible in that country. Nevertheless, in spite of the focus on these three countries, the broader dimension of the MAI opposition has been acknowledged and substantiated in the research.

Interviews in France provided a rich perspective on the diversity of actors among the more radical MAI opponents. In particular, although so-called "intellectuals-engagés" were present throughout the global networks, French opponents of the MAI stressed the

novelty and importance of these participants' contribution to the campaign. As my research in the field progressed it became apparent that activists who resided in countries other than the three main cases selected were also valuable informants as they were identified by others as having contributed to the transnational effort in a significant way. This diversity is reflected in the number of West European countries listed in Appendix C. For example, activists in the Netherlands had maintained the anti-MAI electronic listserv and they had participated in "teach-ins" in North America thereby encouraging similar collaboration and forms of activism in Europe. These roles provided them with a broader understanding of the various anti-MAI campaigns and groups' actions over time.

The official interviewees who were selected had played various roles during the MAI negotiations. As such, they also offered a rich diversity of perspectives on the events. Some had participated directly in the negotiations while others were involved indirectly through their role within a supranational organization such as the OECD, the European Parliament or the European Commission. This provided a useful balance of views between close observers of the negotiations and those who directly participated in them. Other officials, such as members of Parliaments, helped bring the MAI to their colleagues' attention through their contacts with MAI opponents. Since interviews of U.S. officials had been published as the negotiations progressed, and since these reflected the U.S. position, I relied on these for U.S. data.

Open interviews with individuals who had participated either in the MAI negotiations or in opposing them provided some data toward building the sequence of events that was required to answer the second question of the research regarding the

influence of MAI opponents. The data collected in this manner sought to establish causal evidence by retracing the chain of events that caused the demise of the negotiations. This data also proved useful to ascertain other types of objectives and influences that the MAI opponents may have sought and achieved. Evidence collected from interviews was supported with evidence collected from primary documents. These were OECD documents emanating from the negotiations, governmental archives and MAI opponents' records. Finally, secondary sources of evidence in the form of media reports that were published as events unfolded, and their subsequent analyses by analysts and participants further supported verbal accounts of these events. Thus the "process tracing" method relied upon to establish an answer to the second question of the research was corroborated by what historians refer to as "convergence of evidence."⁴

While the two first questions of the research are thus answered by adopting qualitative research methods, thick description and an interpretive understanding of the events surrounding the MAI negotiations, the third question of the research is answered by theory testing and the comparative method. In a first instance the third question is answered by undertaking what Van Evera (1997: 90) referred to as a "literature-assessing" endeavour. First, a summary and evaluation of existing theoretical and empirical literature of phenomena similar to the MAI opposition is undertaken. Then a comparison of the

⁴ Van Evera (1997: 64) describes the process tracing method as follows: "the investigator explores the chain of events or the decision-making process by which initial case conditions are translated into case outcomes. The cause-effect link that connects independent variable and outcome is unwrapped and divided into smaller steps; then the investigator looks for observable evidence of each step." Given that one testimony or account would not be sufficient evidence of causality, historians rely upon what Shermer and Grobman (2000: 31-32) refer to as "convergence of evidence." This approach to history requires that "multiple inductions ... converge upon one another, independently but in conjunction."

MAI opposition to other similar cases is carried out in order to test certain hypotheses advanced by different theoretical frameworks.

Theoretical Frameworks

The first objective of the research—to provide an understanding of the MAI opponents—proved challenging and crucial to an accurate analysis of their influence and an understanding of their meaning for world politics. The challenge stemmed from the geographical spread of the MAI opposition and the united front presented by groups who, traditionally, espoused different causes and behaved differently. I needed a way to understand diverse self-references and mutual distinctions expressed by MAI opponents themselves.

Preliminary observations of MAI opponents in Canada seemed to indicate that a process of grassroots mobilization was under way. Also, early on in the research, some of the MAI opponents described themselves as participating in a broader and longer-term project, which, they hoped, would grow into a sustained opposition to economic globalization (defined in Chapter 2). However, secondary sources also revealed that less popular attempts at policy dialogue were also taking place. Yet, preliminary research seemed to indicate that in their struggle against the MAI these diverse groups displayed an unusual common front with common goals. In addition, MAI opponents campaigned at various levels. Some limited their actions to either the local, national, or transnational level whereas others were active at multiple levels. No single concept available in the literature on societal actors could accommodate this apparently simultaneous diversity and unity.

Given the self-description of some of these actors and my early observations, social movement theory provided a useful starting point and the conceptual tools with which to distinguish these actors from one another. The literature also draws distinctions between social movements and other societal actors. In addition analysts explore the domestic as well as the transnational aspects of social movements.

Furthermore, those MAI opponents who described themselves as participating in a broader project against economic globalization gained momentum with the anti-MAI campaign, and we have witnessed since then numerous protests that espouse such a theme. Indeed, starting with the Seattle protests against the World Trade Organization (WTO) in November-December, 1999, similar expressions of opposition against international economic policy-making processes and their policies have been manifest on a regular basis in various countries. The roots of these subsequent protests can be traced back to the anti-MAI campaigns of the MAI opponents who also opposed economic globalization. As such, social movement analysis was also useful in understanding the evolution of the latter opponents to the MAI, and what began as a heuristic tool based upon social actors' description of themselves became a theory confirming analysis.

As such, the distinction between this type of social opponent to the MAI and others is also relevant to our understanding of their meaning for world politics. The objectives sought by those opponents, when opposing the MAI, have persisted and they bring a new type of challenge to international economic relations worthy of further investigation. For that reason, the theoretical implications of the MAI opponents'

meaning for world politics that is undertaken in Section III focuses on those MAI opponents in particular.

In order to assess the significance of these societal actors for world politics—the third question raised in this research—I rely upon three theoretical frameworks. One concerns social movement theory’s understanding of movements’ influence on larger collectivities. The other two theoretical frameworks have been used to explain outcomes in world politics. Each of these helps to explain the meaning of these emergent anti-globalization movement networks for world politics. That undertaking enables me not only to evaluate the usefulness of these frameworks in providing an understanding of this phenomenon, but also to compare those MAI opponents to existing studies and thereby draw inferences on their future meaning for world politics.

First, I question whether the sustained opposition to economic globalization can be explained by Robert Cox’s (1996: 514-519) historical dialectic framework. This aspect of the movement networks relates to these actors’ evident opposition to international economic institutions and their policies and Cox’s understanding of world orders. Historical dialectic “enquires into the social processes that create and transform forms of state and the state system itself” (ibid.) This approach is premised upon the idea that “society produces in its structure the antagonisms that lead to its modification” (Dahrendorf in Cox, 1996: 514). Such social processes were observed and conceptualized by Karl Polanyi and Antonio Gramsci earlier in this century, and Cox adopts these concepts in his framework.

Polanyi's (1957) dialectical interpretation of European economic and social history from the 19th century to the 1930s identified two "phases of movement" in that history. The first phase of movement consisted of the "introduction of the self-regulating market: what Polanyi saw as a utopian vision backed by the state. The second phase of movement was society's unplanned and unpredicted response of self-preservation against the disintegrating and alienating consequences of market-oriented behavior" Cox (1996: 515). Cox also applies Gramsci's concept of hegemony to contemporary international relations.⁵ Gramsci developed the concept of "war of position" which consisted of "actively building a counter-hegemony within an established hegemony" through civil society. In Chapter 7, I apply this framework to the selected MAI opponents and question whether it enables us to explain the emergence of these societal actors. More specifically, are these movement networks counter-hegemonic and have they emerged for reasons similar to that of Polanyi's "second movement"?

While Cox's critical IR framework might enable us to understand the opposition to globalization as a response to a changing world order at the end of the 20th century, it does not enable us to empirically assess how these actors might be undertaking a war of position. This type of analysis has been undertaken by social movement analysts. These analysts have demonstrated the ideational and cultural influences of such collective action

⁵ Hegemony here is used by applying "the Gramscian concept of hegemony to explain varying degrees of global, as well as domestic stability" (Gill and Law, 1988: 76). In that sense, "hegemony at the international level is thus not merely an order among states. It is an order with a world economy with a dominant mode of production which penetrates into all countries and links into other subordinate modes of production.... World hegemony can be described as a social structure, an economic structure, and a political structure; and it cannot be simply one of these things but must be all three.... [I]t is expressed in universal forms, institutions, and mechanisms which lay down general rules of behavior for states" (Cox, 1996: 137).

on societies at large. Indeed, one analyst has termed challenges posed by social movements as “excluded realities” to reflect the fact that these are typically “marginal to or excluded from mainstream society” (Lofland, 1996: 3). As such, that theoretical framework illuminates a dimension of the opponents to economic globalization that enables me to document counter hegemonic cultural and ideational challenges expressed by actors from the anti-globalization movement networks. In that sense, the framework provides analytical tools with which to analyse and empirically document the ways in which these societal actors may be conducting a war of position. We can therefore use social movement theory to complement Cox’s framework.

If social movement analysis enables us to document the influence of the opponents of globalization on society, we must turn to another international relations framework to understand how such influences could affect world politics. That framework is referred to as social constructivist approaches to international relations or IR social constructivism. IR social constructivists seek to show how international reality is socially constructed. They argue that normative factors “shape [states’] interests, or their behaviour directly” (Ruggie, 1998a: 15). This type of influence takes place through a process of socialization. Socialization is a process through which actors internalize norms and the related behaviour that emanate from shared ideas in a particular society.⁶ In doing so, actors become part of

⁶ This perspective finds its roots in the so-called English school and Hedley Bull’s (1977) understanding of the state system as a “society of states” (Ruggie, 1998a: 11; Risse et al., 1999: 11). This understanding of the state system is made with the caveat that not all states are considered part of this society and that it is the process of socialization that makes them so. As Risse et al. (1999: 11) worded it: “[c]ontrary to some conceptions of international society...this definition suggests that international society is a smaller groups than the total number of states in the international system, and that socialization is for actors to internalize norms, so that external pressure is no longer needed to ensure compliance.”

a society that shares “collective understandings about appropriate behaviour” (Risse et al., 1999: 11). Processes of socialization may include the way in which “principled ideas (‘beliefs about right and wrong held by individuals’) become norms (‘collective expectations about proper behaviour for a given identity’)” (Jepperson, Wendt and Katzenstein 1996:54, in Risse et al., 1999: 11). A third societal influence in world politics takes place through “causal beliefs.” Causal beliefs consist of agreements on cause-and-effect relationships of complex problems shared by epistemic communities— “a network of professionals with recognized expertise” (Haas, 1992: 3).

Empirical analyses undertaken within that framework have already demonstrated the relevance of such societal influences in world politics.⁷ In chapter 7, I question whether the emergent transnational social movement networks against economic globalization can be understood as a phenomenon similar to those examined in IR social constructivist frameworks. I compare similar case studies to the selected MAI opponents and their genealogy. This enables me to assess how my case study relates to these other cases and thereby hypothesize their future relevance for world politics. Thus I apply these conceptual tools to ask whether opponents to economic globalization have already

⁷ Thus Richard Price (1998: 613, 639) documented processes through which societal actors, motivated by principled beliefs, *taught* governments “what is appropriate to pursue in politics” by generating “an international norm prohibiting Anti Personnel (AP) land mines.” Keck and Sikkink (1998) and Risse et al. (1999: 5) found societal actors active at the domestic and international levels within “transnational advocacy networks.” These networks, they argued, were motivated by shared principled beliefs and succeeded in engendering domestic policy changes towards the protection of human rights in states where such abuses had taken place. By tracing how an epistemic community succeeded in placing services on the international trade agenda, Drake and Nicolaidis (1992: 37) argued that communities of experts, motivated by principled and causal beliefs, caused states to redefine their interests.

affected or in what ways they are likely to affect world politics that pertain to the economy.

Summary of Findings and Chapter Outlines

Robert Cox's (1996) analytical focus on world orders reminds us that the historical context within which the MAI took place should be taken into consideration. Indeed, the term "globalization" has been widely used by officials and some MAI opponents when referring to these events. All these usages of the term refer to a particular juncture the world finds itself at, albeit with different interpretations of its consequences. For this reason my study of the MAI events begins by providing, in Chapter 2, a discussion of the intellectual and historical meanings of globalization. I argue that the intellectual and historical contexts within which the MAI negotiations were launched influenced these events.

Chapter 3 establishes the conceptual identification of various societal actors that influence policy making processes at the domestic and international levels. Given the detailed descriptions of actors' characteristics, a parsimonious model is suggested to facilitate the application of these conceptual distinctions to the case study. In Chapter 4, I apply the model to the case study to answer the first question of the research. I thereby draw a distinction between three main types of MAI opponents. The first type of MAI opponents, commonly called reformists, sought specific changes in the MAI text that reflected their membership's particular policy concerns. They pursued these objectives through lobbying and policy dialogue. A second type of actor, commonly called radicals, placed the MAI opposition within a longer-term project of resistance to what they believe

were perverse processes of economic globalization. Finally, the eventual merging of these MAI opponents resulted in a third type of actor in the form of a coalition that espoused one clear objective: to stop the OECD MAI.

Given these conceptual characteristics, MAI opponents conducted different types of campaigns that emerged at different moments during the MAI negotiations. For these reasons, Chapters 5 and 6 juxtapose these actors' respective campaigns with the progress of the negotiations in order to answer the second question of the research and trace their joint and respective influences (a summary of these chronologies is provided in Annex D). Direct influence—substantive changes in the MAI draft text—was obtained through direct contacts with the negotiators and/or as a result of domestic lobbying. However, indirect influence—gained through political pressure—was more significant relative to MAI opponents' objectives in that it contributed to the failure of the negotiations. The objectives and strategies associated with the latter result are typical of the anti-systemic stance adopted by social movements. Likewise, the spread of the opposition to the MAI into the streets of OECD capitals, which enhanced these actors' indirect influence, is also an outcome typical of movement networks' actions.

The answers to the first and third questions took a life of their own early on in the project since, shortly after I began the research and writing, more visible signs of opposition against international economic agreements manifested themselves. While the coalition struck between reformist and radical opponents of the MAI did not last, the networks developed among radicals during their anti-MAI campaign sustained their common objective of opposition and transnational links. Indeed in the fall of 1999, as I

was interviewing those MAI opponents, they were preparing for another campaign. Thus in November-December 1999, nine months after I began writing the introductory chapters of this study, protests took place in Seattle against the World Trade Organization. Since then, several similar occurrences have been reported around the world. For reasons elaborated upon in the subsequent chapters, we can now assert that that MAI opposition was not a unique and isolated case but the beginning of a socio-political phenomenon—now broadly referred to as “the anti-(corporate) globalization movement”—of interest to several areas of inquiry in political science.

For these reasons, I query, in Chapter 7, whether the sustained opposition to economic globalization is explained by Cox’s framework and whether empirical studies conducted within IR social constructivist frameworks shed light on these MAI opponents. I argue that the contest over future(s) engendered by these societal actors is explained by Cox’s historical dialectic approach as a resistance to a changing world order that displays growing tendencies toward unfettered *laissez faire* policies. However, to understand how these actors may achieve changes of a counter-hegemonic nature we must rely upon social movement analysis and IR constructivist conceptual tools.

CHAPTER II
THE MAI NEGOTIATIONS:
A THRESHOLD IN INTERNATIONAL ECONOMIC RELATIONS

Introduction

A report on the MAI and its social opposition, which was produced by the French Government in the fall of 1998, observed that the agreement had become a symbol of globalization that had crystallized the claims and frustrations surrounding that concept.¹ In order to understand the meaning of that observation, this chapter provides an explanation of two divergent understandings of *globalization*, the relationship between globalization and the MAI and the attendant frustrations and claims raised against that treaty. In the first section of this chapter, I provide an explanation of two divergent interpretations of globalization and their relevance to the MAI. In the second section, I argue that the historical context within which the MAI negotiations took place sheds light on the opposition to globalization and the MAI.

At its most controversial, globalization is synonymous with the progression toward a greater liberalisation of markets worldwide. This ideological aspect of globalization is associated “with the displacement of embedded liberalism by market liberalism, deregulation and privatization” (Skogstad, 2000: 808). It has therefore entered the academic and intellectual debates along a familiar divide between those in favour of increasingly freer global markets and those against them. The debate is particularly animated around the degree to which the state should be involved in the economy. These divergent understandings of globalization also reflect disagreements regarding the benefits and costs that may ensue from the current trend toward increased economic globalization.

¹ See “Rapport sur l’Accord multilatéral sur l’investissement (AMI),” by Catherine Lalumière and Jean-Pierre Landau on the French Government’s web site www.finances.gouv.fr, p.3.

Thus in a first instance the “contest over future(s)” takes place within an intellectual context as debates that oppose what I refer to as globophiles and globophobes.

Nevertheless, this intellectual context is only part of the story. How and why the MAI as a policy symbolised globalization in a manner that generated growing social opposition represents the other pertinent aspect of the MAI events. I argue, in the second section of this chapter, that when understood as an economic phenomenon, globalization is associated with a series of international agreements deemed to foster its progress. In that sense, the MAI was the latest in a series of such agreements, and the concerns, claims and frustrations expressed by MAI opponents must be understood as a reaction to concrete and negative experiences with these agreements.

I. Contested World Views: The Intellectual Context of the MAI

While many take the integration of the world economy as their point of reference to define globalization, they differ in their assessments regarding the reasons for its occurrence and its potential benefits. *Globophiles'* view these developments as a natural and beneficial progression of market forces and technological progress. *Globophobes* view economic globalization as the result of powerful and influential commercial interests that yields numerous social, political and economic hardships. I will begin with a dominant version of the positive view and follow with a critical view of globalization.

Globophiles' Understanding of Globalization

The economic aspect of globalization is defined as: “the deepening integration of markets as a result of heightened trade and investment, and enhanced capital mobility” (Skogstad, 2000: 808). Globophiles usually point to the evidence in support of

globalization by referring to statistical indicators that reflect what they refer to as growing global economic integration. These statistical indicators show the increasing flows of goods, services and most importantly capital between countries.² Most significant to these observers has been the increase in investment flows relative to trade since the 1980s. Globophiles' interpretation of globalization is an optimistic one. As Hart (1997: 81) wrote : “[t]here is every reason to be optimistic about the benefits that will flow from globalization.”

Increased integration of economies and greater investment flows are two related processes in that different inputs which are used to produce one good may originate in several countries. Thus Winham (1996: 640) provides the example of “the manufacture of a product in which components come from factories in various countries for final assembly in yet another country, while financing for various stages of the production process is raised in the capital markets of different countries.” In that sense, one of the main type of agent of globalization is the Multinational Corporation (MNC). Thus Ostry (1997: 238) observes that the MNC is “the main agent of globalization and the agenda for deeper integration.” That is, the MNC is considered to be the main agent linking countries' production apparatuses and key ingredients of their future economic growth

² See Julius (1994: 269); Winham and Grant (1998: 249); Winham (1996: 640, 641); Hart (1997: 79); Schwane (1996); Ostry (1997: 239); Smythe (1998b: 255). As Winham (1996: 641) reported, a significant transformation in the globalized economy is reflected in “[foreign investment flows [which] increased by 30 per cent annually throughout the 1980s, about three times faster than the growth of world exports and four times faster than world gross national product.” These statistics are found in yearly reports published by various international bodies such as the Frascati Manual from the Organization for Economic Cooperation and Development (OECD), the series of World Investment Report from the United Nations conference on Trade and Development (UNCTAD), and the International Trade Trends and Statistics from the World Trade Organization (WTO).

geared to the outside world (Schwanen, 1996: 3). This linkage takes place through MNCs' foreign direct investment (FDI) in host countries. As Hart (1996: 40) explains: "[m]ost FDI today originates with [MNCs], involves large sums of money and the exercise of control, and is often part of a larger multinational global strategy."

For these reasons, globophiles interpret the increasing global economic integration not only as an evolutionary process which can be attributed to the success of international policy efforts to keep markets open, but also as the natural evolution of commercial activities due to the technological changes which have transformed communications, transportation and information (Hart, 1997: 80; Ostry, 1997; Winham, 1999: 11; Schwanen, 1996: 3). As Witherell (1996: 19) has explained, "[m]odern communications and financial integration have strengthened the tendency for international companies to operate on a regional or even global basis."

The concern is that this increased *de facto* integration via investments, albeit welcome, has not been addressed in multilateral fora in a comprehensive enough manner. Although the past Uruguay Round of trade negotiations reflected these global economic changes in that it deepened the rules-based international trade policy regime (Winham, 1999: 13), these were widely deemed insufficient to further investment flows globally.³

³ According to trade policy analysts, the codes and instruments at the OECD that were mentioned in the previous chapter (see note number 2) are too weak. The Code on Liberalization of Capital Movements and the Code on Liberalization of Current Invisible Operations contain obligations that are binding in principle but weak in reality, while the National treatment Instrument is not binding even in principle (Graham and Sauvé, 1996: 102, 103). The OECD Declaration on International Investment and Multinational Enterprise "has the force of moral suasion and little more" (Hart, 1996: 60). Agreements at the international level are also considered unsatisfactory. These are the agreements which came into effect with the formal establishment of the World Trade Organization (WTO) January 1, 1995. The General Agreement on Trade in Services (GATS), the Trade-Related Investment Measures (TRIMS), are considered limited in terms of their coverage of investments (Hart, 1996: 70; Graham and Sauvé, 1996: 103; Whitherell, 1996: 20). In addition, it is estimated that over 600 bilateral investment treaties (BITs) are in effect. The number of agreements alone is

Globophiles find that, not only is there a confusing quilt of instruments, but they argue that there still exist investment barriers, and that foreign investors encounter discriminatory treatment and uncertainties. As a result, it is argued that the current situation helps “to distort the pattern of FDI flow and complicate[s] corporate activity which is increasingly global in strategy” (Witherell, 1996: 20, 21).

Therefore, globophiles share the view that the next logical step to the *de facto* economic globalization is the complementing of the trade regime with a multilateral investment regime (OECD, 1996a: 9; Smith, 1995: 103; Hart, 1996: 94). Underpinning this view is the belief that in the same way that the existing trade regime has fostered economic growth and development and has brought benefits to societies who have engaged in it, so too an investment regime such as that fostered by a MAI would have similar benefits. Such a course of action is perceived to be the most beneficial direction to follow in that “[j]ust as a country’s standard of living improves as a result of both exports and imports in an open trade regime” there are “net advantages for both capital-exporting and capital-importing countries” (Schwanen, 1996: 3). These were the arguments espoused by the OECD which justified the negotiations for a MAI (Smythe, 1998b: 255; OECD, 1995a; OECD, 1996a).⁴

considered to be an undesirable patchwork of multiple and overlapping instruments. It is at the regional level that agreements containing comprehensive and binding rules are found. These are the European Union which has become a “full-fledged economic union” (Hart, 1996: 67), and Chapter 11 of the North American Free Trade Agreement (NAFTA). The investment chapter of the NAFTA was often referred to as a model upon which the MAI should be designed.

⁴ Evidently, more arcane and complex arguments regarding various aspects of investments are involved in the conception of such a complex agreement. The gist of the rationale for a MAI however consisted of these main points. The most serious disagreement among those who called for a MAI was whether to negotiate it at the OECD or the WTO level. The disagreement revolved around the expediency and certainty of the OECD versus the inclusiveness of the South in particular that is inherent in the WTO (see

*Globophobes' Critiques of Globalization*⁵

Globophobes also take as their point of reference for globalization the transformation of the global economy. However, this critical view of globalization does not see its progression as a benign outcome attributed to the success of international commercial relations or technological changes. In general, globophobes present globalization as a phenomenon run amok, or at best one driven by particular interests, political manoeuvring and ideology.⁶ The role of MNCs is understood as one of powerful global actors pushing a neo-liberal ideology because it serves their interests at the expense of those of ordinary citizens, and in which the governments of nation-states have become complicit. Critical theorists in international relations refer to the process of globalization as a structural change reflecting a move toward a posthegemonic world order and a

Graham and Sauv e, 1996: 105-108; Smythe, 1998a; Winham and Grant, 1997: 256; Hart, 1995: 9).

⁵ This category is similar to that identified by David Held and Anthony McGrew (2001) as "hyperglobalists." It is not my intention to imply by this label that these critics of globalization suffer from some form of phobia. In fact, they are not opposed to all forms of globalization but rather, as will be explained in this section, they object to some of the negative impacts they observe as being linked to economic globalization.

⁶ For such explanations of globalization and its consequences see Strange's (1986) argument on "casino capitalism"; Helleiner's (1994: 172, 173) analysis of the demise of Bretton Woods; Cerny's (1995) assessment of the impact of globalization on states' ability to provide public goods and the ensuing changes on democracy and collective action patterns; Barber's (1995) argument regarding the negative and mutually reinforcing impacts of globalization in terms of *Jihad vs. McWorlds*; McQuaig's (1998) understanding of the push to further economic globalization as a "cult of impotence"; Reich's (1991) critique of the growing inability or willingness of societies to provide for their weakest members as a result of globalization; Sjolander's (1996) explanation of the term globalization as an ideologically loaded agenda with negative and polarizing social consequences; Held's (1995) assessment of the impact of globalization on democracy. In addition to these, critical theorists in International Relations have produced a number of studies on globalization that examine its causes and consequences (see for example Mittelman *et al.*, 1997; Cox, 1996, 1999; Gill, 1997, 2000). This list is by no means exhaustive since studies on globalization have been published at an increasing rate over the past decade. Thus in his "feature review" article titled "Globalization: from domination to resistance" Kiely (2000: 1059-1070) reviews no less than ten books on globalization that were published between 1997 and 2000.

“system lacking the staying power of effective means of regulation” (Mittelman, 1997: 231).

Rather than seeing globalization as a *de facto* outcome, the benefits of which need to be harnessed (Schwanen, 1996: 2-6), globophobes “draw conclusions about globalization as a political and social phenomenon” (Sjolander, 1996: 603) and thereby interpret globalization in a more comprehensive manner. Rather than seeing globalization in terms of a natural progression which necessitates a response such as a MAI, globophobes perceive that governments are losing control over a globalizing economy which they now are facilitating to their own detriment.⁷ Various aspects of this theme have been developed in academic literature.

Two main areas of concern regarding the *political repercussions of globalization* are the issue of the erosion of nation-states’ policy autonomy in the globalized world and the resulting erosion of citizenship rights. At the centre of this erosion of autonomy argument is the understanding that the role that nation-states had assumed vis-à-vis the economy since World War II has been drastically eroded by globalization. The erosion of the powers of the welfare state, which were based upon Keynesian economic management, is attributed in part to globalization (Held, 1995: 131; Giddens, 1998: 31).⁸ Among the culprits constraining the ability of nation states to follow such policies in an era of

⁷ For example Mittelman (1997: 7) writes: “[t]he scope for state autonomy...is reduced in the context of economic globalization...the state no longer primarily initiates action in, but rather reacts to, worldwide economic forces. To realize material gain from globalization, the state increasingly facilitates this process, acting as its agent.”

⁸ Keynesian economic management was based upon John Maynard Keynes’ *General Theory of Employment, Interest and Money*, that provided for government spending and taxing powers to restore the economy to full employment (James, 1991: 49). Keynes developed his *General Theory* in response to the severe and prolonged unemployment during the Great Depression of the late 1920s and 1930s. Note that for Keynes the interventionist welfare state needed to be protected from capital flows in order to maintain such policies.

globalization is the absence of capital controls and the operations of the world financial markets. The consequences of such capital mobility, Rodrik (1997: 6) explains, is that it diminishes the tax base of governments forcing them to increase “the tax rate disproportionately on labour income.” These outcomes have also undermined the ability of the state to shield its domestic economy, and its citizens, from the external pressure of the market (Cox, 1996: 27). As Held (1995: 135) summarizes:

[T]he operation of the states in an ever more complex international system both limits their autonomy (in some spheres radically) and impinges increasingly upon their sovereignty.

The effect of globalization on democracy is linked in part to the above-noted erosion of macroeconomic autonomy of states. The multiplication of regimes and international organizations that now manage whole areas of transnational activity such as economic relations is questioned. The most glaring example of such devolution of sovereignty cited is the European Union where the idea of “democratic deficit” emerged.⁹ Criticizing various international economic arrangements such as the North American Free Trade Agreement (NAFTA), the Maastricht Treaty and the GATT, in particular, Gill (1997: 216) writes: “[t]hese arrangements are designed to supplement market discipline with binding constraints or ‘rules’ in ways that might prevent elected politicians from using a wide range of policies to defend national or local interests.” Examples given are the GATT under which states are not permitted to block the entry of products which are

⁹ See for example, *The Crisis of Representation in Europe*, edited by Jack Hayward (1995). Several articles in the book explain the issues surrounding this concept and the reasons for its emergence. The main critique of European Integration is that an increasing number of government functions are being undertaken exclusively or concurrently by the European Commission and the European Union. The fear is that if too many areas such as trade and the environment, for example, come under these jurisdictions, decision-making no longer resides in states and their elected parliaments (Weiler et al., *ibid.* pp. 4-9).

produced in ways that are contrary to domestic norms in areas such as workplace practices, legal rules and social safety nets (Rodrik, 1997: 5). However, and as Rodrik (ibid.) also observes, “people attach values to [production] processes.” This is the way in which the loss of democracy is mostly criticized.

Flowing from these consequences of globalization is the view that the ability of citizens to collectively make choices on how they live together is eroding. That is, the demise of the welfare state, and the perceived inability of governments to protect their citizens from the external pressures of the market are identified as an erosion of responsible citizenship. This state of affairs, as observed in the United States, leads Reich (1991: 303) to ask the question: “[w]hat do we owe one another as members of the same society who no longer inhabit the same economy?” This question reveals concerns over the social consequences of globalization.

The *social consequences of globalization* consist of several issues in the area encapsulated in the term “social cohesion.” Social cohesion “implies the capacity to live together in some harmony and a sense of mutual commitment among citizens of different social or economic circumstances” (Canada, Senate Committee on Social Affairs: 1999:5).¹⁰ As the Canadian Senate report from which this quote is taken observed, globophiles do not refer to the idea of social cohesion. In contrast, globophobes point out that over the past two decades economic priorities have dominated governments’ agendas at the expense of social considerations and that the result has been “social corrosion and

¹⁰ That Senate report (1999: 6) provides definitions of social cohesion from other countries which are different wordings of the same idea.

fragmentation” (ibid.). For Rodrik (1997: 7), social disintegration is attributed to “the tension between the global market and social stability.” These tensions are attributed to the economic challenges confronting the nation state that were described in the preceding paragraphs.

The consequences of these tensions vary. Most identify a decrease in public investments, an increasing polarization of income and wealth resulting in the erosion of the middle class, a reduction of the average real annual earning, a “casualisation” of the labour market and the attendant increase in the rate of involuntary part-time employment, and an increase in the incidence of poverty. Sjolander (1996: 609-616) sums up the predominant view from this literature that globalization creates not only polarization internationally but, increasingly, domestically as well. Among the domestic processes of polarization she mentions not only “the squeezing (out) of the middle class,” but also “[t]he construction of ‘the other’ who can be compromised by the exigencies of globalization.”

MNCs are clearly situated at the centre of these processes in that they have become a key determinant in terms of levels of domestic employment through their decisions regarding their investments and the location of their facilities. As a result, unskilled and semiskilled workers are vulnerable to out sourcing, a practice facilitated by reduced barriers to trade and investment (Rodrik, 1997: 4).¹¹ At the international level there also exists a construction of the foreign national worker as the “other” who is

¹¹ Rodrik (1997: 4, note) defines the practice of out sourcing as “companies’ practice of subcontracting part of the production process—typically the most labor-intensive and least skill-intensive parts—to firms in other countries with lower costs.”

assumed to be able to sustain the harsh economic conditions imposed by the exigencies of globalization (ibid.).

Symptoms of this social fragmentation which appear in this literature range from the resurgence of nationalism or ethnic identity (Giddens, 1998: 31, 32; Barber, 1995; Cox, 1997: 27) to the collapse of democratic society (Soros, 1997).¹² In a similar vein, Barber (1995) argues that subnational factions emerge as a reaction against processes of uniformization and integration inherent in globalization. He warns that both globalization (McWorlds) and ethnic affirmations (Jihads) are undemocratic processes.¹³

Nevertheless, critical IR theorists also contemplate the possibility that globalization may provoke the emergence of social forces at the domestic and international levels that will come to challenge the neoliberal global order. The possibility of social forces repeating Polanyi's "double movement" has been suggested. As Mittelman (1997: 3) has expressed it:

Perhaps similar to the global economy of the 1930s, the contemporary globalization process appears to be approaching a conjuncture in which renewed liberal-economic structures will generate large-scale disruptions as well as sustained pressure of self-protection.

¹² George Soros (1997: 45), a major global financier who has benefitted from the lack of controls on capital flows wrote: "Although I have made a fortune in the financial markets, I now fear that the untrammelled intensification of laissez-faire capitalism and the spread of market values into all areas of life is endangering our open and democratic society." Soros has since published a book which expands on this article published in the *Atlantic Monthly*. The book is titled *The Crisis of Capitalism: Open Global Society Endangered*.

¹³ "Our new tribes are murderous and fanatical but small-minded and defensive: trying to secure islands of parochial brotherhood in a sea that relentlessly leaches away essence and washes away fraternal bonds" (Barber, 1995: 165).

As mentioned in the previous chapter a related hypothesis of this theoretical framework concerns the emergence of counter-hegemonic forces. These hypotheses will be assessed in terms of the movement networks opposing globalization.

Globophiles and globophobes understand economic globalization as a phenomenon linked to the increased flow of investments globally and agree on the importance of MNCs in that process. They also link international economic agreements to this process. Thus the MAI, an international economic agreement aiming to further free the flow of investments globally is clearly considered to be a component of globalization albeit with divergent assessments of its potential benefits. However, while these debates have been the object of heated exchanges among the initiated for some time, why did the MAI—an arcane investment treaty—generate public opposition that was also linked to globalization?

II. From Contested World Views to Contested Future(s)

Historical Perspective

Some of the debates between globophiles' and globophobes' understandings of globalization are not new. As the following brief history of debates regarding investment liberalization over the past fifty years will illustrate, the desirability of allowing investments to flow freely between countries has long been disputed. What is new is that some of these debates have now entered into broad public discourse. Nowhere is this more apparent than in the events surrounding the MAI. How this occurred and what the repercussions will mean for world politics are the subjects of the subsequent chapters. This section suggests why the MAI's historical context triggered that reaction. I argue

that the MAI represented a concrete instance of globalization, and much of the controversies that it generated had to do with the perception of the impact that globalization and the agreement would have on the autonomy of nation-states in policy-making, and consequently, its negative impact on the democratic expression of their citizens' collective will.

By the time the MAI negotiations took place, there had been a growing awareness within civil society that an increasing number of recently ratified international economic agreements entrenched international economic commitments which have irreversible impacts on a wide range of domestic policies. The MAI draft was understood to have similar if not wider implications for domestic policy-making. As the following brief history illustrates, this threat to governments' autonomy over domestic policies is at the core of the disagreements surrounding the MAI and globalization.

Calls for freer and safer flows of investments can be traced as far back as the 1940s. Since then, the issue of capital flows has been the subject of much debate. As Goodman and Pauly (1993: 50) have observed: “[t]he movement of capital across borders has long raised sensitive political questions. Whatever the benefits, international investment complicates national economic management.” These issues are reflected in the Bretton Woods negotiations which took place at the end of World War II and also in Northern industrialized states' relations with the newly independent states in the South. The concerns have been normative and political. The early Northern normative debates revolved around the role of the state in the economy and in particular its role as an interventionist welfare state. Thus the intellectual fathers of the Bretton Woods

institutions and the GATT, British negotiator John Maynard Keynes and his American counterpart Harry Dexter White, “argued that international movements of capital could not be allowed to disrupt the policy autonomy of the new interventionist welfare state” (Helleiner, 1994: 33). For Keynes, the interventionist welfare state needed to be protected from capital flows in order to maintain policies that would stimulate economic activity and employment through government spending.¹⁴

The events of the interwar period influenced the postwar economic arrangements. The almost universal demands for social protection on the one hand, and the recognition of the benefits of international economic multilateralism on the other, meant that there was a need to strike a “balance between ‘market’ and ‘authority,’ with governments assuming much more direct responsibility for domestic social security and economic stability” (Ruggie, 1998a: 69). The latter became a legitimate normative objective among industrialized countries where the difference concerned only the form and depth of state intervention. Ruggie (1982) referred to this instance of collective intentionality as “embedded liberalism.” In such an arrangement it was expected that greater international openness would be “coupled with measures designed to cushion the domestic economy from external disruptions” (Ruggie, 1998a: 78). This interpretation of the post-World War II economic arrangements reflects a social constructivist understanding of the relevance of norms shared among a society of states and the ways in which such norms influence their behaviour.

¹⁴ As already mentioned, Keynes’ reasoning for the necessity of an interventionist welfare state was grounded in his understanding of the severe and prolonged unemployment during the Great Depression of the late 1920s and early 1930s (James, 1991: 498).

The efforts of Southern states to limit foreign inflows of capital reflected beliefs that an interventionist state was beneficial to economic development and fears for their newly acquired sovereignty. Development theory and practice in the South have been pulled between two views. One encouraged less government and more market-led economic development, while the other saw a greater role for governments to protect developing economies from global markets. The concerns of Southern states also reflected their keen interest in retaining their only newly won self-determination. Up until the 1980s, foreign direct investment (FDI) brought by MNCs was regarded suspiciously in that these wealthy corporations, backed at times by powerful Northern states, were perceived to be too powerful economically and politically.¹⁵ Although the Southern debt crisis of the 1970s and its 1980s “solutions” of structural adjustment programs¹⁶ compelled Southern economies to open up to foreign investors, and change some of these positions, a core group of Southern states still retains reservations regarding full liberalization of capital flows.¹⁷

¹⁵ For a summary of the arguments and the literature see Spero and Hart (1997: 249-275).

¹⁶ Structural adjustment policies consisted of “domestic austerity programs,” in the form of “market-oriented structural changes” that were expected to lead to a “growth in output and exports.” Policies aimed at encouraging “trade liberalization...[and] financial liberalization such as improved access to foreign direct investment: deregulation...; privatization of state-owned industries” (Spero and Hart, 1997: 189, 192).

¹⁷ See Smythe (1998a) regarding Southern resistance to the inclusion of investment rules in the Uruguay Round. The comments made by India’s Minister of State for Commerce as late as 1997 are illustrative of that opposition: “The fundamental issue which one needs to face squarely in addressing this subject [of foreign direct investment] is whether the present system of nation States, under which each country is free to pursue its own national development strategy and to decide about the role to be played by FDI in achieving various development goals, is compatible at all with a multilateral investment framework” (Ramaiah, 1997: 118).

Several key events combined to change these views. Space prevents an in-depth review of these events and their numerous interpretations.¹⁸ Suffice it to say that by the 1990s domestic policy changes had contributed to a much more positive political and economic global disposition toward the liberalisation of domestic markets. Furthermore, the immediate post-Cold War period was marked by the ratifications of several international economic agreements of significance. In Europe the Maastricht Treaty, which provided for the establishment of a full Economic and Monetary Union, was signed in February 1992. In North America, the North American Free Trade Agreement (NAFTA) between Canada, the United States and Mexico, which entered into force on January 1, 1994, would also foster increasingly freer markets between the three countries. That agreement contained an unprecedented investment agreement with dispute resolution mechanisms. Finally, in January 1995, the World Trade Organization replaced the GATT with an organizational presence, the resources to further develop the multilateral trading system and the legal status for the resolution of trade disputes. While these three agreements do not represent an exhaustive list, in terms of the ongoing efforts at liberalizing the flows of goods, services and investments undertaken since the end of World War II, they represented giant forward steps.

¹⁸ Different interpretations of the reasons for these transformations reflect the dichotomous intellectual positions described in the previous section. Note also that as Cohen (1996: 273) observed: “[t]he discord...is significant insofar as the past may be assumed to have some impact on the course of events in the future.” The changes included: the restoration of currencies convertibility in industrial countries; the emergence of Eurocurrencies beginning in the 1950s; “[t]he disintegration in the early 1970s of the Bretton Woods system of pegged exchange rates” (Goodman and Pauly, 1993); the dramatic erosion of capital controls in advanced industrialized states beginning with Britain in 1979; and, as just mentioned the 1970s’ debt crisis in the South and its solutions implemented in the 1990s. For a good discussion of the different interpretations see Benjamin J. Cohen, “Phoenix Risen: The Resurrection of Global Finance.”

Nevertheless, the investment provisions which emanated from the Uruguay Round were not deemed satisfactory to some. Issues related to investments were to be addressed, albeit in a limited manner, through the General Agreement on Trade in Services (GATs) and the Trade-Related Investment Measures (TRIMs). Early on, however, Brazil and India led the opposition to the inclusion of investments in the Uruguay Round of negotiations. In the midst of the difficulties encountered in these negotiations and given the limited coverage that these two agreements were to provide, the United States began to pressure the OECD for “a comprehensive, binding investment treaty with high standards of liberalization, protection of investors, and a dispute resolution process” (Smythe, 1998*b*: 242). Starting in 1991, technical and analytical work was undertaken by “independent governmental experts” at the OECD in order “to explore the major issues” of such an agreement (OECD, 1996*a*: 13). Between that time and the beginning of the MAI negotiations four years later the three agreements just mentioned were ratified.

Contesting Globalization

These international economic arrangements were met with various degrees of enthusiasm by civil society in these countries, and the MAI negotiations were initiated in that context. Between the late 1980s and 1995 when the MAI was launched, awareness of these liberalizing instruments, from the impact of the structural adjustment policies implemented in the South under the guidance of the World Bank and the IMF, to the controversial outcomes of a growing number of disputes settled under the WTO, and the

budget cutbacks implemented in most Western democracies¹⁹, an increasing level of discomfort was slowly mounting among various segments of civil society.

Development organizations became increasingly critical of the impact that structural adjustment programs were having on Southern States and in particular on the most vulnerable segments of their populations.²⁰ In addition, the debt load of these countries did not seem to diminish. With regard to the WTO, NGOs had already exercised pressure in order to be included in that international economic forum, claiming that “the rights of citizens and civil society have been infringed by GATT/WTO rules, and that certain interest groups have been able to exercise a disproportionate influence” (Marceau and Pedersen, 1999: 6). Furthermore, as the newly instituted dispute settlement process was resorted to, North American environmentalists became increasingly disillusioned with the ways in which this process dealt with their domestic environmental laws. In Europe, the Maastricht Treaty was also received with skepticism, at times by entire countries, at others by particular groups who felt that integration had gone too far. The NAFTA had caused enough opposition that two side agreements had been added to the commercial agreement in order to appease the opposition from labour and environmental groups. As a result of these campaigns, several groups in various countries had begun to unite and direct their efforts against the WTO. These efforts were mostly divided along thematic lines of advocacy such as environment, labour and development,

¹⁹ In France, for example, these cutbacks were undertaken to bring the country into the Economic Monetary Union.

²⁰ For a critique of structural adjustment programs see Veltmeyer, Petras and Vieux *Neoliberalism and Class Conflict in Latin America*, chapter 4.

although in North America the NAFTA opposition had already seen cross-border and cross-thematic coalitions.

The MAI only added fuel to these incipient and disparate objections regarding the neo-liberal direction taken in international economic policy-making. The MAI transformed these regionalised oppositions by uniting all under one objective: to stop the negotiations. Furthermore, an increasingly unified opposition against globalization evolved into global networks. Although the MAI was only at the draft stage, civil society groups that secured an early copy of the document viewed it as a policy initiative with much more far reaching implications for domestic policy than any of the existing multilateral agreements they had challenged to date. Many of the concerns they expressed regarding the MAI echoed the historical and intellectual debates regarding the liberalisation of capital flows. The MAI also became a platform from which to criticize the ongoing process of globalization in terms of democratic deficits, and a process that served the interests of large and powerful MNCs. Eventually, these concerns had an impact not only on OECD members' publics but also on politicians.

Having been excluded from any consultation with the OECD when the research on the MAI began at the OECD in the early 1990s, while representatives of business groups had had such an opportunity, lent credibility to the latter NGO argument. A provision in the MAI draft for settling disputes by which MNCs were allowed to sue governments further supported the argument and also raised concerns over sovereignty and legislative

autonomy of states.²¹ Among these, it was argued that the MAI would have a “chilling effect” on governments when considering new domestic policies, be they concerning the environment, health, education, social programs or culture.

The approach that was followed to negotiate the agreement, widely known as “top down” approach, also raised concerns regarding the future legislative capabilities of states. The approach was different from that adopted under the GATT or the WTO in that rather than offering lists of economic activities to be negotiated, “all aspects of [a country’s] economy [would be] considered unless specifically excepted” from the treaty at the time of signature (Government of British Columbia, 1998: 44). The MAI opponents’ argument was that the top-down approach made it much more likely that governments would unintentionally omit present and future measures they might wish to record as reservations to the obligations of the treaty, thereby further curtailing their legislative prerogatives.²²

By all accounts, the MAI was a complex, technical and arcane agreement which went further than any existing international commercial agreement and covered as many

²¹ Under this procedure, called investor-state dispute mechanism and which is the same as that of the NAFTA, a foreign investor can challenge a government measure or regulation that is alleged to breach the treaty. As such, governments consent, by signing the treaty, to submit to an international arbitration panel. The hearings of these panels are confidential and closed to the public, and the panels have binding authority to award monetary compensation. It was argued in various domestic venues that this provision would effectively give MNCs and international legal status equal to that of states (see Government of British Columbia, 1998: Lalumière and Landau, 1998).

²² In a letter addressed to the Council of Canadians in November of 1997, a Canadian international trade lawyer, Barry Appleton, revealed the potential sources of error such as the fact that as at the time at which his letter was written, Canada had not listed such reservations (this was explained by the fact that that process had not yet begun). Thus he argued in his letter:

Canada’s proposed reservation to protect social services such as health and public education is inadequate to permit provincial governments to continue to provide these services without compensating affected foreign investors and governments...Canada has not proposed any reservations to the MAI to permit it to take measures to protect or conserve the Canadian environment. Thus, the MAI could reduce the financial capacity of governments to freely engage in these activities (Appleton, 1997: 1, 2).

countries as represented by the OECD membership (Lalumière and Landau, 1998: 3, 4). The few issues mentioned here involved complex legal arguments of international law, the implications of which, in terms of domestic law, are beyond the grasp of any superficial perusal by an expert, let alone a layperson. The fact that these issues came to public light thanks to NGOs rendered them all the more explosive and the negotiation process all the more suspect.

The Lalumière and Landau (1998: 4) report observes that none of the technicalities outlined above, nor their implications for the domestic policy-making process were brought to the attention of the national Ministers concerned.²³ The report points out that all the communiqués submitted for executive approval had done was to “repeat the same broad statements yearly” (p. 4, translation mine).²⁴ The report concludes on this matter that “it was a grave error to have treated the negotiations as a purely technical matter” (p. 4, translation mine) in that it spread the notion that the negotiations were secretive, even illicit. In the end this approach back-fired. Not only were politicians shown as either irresponsible or incapable of understanding an agreement that would undermine their legitimate right to legislate, but it was also observed that neither the Ministers responsible for specific portfolios nor their departments had been informed of an agreement that would affect their responsibilities.

²³ It is important to note that the authors of this report interviewed several ministers from the French government as well as officials at the European Parliament and the European Commission (see pp. 12 and 16 of the report).

²⁴ The progress of negotiations was communicated and submitted for political approval at the annual OECD ministers’ meetings.

For these reasons, and as was observed in the Lalumière and Landau report (1998: 2, 3), civil society saw the MAI as a symbol of globalization with all its feared ill-effects. The Pandora's box of globalization was opened by the MAI as its main agents—the MNCs—and its main economic channel—the liberalization of investments—were perceived to be given increasingly free reign by this novel agreement, at the expense of citizen's rights.

Many agree with the assessment made in the French report that the breadth, speed and vociferousness of the opposition was unexpected. This public opposition was novel in several other ways: (i) it appeared simultaneously in several countries, (ii) the claims expressed by the opponents went beyond those traditionally made by various sectors of the domestic economy during multilateral trade negotiations, (iii) the MAI opposition was made up of new actors represented by the NGOs, (iv) for the first time the process of multilateral economic negotiations was being widely questioned and opposed, and finally (v) the effective use of the Internet. For these reasons, the Lalumière and Landau report (1998: 3) concludes that the MAI represented a threshold in economic relations in that the intervention from this “global civil society” was probably “irreversible.” Likewise, at the conclusion of the October 21, 1998 OECD meeting on the MAI, OECD deputy director general Joanna Shelton observed that “[t]oday's meeting also made it clear that we are not engaged in business as usual, and we must address the concerns that have been raised about the scope and direction of the efforts to date” (*Inside U.S. Trade*, October 23, 1998: 7).

Conclusion

The MAI must be understood as a symbol of economic globalization and its concomitant policies which raise controversial issues of sovereignty and democracy. In as much as the MAI represented yet another international policy aimed at fostering global liberalization of markets it symbolized globalization. The nature of the agreement touched upon core issues raised by the liberalization of investments. These have been issues of considerable debate since the end of World War II. The content and nature of the MAI re-opened debates about sovereignty, regulatory autonomy of states and the power of MNCs. That is, the MAI challenged existing norms understood to be just and appropriate concerning behaviour among a society of states and between these states and their societies.

A constructivist understanding of international economic relations over the past fifty years highlights the ways in which world economic relations have been “socially constructed.” The debates and protests against globalization can be better understood when seen in this light. What has become evident since the MAI is that, in the post-Cold War era, two broad, competing perspectives have come to the fore. Whereas these two world views have been at loggerhead in various fora over the past fifty years, the international political tensions between East and West helped to overshadow them. That is, the Cold War shifted collective attention to two more clearly defined alternatives of social, political and economic organizations: the communist and the the liberal democratic systems respectively. While the communist world view was being implemented with a completely planned economy and society, the “embedded” liberal democratic world

displayed various version of capitalism, some of which allowed a greater role for governments than others.

What has emerged since the end of the Cold War is a debate around these versions of capitalism. Since the end of the Cold War, the struggles over ideas about the ideal social, political and economic organization have moved to a debate between a view that condones an extreme implementation of laissez-faire policies with the least possible government interference with markets, and another which reflects a desire to pursue the various versions of capitalisms implemented during the Cold War. These have now come out in the open because the former has come to supersede that latter. The way in which this ascendance has been most visible since the early 1990s has been through the proliferation of international economic arrangements that increasingly encroach on governments' legislative autonomy. These have become symbols of globalization and the MAI was the latest in a series of such agreements.

The difference between the former negotiations and the attempts to negotiate the MAI is that the latter opened a public debate on the desirability of furthering the ongoing processes of economic globalization. The chapters in Sections II and III explain how this came about and what the implications of such an outcome represent for world politics. The next and last chapter of this section provides an conceptual framework with which to understand the various civil society actors involved in the opposition to the MAI and globalization.

CHAPTER III
MAPPING SOCIAL ACTORS:
A HEURISTIC TOOL FOR CAMPAIGN ANALYSIS

Introduction

The purpose of this chapter is to provide a comprehensive conceptual model of societal actors and their relationship to domestic and international policy making processes. The model developed herein will be applied subsequently to the MAI opponents and their campaigns. Several considerations motivate this undertaking. One is the multiplicity of concepts available in various literatures on collective action and civil society. A clear taxonomy at the outset will avoid the confusion which ensues from using different terms interchangeably. This becomes an even more compelling necessity when faced with the task of analyzing a complex coalition such as the transnational social opposition to the MAI. The model becomes a useful tool of analysis in that it offers a parsimonious map upon which MAI opponents can be placed, thereby providing a tool with which to decipher actors from one another along with their respective roles, campaigns, effectiveness and meanings for world politics.

The complexity of the apparently unified opposition to the MAI also stemmed from the various levels of political and social organization within which MAI opponents were active. As has been widely observed, societal actors no longer limit their efforts to influencing domestic policy and/or society. Increasingly over the past decades, we have witnessed the involvement of all types of non-state actors at the transnational level. Thus some MAI opponents interacted with the domestic policy-making process as well as supranational institutions such as the European Parliament, the European Commission and the Organization for Economic Cooperation and Development (OECD). Other opponents' efforts were directed at raising broader public awareness at the domestic level

as well as abroad. Since actors active at the transnational level displayed characteristics similar to those at the domestic levels, I extend the domestic typology of societal actors to the transnational level.

In particular, the model draws a distinction between two main types of societal actors which are encapsulated by the concepts of “interest group system of action” and “social movement system of action.” The conceptual distinctions drawn in this chapter are verified by the case study. They hold significance for the subsequent analysis of the anti-MAI campaigns and the growth of social movement networks that oppose economic globalization.

I begin the description of the model with a discussion of a most contested concept: civil society. That discussion introduces the basic structure of the model. I then discuss the distinctions drawn in the model between different types of actors within domestic civil society. The model intends to accommodate several conceptualizations of associational life. This is illustrated by three categories of action systems. The three categories are compared according to four main criteria. I then extend these typologies to the transnational level and highlight where they apply to the MAI opponents. Section II builds upon this chapter by applying the model to the MAI opponents and their respective campaigns.

I. A Model of Domestic Civil Society as a Heuristic Tool of Analysis

Civil Society: a contested concept

Civil society has emerged as a contested concept that reflects various biases on the part of analysts. Thus Cox (1999: 10) observed that at the end of the 20th century “[t]he

concept has been appropriated by those who foresee an emancipatory role for civil society.” My objective in devising a model of societal actors is neither to engage in a protracted debate over the term civil society, nor to insist that my usage implies particular intentions on the part of societal actors. Rather, the model devised herein is intended to distinguish between various types of civil society actors and their interactions with domestic and international policy making processes. This means that no single conceptualization of collective action is collapsed with or substituted for the concept of civil society.

This means that various *types of collective action* are considered to be taking place within civil society simultaneously, and these can be differentiated from one another. As such, this model finds agreement with Wapner’s (1995: 313) definition of civil society as a “complex network of economic, social, and cultural practices based on friendship, family, the market, and voluntary affiliation.” This usage of the concept also agrees with the consensus, regardless of the analyst’s understanding of civil society, that civil society is made up of uncoerced, voluntary associations that enjoy some degree of autonomy from the state (Wapner, 1996: 5,6; Cohen and Arato, 1992: 425; Walzer, 1991: 293; Held, 1995: 181; Lipschutz, 1996: 53).¹ Indeed, a variety of forms of associational life

¹ Note that this conceptualization of civil society serves the analytical purpose of “circumscribing different types of activity” while not negating some understandings of civil society such as the Gramscian perspective. The latter understanding of civil society perceives that “state rule often permeates throughout civil society to consolidate power” (Wapner, 1996: 6). The Gramscian concept of hegemonic society conceives of civil society as reproducing that hegemony through associational life such as the church, family, educational institutions and others. This still means that civil society can independently reproduce the existing state and economy (Cohen and Arato, 1992: 425). However, Gramsci also regarded civil society as “the realm in which cultural change takes place, in which the counter-hegemony of emancipatory forces can be constituted” (Cox, 1999: 10). One difference between my conception of civil society and that of Cohen and Arato (1992) and critical theorists in general is the inclusion of economic organizations within civil society.

within domestic civil society interact in one way or another with governmental institutions.

As such, the model identifies civil society in contrast to governmental institutions.

The model (See Fig. 3.1) is divided horizontally in three layers: the top layer includes policy making processes and civil society at the transnational level. The middle layer represents domestic policy making processes and domestic civil society. The bottom layer lists the main characteristics of the action systems actors belong to. The following section provides a discussion of various concepts upon which the distinctions among systems of action are understood at the domestic level. The subsequent section provides an explanation of these same distinctions at the transnational level.

Three Systems of Action

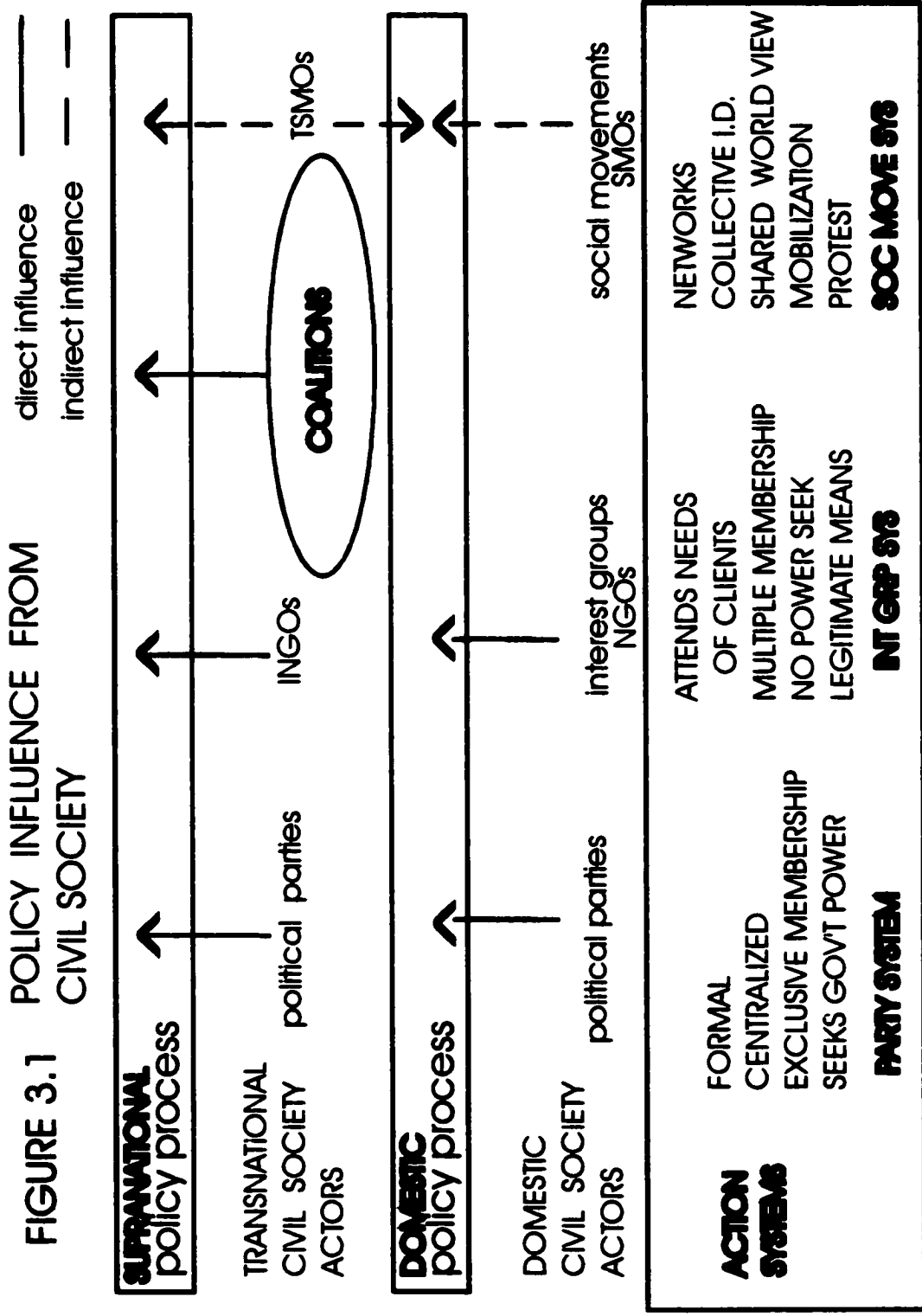
(A) Proximity to the Policy Making Process

The bottom layer of the model divides domestic civil society vertically into three “systems of action.”² The systems of action are labelled in the bottom section of the model from the left hand side of the model to the right hand side as: the party system of action, the interest group system of action and the social movement system of action. Their relative horizontal position corresponds to a continuum in terms of their proximity to the policy-making process, which is located in the left hand side of the model.

Proximity to the policy making process refers to actors’ ability to access

² I borrow the term “system of action” from della Porta and Diani (1999) although these authors have not placed the systems on a continuum. The idea of a continuum is inspired by Scott’s (1990: 132) suggestion that: “social movements are best understood in terms of a continuum stretching from informal network-like associations to formal party-like organizations. We can realistically assess the effects of social movements upon their [political] environment only, by viewing them as a political phenomenon related to other more ‘institutional’ expressions of political interests.” While this is a useful observation in terms of the analysis of social movements’ impact on the political environment, an important distinction, as will be discussed below, is that social movements also influence society.

FIGURE 3.1 POLICY INFLUENCE FROM CIVIL SOCIETY



information, to dialogue with and thereby potentially influence the policy process. Thus actors that belong to the “party system of action” are closer to these processes than are actors that belong to the “interest group system of action” and they in turn are closer than would be actors that belong to the “social movement system of action.” The other basis for the distinctions between these three ideal types of systems resides in actors’ organizational structures, their motivations and objectives, and their behaviour. I elaborate upon these in turn.

(B) Organizational Structures

The interest group and the party systems of action display similar organizational structures. Actors in these systems consist of hierarchical organizations with formal, centralized structures. Both are based upon membership support. Party systems are somewhat more formalized than interest group systems in that leadership includes elections, and these organizations are legally constituted with set methods of fundraising (della Porta and Diani, 1999: 144, 145).

The organizational structure of interest groups is deemed crucial for their survival and ongoing influence on the policy making process (Pross, 1990: 286, 290):

Their members have to be organized; brought together in structured relationships with one another and dragooned into identifying and expressing their common interests. Pressure groups are consequently distinct, clearly identifiable elements in the body politic.

By contrast, actors within the social movement system of action do not consist of one organization. “Social movements are not organizations, not even of a peculiar kind”

(Tilly, 1988 and Oliver, 1989 in della Porta and Diani, 1999: 16).³ This does not mean that no organizational entities may be considered as part of the social movement system of action. Rather, no social movement organization (SMO) can be identified as the social movement, let alone be the sole representative of a movement's views or actions (della

³ While social movement analysts rely at times upon the more concrete structures represented by social movement organizations (SMOs) they still recognize that "a social movement is certainly broader than its underlying structure" (Rucht, 1999: 207). However, the isolation of SMOs for analytical purposes and the exclusionary focus, at times, on these organizations' influence on government has caused some conceptual overlaps and theoretical confusion. These analytical foci lead some analysts to forget SMOs' ties with a broader movement, along with the peculiarities attached to this system of action. This has engendered a debate with those who see all NGOs as similar to "domestic interest groups of the traditional kind" (Stairs, 1998: 42; Pross, 1990: 293). The relevance of the distinction between the two types of organizations has been highlighted by social movement analysts in that societal actors that belong to the social movement system of action seek to influence not only policy outcomes but that they are also mostly associated with societal changes. Thus Rochon (1988: 205) points out that "[t]o look solely at its impact on policy is to reduce the peace movement to a lobbying organization. It is incorrect to do so, for not only are the organizational forms and political activities of the peace movement different from those of a typical interest group, its goals are different as well." Thiele (1993: 281) argues for a similar distinction on the basis that social movements and the organizations, such as Greenpeace, which consider themselves part of that movement "inject themselves directly into the processes of *socialization and politicization*" (italics added). In addition, Thiele (1993: 281) names peace and environmental movement organizations as "oriented to changing the world views and life-styles of the general public as much as influencing policy makers." Thus analysing the actions of SMOs such as Greenpeace solely as they interface with states or the state system, and forgetting to link them to their social movement roots derogates from the broader picture and therefore the understanding of the phenomenon we are encountering. While we can distinguish organizations within social movements, it is their ties to the movement that are significant in terms of their behaviour, motives and types of issues. In addition, it is their actions together with those of the broader movement with which they identify that represent "collective challenges to mainstream conceptions of how society ought to be organized and how people ought to live" (Lofland, 1996: 1). For example, Kuechler and Dalton (1990:279) draw a distinction among organizations concerned with environmental issues that illustrates the difference between those organizations that belong to the social movement system of action and those that do not. They point out that environmental organizations that have existed in Europe since the nineteenth century such as the French Society for the Protection of Nature or the British Fauna and Flora Preservation Society founded in 1903 "do not represent the particular ideological beliefs of the contemporary environmental movement." By comparison, organizations such as Friends of the Earth and Greenpeace "are closer to the core members of today's environmental movement" in that they share beliefs with movement participants at large. The debates also lead analysts toward arguments regarding the desirability of developing SMOs that express movement's claims (based on Rochon, 1988: 78-79). Thus, some argue that organizations lead to elitist tendencies and oligarchic consequences, or that organizations have a tendency to become reformist thereby undermining "the ability to frighten authorities into concessions" or to be vulnerable to co-optation. Others claim that, on the contrary, organizations are crucial to movements' success because they are able to generate political resources or because they are "innovators in democratic forms of organization." For these reasons all the characteristics devised in this model, and not just organizational features, must be considered necessary to distinguish societal actors from one another.

Porta and Diani, 1999: 16, 141).⁴ SMOs cannot, nor would they pretend to, represent the views of *participants* in the environmental movement as a whole.⁵ This reality has led one observer of the peace and antinuclear movements in Western Europe to observe: “[i]t is the spread of protest against nuclear weapons, not the rental of an office and a duplicating machine, that determines the existence of a movement” (Rochon, 1988: 77).

Thus the distinctive organizational feature of social movements is that they are made up of networks. In terms of structure, social movements are : “(1) *segmented*, with numerous different groups or cells in continual rise and decline; (2) *policephalous*, having many leaders each commanding a limited following only; and (3) *reticular*, with multiple links between autonomous cells forming an indistinctly-bounded network” (from Gerlach, 1976 in della Porta and Diani, 1999: 140). Social movement analysis conceives of the least organized of these forms of collective action as “networks of everyday life” (Melucci, 1988: 338).

Unlike actors in the interest group system of action who rely on their members being “structured and dragooned” for a sustained effectiveness, the fluid networks that characterize the social movement system of action play a key role at different stages of

⁴ This point is relevant to the extent that many scholars have used the term social movement interchangeably with specific NGOs. Thus SMOs such as the environmental NGO Greenpeace are erroneously referred to as “the environmental movement.”

⁵ Note that della Porta and Diani (1999: 17, 18) stress the importance of individuals in movements as participants and not members of particular organizations. This they argue is a significant distinctive feature of social movements relative to interest groups. Being involved in a movement “can never be reduced to a single act of adhesion. It consists, rather, of a series of differentiated acts, which, taken together, reinforce the feeling of belonging and of identity [with the movement]” (ibid.). Examples of such acts relevant to the movement are not limited to protests but may also include simply promoting the ideas of a movement among institutions or the media, or participating in public meetings, committees or work groups.

movement formation and development.⁶ Therefore, implicit in the organizational characteristic of social movements are the achievement of a significant scale in terms of numbers of supporters and spread. Thus Lofland (1996: 11) explains that the “continuity and organization that are the marks of a social movement are signaled by the presence of several and perhaps hundreds or thousands of *named associations* that view themselves as part of ‘the movement’ and that are carrying on *campaigns* in the name of the movement.” Rochon’s (1988: 79-80) analysis of the peace and anti-nuclear movements in Western Europe illustrates the point well:

The Dutch Committee Against Cruise Missiles ... brought together the IKV, Pax Christi, Church and Peace, the Humanist Peace Council, Stop the Neutron Bomb, the Union of Dutch Conscripts, Women for Peace, Women Against Nuclear Weapons, pacifist organizations united in the Platform of Radical Peace Groups, as well as the largest trade union federation and the leading leftist parties. In France, twenty-four peace organizations dedicated to pacifist, ecological, feminist, nonviolent, civil liberties, conscientious objection, student, Christian, and third world causes federated in November 1981 to form the Committee for Nuclear Disarmament (CODENE). In Germany.... In each of these countries, both the individual organizations and the federations put down roots in hundreds of communities. These groups contributed to national actions as well as to planning local activities.⁷

Although actors from the social movement system of action may thus be described

⁶ For example, McAdam, McCarthy and Zald (1996: 4) report on the work undertaken by Charles Tilly in the 1970s that documented the role played by grassroots networks in facilitating collective action; in the 1980s Aldon Morris and Doug McAdam found that the black churches and colleges had played a critical role in the American civil rights movement. Summarizing the work of Melucci (1984), Rupp and Taylor (1987), Johnston (1991) and Mueller (1994), della Porta and Diani (1999: 89) explain that it is through informal networks that renewed mobilization takes place after periods of less visible movement activity. As Melucci (1995: 14) observed: “submerged networks nourish and give meanings to public mobilization.”

⁷ Of relevance to the model and as discussed in the second section of this chapter is the fact that early manifestations of such movements (from the 1960s onward) were largely confined within domestic borders. As such, early analyses of social movements were mostly concerned with comparisons of domestic manifestations of particular movements. However, over the past decade analysts have observed that “contentious politics is undergoing a process of change” (Passy, 1999: 148) in terms of a “gradual shift from national to transnational movement activity” (Rucht, 1999: 206).

as coalescing, the term coalition is reserved in this study for instrumental motives. The distinction between such coalitions and social movements is that, given their instrumental motives, coalitions, unlike social movements, rarely hold together once specific goals have been reached. As will be seen in the following chapter, the coalition against the MAI which brought together actors from both the interest group and social movement systems of action was instrumental and did not survive beyond the anti-MAI campaigns.

However, some actors from that coalition remained united and pursued a common opposition against the World Trade Organization (WTO). The reason for this bifurcation can only be explained by the distinctions between the interest group system of action and the social movement system of action drawn herein.

(C) Motives and Objectives

A most significant distinction among the three types of action systems are actors' motives and objectives. A straightforward distinction has been drawn between actors in the interest group and the party systems of action in that the former are rarely motivated by the goal of obtaining governing powers.⁸

A further distinction has been drawn between interest groups and social movements. While interest groups are "interested in exerting influence and in persuading governments to accommodate the special interests of their members" (Pross, 1990: 285), SMOs and other actors considered part of the social movement system of action "do not

⁸ I borrow this characterization from Pross (1990: 285) who distinguished political parties from interest groups in that manner. This distinction accords with the definition of political parties as "any group, however loosely organized, seeking to elect governmental office holders under a given label" (Epstein, 1967: 9, 10).

necessarily address themselves to those whose interests they wish to promote” (della Porta and Diani, 1999: 145). That is, societal actors who belong to the social movement system of action do not act in order to ensure a better future for themselves but “[t]hey envision a better society for all” (Kuechler and Dalton, 1990: 280).

More significantly, what actors from the social movement system of action envision typically challenges mainstream understandings of reality. So much so, that Lofland (1996) labelled these as “excluded realities.” Thus actors from the social movement system of action are engaged in “political and/or cultural conflicts meant to promote or oppose social change at either the systemic or non systemic level” (della Porta and Diani, 1999: 15). This brings Lofland (1996: 3) to characterize the changes sought by these actors as residing in “idealistic and moralistic claims about how human personal or group life ought to be organized that, *at the time of their claims-making*, are marginal to or excluded from mainstream society—the then dominant constructions of what is realistic, reasonable and moral.”⁹ Kuechler and Dalton (1990: 280) describe such shared world views as “a humanistic critique of the prevailing system and the dominant culture, in particular a deep concern about the threats to the future of the human race, and a resolve to fight for a better world here and now.” For these reasons actors who belong to the

⁹ Lofland (1996: 3) stresses this feature by explaining that social movement actors espouse “a *claim about reality* that is, *at the time of its assertion*, ...not respectable or otherwise meriting serious consideration. Instead, the asserters and the realities they assert are, in mainstream views, best ignored, repressed, treated therapeutically as a sickness, or in some other manner kept excluded, marginal, or encysted.” A good example of asserters of excluded realities that have been experiencing such symptoms are actors from the gay and lesbian movement. Lofland’s insistence on the relevance of the timing of claims suggests that as movements’ claims become accepted in mainstream reality they cease to belong to the definition of social movement. In my view, this is an important aspect of the definition of social movement and it lends a dynamic to the model that could be further explored.

social movement system of action are often referred to as anti-systemic.

Another distinctive motivational factor that differentiates actors from the social movement system of action from the interest group system of action resides in the notion of collective identity. A collective identity is born from actors' sense of being bearers of particular values and interests and defining adversaries in relation to these.¹⁰ Thus the relationship between collective action and collective identity is explained as follows:

"[c]ollective action cannot occur in the absence of a 'we' characterized by common traits and a specific solidarity. Equally indispensable is the identification of the 'other' to which can be attributed the responsibility for the actor's condition and against which the mobilization is called" (Gamson, 1992 in della Porta and Diani, 1999: 87). The processes through which this construction of action takes place has been referred to as "framing processes."¹¹

(D) Behaviour: "Proper Channels" vs. "Disruptive Tactics"

Unlike social movements, interest groups seek to influence policy-making "through legitimate channels and by legitimate means" to a point where these actors are considered to "buttress the political system ... and ... provide, at least implicitly, support for that system" (Van Loon and Whittington, 1981, 407). Useem and Zald (1987: 273) also distinguish pressure groups from social movements in that the former "employ a political system's conventional form of collective action," while the latter "tend to use

¹⁰ For a good understanding of the concept of collective identity in the analysis of social movements see della Porta and Diani (1999: 83-109).

¹¹ David Snow coined the concept and defined it as the "conscious strategic efforts by groups of people to fashion a shared understanding of the world and of themselves that legitimate and motivate collective action" (in McAdam, McCarthy and Zald, 1996: 6).

noninstitutionalized tactics, channels of influence, and organizational forms.” Similarly, Paul Thiele (1993: 281) explains that social movements “are not limited to the traditional avenues of politics as defined by state structures and established governmental procedures.” Thus a defining characteristic of social movements is their methods of persuasion which are “novel, unorthodox, dramatic and of questionable legitimacy” (Wilson 1973: 227 in della Porta and Diani, 1999: 168). Examples of such unorthodox practices range from street theatre to rubber boats confronting nuclear submarines, or tying oneself to a tree to prevent foresters from cutting it down. While analysts recognize that political parties and interest groups may at times resort to various forms of protest, “protest (particularly at its most innovative and radical) has been considered as a form of action typical of social movements” (della Porta and Diani, 1999: 170).

Thus one of the main behavioural characteristics of social movements is “mass mobilization, or threat of mobilization, as their prime source of social sanction, and hence power” (Scott, 1990: 6). These mass mobilizations and protests serve several purposes. Among them is the objective of attracting public attention through media coverage thereby gaining broader support for a cause. Another objective of these protests is referred to as “the logic of numbers” (DeNardo, 1985). As seen above, a defining characteristic of social movements resides in the scale of the support they achieve. Thus the logic of numbers refers to the idea that a movement’s destiny depend largely on the number of its supporters since “there always seems to be power in numbers” (DeNardo, 1985: 35). The power derived from numbers in protests lies in the greater disruption caused by a larger number of protesters. Larger numbers of protesters also serve to demonstrate to elected

representatives the degree of support for a movement's claims and the potential electoral consequences of governmental response to those claims (della Porta and Diani, 1999: 175).

The distinction between these two types of behaviour also yields different types of influences on the policy process. Because of their closer interaction with the policy-making process, actors who belong to the interest group system of action may be described as seeking *direct influence*. Direct influence can be defined as specific and substantive influence on policies targeted by groups that get involved in lobbying activities or policy-making processes on a consultative basis. The additional objective and strategies behind actors from the social movement system of action such as changing mainstream reality and mobilizing for broader support for their claims qualify these actors' influence as *indirect influence* on the policy-making process. Indirect influence refers to the influence on the policy-making process through increased pressure on officials by various means. These distinctions are illustrated in the model with two different types of arrows.

The combination of the characteristics described in sections *A* to *D* yields the following definition of social movement:

A social movement can be defined as an action system comprised of mobilized networks of individuals, groups and organizations which, based on a shared collective identity, attempt to achieve or prevent social change, predominantly by means of collective protest (Rucht, 1999:207).

II. Civil Society Actors at the Transnational Level: Parallels with Domestic Levels

Multiple Levels of Interaction

The changing political and institutional reality within which societal actors operate means that many are active transnationally as well as nationally. The inclusion of a supranational policy-making process in the model intends to reflect that reality. The leading example of a supranational arrangement that parallels governmental institutions at the domestic level is the European Union with its Parliament, its political parties and the European Commission. We would therefore place the European Parliament and the European Commission as supranational policy-making processes and the political parties who represent various domestic European constituencies in the political party system of action. However, there are other supranational institutional arrangements where policies are agreed-to, albeit with diverse and generally less authoritative legal status. While various governmental institutions are responsible for policy-making at the domestic level, we find at the supranational level, multilateral fora within which states agree to legally binding international policies that also affect their domestic policies.

Not only do societal actors increasingly interact with these supranational bodies but their relationships to one another are also no longer confined within nation-state borders. As Rucht (1999: 207) observes, “a single group can be at the same time part of a local, national and international movement” meaning that such societal actors can be active locally, nationally and transnationally autonomously, as part of larger coalitions or as member of umbrella organizations. Similarly, Non Governmental Organizations

(NGOs) that do not belong to the social movement system of action have been increasingly present at transnational events. Not only have their numbers mushroomed over the past decades, but the frequency of their interactions within official fora has also increased.

Domestic and international NGOs can be found within international governmental fora such as the United Nations' Economic and Social Council (ECOSOC) where they enjoy a consultative status autonomously, as federations or as coalitions. In addition, ECOSOC and its international secretariats have organized international conferences on specific issues that are attended by senior government officials as well as NGO representatives. For example, the UN Conference on the Environment and Development in Rio de Janeiro in 1992 registered 1,400 NGO representatives (Gordenker and Weiss, 1995). Such increasingly frequent encounters contribute to the establishment of direct links between officials and NGOs.

Other international governmental fora have developed ways to interact with NGOs. Thus the Trade and Environment Division of the WTO "pioneered the concept of issue-specific NGO symposia as early as June 1994 (under the then General Agreement on Tariffs and Trade, GATT) (Marceau and Pedersen, 1999: 16). According to that source two such symposia took place. In 1997 a joint WTO-United Nations Conference on Trade and Development (UNCTAD) Symposium on Trade-Related Issues Affecting Least-Developed Countries was held in Geneva, and was attended by 34 NGOs mostly from least developed countries. In 1998 the WTO held a Trade and Environment Symposium which included 150 individuals from environment and development NGOs,

private corporations and academia (*ibid.*).¹² Such arrangements have been referred to as “formal relations between ‘interest groups’ and an intergovernmental body” (Gordenker and Weiss, 1995: 365).

However, NGOs’ activities and collaboration also take place outside formal institutional settings and, at times, quite independently of institutional prompting. Such interactions and the targets of their claims can be both domestic and transnational. Thus for example, a variety of local, national and international groups have emerged since the 1970s to address issues affecting indigenous peoples locally as well as globally (Brysk, 1996: 40). At the local level indigenous groups formed grassroots associations and were eventually supported by newly founded international NGOs such as the World Council of Indigenous Peoples and Cultural Survival. Local indigenous organizations received material support from international NGOs such as OXFAM, Cultural Survival and the Inter-American Foundation as well as support in terms of sympathetic foreign actors’ presence during local conflicts. These coalitions also exercise political pressure, often through northern allies, on international organizations such as the World Bank in order to prevent the funding of development projects detrimental to indigenous groups.

Given the motivation and behaviour of such actors, Rucht (1999: 207-209) refers to these coalitions as transnational social movements. He provides some examples of the ways in which such cross border and cross sectoral collaborations take place: “horizontal coordination between groups from different countries” such as the “worldwide

¹² See O’Brien et al. (2000) for a comprehensive study of NGOs’ interactions with the World Bank, the IMF and the World Trade Organization.

coalition of some 700 groups that oppose the construction of the large Narmada dam system in India”; vertical and horizontal structures where “national groups not only coordinate directly, but do so through an international body which has some say” such as the worldwide environmental umbrella organization Friends of the Earth International that allows one group per country to become a member; the more structured and centralized type of organization such as Amnesty International and Greenpeace where “ideational and structural similarities between national groups” are induced. Each of these are part of broader movement networks such as the environment in the case of Friends of the Earth. Rucht (ibid.) refers to these structures as Transnational Social Movement Organizations (TSMOs) and considers them to be a distinct subset of International NGOs (INGOs). As just mentioned, these actors can join local groups in local campaigns spontaneously and quite quickly. Such was the case for the transnational mobilization protesting against the Nigerian government on the occasion of Ogoni writer and critic Ken Saro-Wiwa’s death sentence (see Rucht, 1999: 213).

Thus not only are NGOs found to be active at several levels, but characteristics similar to those identified at the domestic level can be found at the transnational level. As such, the model reflects the fact that societal actors active at the transnational level display characteristics similar to those identified in our three systems of action at the domestic level. Therefore, the vertical division of civil society into three systems of action described in the bottom horizontal layer of the model applies to the transnational level of civil society. These parallels are made with the obvious reservation that there is no international central authority or global state, let alone political mechanisms for state-

society relations akin to those found at the domestic level.¹³ The model intends to reflect the continued relevance of distinctions between the three systems of action in terms of civil society actors at the transnational level and in terms of the way these civil society actors interact with such supranational institutions.

Transnational Societal Actors' Proximity to the Policy Making Processes

In the same way that some societal actors at the domestic level are closer to the policy-making process so too at the international level some societal actors enjoy, and seek, more consultative privileges than others. Thus political parties in the European Parliament are considered closer to the policy making process than NGOs that lobby the European Commission. Although NGOs' access to these multilateral institutions varies from one institution to the other, we can still find NGOs that enjoy a closer relationship with some international policy-making processes than others.¹⁴ As will be illustrated in the case of the MAI in Section II, some NGOs enjoyed more credibility, respect and access with OECD and WTO officials than did others. Also, such NGOs describe their activities and objectives in terms akin to the domestic actors within the interest group system of action.

Social Movement Actors at the Transnational Level

In addition to being more distant from the supranational policy-making processes,

¹³ Many do in fact see transnational nonstate actors as substantively little different from domestic interest groups. In addition, others conceive of "pluralising global governance" (Gordenker and Weiss, 1995) or they refer to the relationship between nation-states and NGOs during international conferences as "a microcosm of global state-society relations" (Clark, Friedman and Hochstetler, 1998: 6). However, such oversimplifications hide the significant differences between the international and domestic systems.

¹⁴ Thus Gordenker and Weiss (1995: 364) describe the procedures through which NGOs obtain various levels of consultative status within the United Nations system.

some International NGOs (INGOs) are also linked with domestic and transnational social movement networks and their behaviour and motives correspond to that system of action. These organizations are referred to as transnational social movement organizations (TSMOs).¹⁵ In the same way that SMOs reflect the underlying organizational structure of domestic social movements, TSMOs reflect the organizational structure and evidence of transnational social movement networks. Examples of such TSMOs already referred to are Friends of the Earth, Amnesty International and Greenpeace International.¹⁶ As do actors from the social movement system of action at the domestic level, actors from transnational movement networks exhibit “different layers of collective identities which are not mutually exclusive” and when they do join across borders they place their actions within a common and wider perspective.

Also, the TSMOs’ means of pressuring for change are, as at the domestic level, less conventional than those of INGOs that belong to the interest group system of action. For example, Greenpeace is renowned for its “vicarious activism” and unconventional methods of protest (della Porta and Kriesi, 1999: 20). Thus Wapner (1996: 56) reports one instance among others where three Greenpeace activists “scaled half-way up the forty-seven-story Time-Life tower in New York to protest chlorine-bleached paper used in *Time*

¹⁵ This paragraph is based on Rucht (1999: 206-222). The term TSMO was coined by Pagnucco and McCarthy (1992) “and it refers to social movement organizations which have members in two or more nation-states and which have an international office or secretariat charged with coordinating and/or facilitating transnational activities, communication and/or strategies” (Rucht, 1999: 221, note 3).

¹⁶ Little systematic scholarly work has yet been undertaken to sort out NGOs in general (Chayes and Chayes, 1995: 252). The criteria based upon social movement framework would be one to start from. Another factor affecting the role of NGOs in general has been pointed out by Gordenken and Weiss (1995) and is based upon the degree of funding they receive from governments.

magazine.” Not only did the activists attract media attention by climbing the building but they also pointed a conspicuous accusatory finger at the organization by unfurling a banner which read “‘Chlorine Kills’ and ‘Take the poison out of paper’ against a backdrop of a mock *Time* magazine cover.”

Conclusion

The heuristic model devised herein distinguishes societal actors at the domestic and transnational levels in terms of four main distinctive features. These characteristics taken together define and distinguish various civil society actors from one another. Although three systems of action are identified, I have specifically drawn a distinction between actors that belong to the interest group system of action and the social movement system of action. The distinctions are based upon social movement theoretical frameworks. Given the thick descriptive nature of these distinctions a model was devised. This model is suggested as a parsimonious tool of reference and as a template to be applied to case studies as I do, in Section II, to analyze the MAI opposition.

The first feature distinguishes actors on the basis of their proximity to domestic and supranational policy-making processes. The three remaining characteristics distinguish actors on the basis of their organizational structures, motives and objectives of action, and behaviour. Firstly, actors in the social movement system of action enjoy less proximity to the policy-making processes than do those from the interest group system of action. This is partly due to the fact that their claims, which are based upon shared values and world views, typically reflect idealistic and moralistic challenges to mainstream reality.

As such, the analytical framework also highlights the respective differences

regarding the motives of actors that belong to these two action systems. Actors within the social movement system of action envision a better society for all, and, unlike actors in the interest group system of action, they do not pursue policy changes for themselves, their group or a specific membership but for society at large. In that sense, these actors not only seek to influence the policy-making process, as do actors in the interest group system, but they also seek to influence larger collectivities. One distinctive way in which these actors pursue that objective is through mobilization, protests or vicarious activism.

In contrast, actors from the interest group system of action pursue policy objectives through more legitimate or accepted means such as lobbying and taking part in the policy-making process. These actions seek specific policy changes that address their membership's interests. Policy orientation is determined through the membership and hierarchical structure of the organization in a manner that renders the NGO accountable to its membership. The main organizational distinction of actors that belong to the social movement system of action is that they are part of networks. These networks contribute to the formation, sustenance and expansion of social movements. As such, no single organization represents a movement. For these reasons, the term Social Movement Organization (SMO) has been devised as a sub-category to the more generic term Non Governmental Organization (NGO). Likewise at the transnational level we find the generic term International NGO (INGO) and Transnational SMO (TSMO) to draw a difference between the two.

By all accounts the opposition to the MAI was made up of a complex, heterogeneous representation of organizations and individuals that presented an unusual

common front to OECD negotiators. This common front was misleading in terms of the hidden diversities among MAI opponents' campaigns and the chronology of these campaigns, their short- and long-term objectives, their motives for opposing the MAI and their preferred modes of action. As such the sequence of events, the respective roles of opponents and their effectiveness was not immediately apparent. However, collecting such empirical evidence was necessary in order to answer the question regarding MAI opponents' impact on the outcome of the negotiations. The model proved useful to achieve that objective.

In this chapter I have devised and explained a heuristic model that should enable us to decipher these societal actors from one another and to further understand their respective roles in the outcome of the MAI negotiations and their meaning for world politics. As will be demonstrated in Section II, the chronology of various campaigns led against the MAI became evident and understandable once the model was applied to the MAI opponents. Specific strategies and goals on the part of diverse opponents also came to light and their effectiveness was thus demonstrable.

Although the model was initiated on the basis of actors' self-description, it soon became clear that these differences held significance not only for the anti-MAI campaigns but for the longer-term meaning of some groups for world politics. The model and its underlying theoretical framework also enables me to trace the emergence of a new actor with significance for world politics in the movement against economic globalization. I trace this actor in pre-MAI campaigns and demonstrate its evolution during the MAI campaign and its continuation in the post-MAI opposition to the WTO that took place in

Seattle a little over a year after the MAI negotiations ended. The thick descriptions of characteristics gained from the conceptual identification of various MAI opponents further enables me to compare, in Section III, these opponents' significance for world politics to other case studies that use diverse taxonomy.

The following chapter relies upon the model to provide an understanding of the various MAI opponents' campaigns in terms of their politics, their objectives and strategies. Chapters 5 and 6 then incorporate that chronology with the progress inside the negotiations in order to demonstrate the influence of these societal actors.

SECTION II
CASE ANALYSIS

CHAPTER IV

“WHO ARE THESE GUYS?”:
THE SOCIAL OPPOSITION TO THE MAI—A CHRONOLOGY
AND ANALYSIS

Introduction

Referring to the MAI opponents in his April 30, 1998 *Financial Times* article, journalist Guy de Jonquières asked: “Who are these guys?” In doing so, de Jonquières was using a scene from the movie *Butch Cassidy and the Sundance Kid* as a metaphor to portray officials’ reaction to the MAI opposition. Thus, in the same way that the two outlaw heroes of the movie failed, for the first time in their career and to their growing dismay, “to shake off their mysterious pursuers” so too Governments of industrialised countries were described as expressing “fear and bewilderment” at a “horde of vigilantes whose motives and methods [were] only dimly understood in most national capitals.” Indeed, by then the opposition to the MAI had become vociferous and noticeable in a majority of OECD member countries.

Most puzzling was the evolution and unprecedented nature of this opposition. The opposition to the MAI moved from sparse and tamed encounters between officials and NGOs that attempted to modify the treaty, to street protests and a common resolve to stop the negotiations altogether. Not only was such an objective on the part of societal actors bold, but several other aspects of this opposition justified officials’ bewilderment. First, the sustained common front among a diverse array of groups from all corners of the globe was by all accounts an unprecedented event. Officials’ encounter with a diverse group of MAI opponents that presented a common front and expressed their unified objective also caused some surprise. Activists’ usage of the Internet was not only unexpected but officials could thereby witness the growth of the opposition and its vilification of their work. This apparently sudden and relentless resolve on the part of

activists, and the rapidity with which their critiques spread was all the more surprising given its delayed emergence in the MAI process. The puzzlement was exacerbated by the fact that the decision to delay and then abandon the negotiations coincided with the growing visibility of the MAI opposition.

Given MAI opponents' stated objective, the immediate question facing observers as well as participants in these events was whether the opponents had caused the demise of the negotiations. In order to answer that question, it is necessary to understand the campaigns led by various MAI opponents. This chapter undertakes this task by providing an analysis of the social opposition to the MAI and a chronology of the anti-MAI campaigns which took place between 1995 and 1998. The chronology of the campaigns thus related will provide the historical perspective necessary to evaluate, in Chapters 5 and 6, their impact on the negotiations.

The conceptual model devised in the previous chapter proved useful in deciphering the heterogenous composition of this opposition. MAI opponents' self-description and the distinction they drew among themselves could be accommodated by the model. Three main types of MAI opponents that are focused upon in the analysis can thus be placed in the interest group system of action and the social movement system of action. Rather than relying upon these conceptually useful but cumbersome phrases, I adopt simpler terms inspired by MAI opponents' self-reference and mutual distinctions. This practice will hopefully provide both a more eloquent narrative and a more illustrative picture of the MAI opponents.

Thus I borrow the broadly used terms "reformists" or "insiders" when referring to

MAI opponents whose characteristics correspond to the interest group system of action. Indeed, these actors preferred engaging in lobbying efforts and direct policy dialogue with officials at every level of governance. Furthermore, and as will be documented, these MAI opponents' self-description corresponds to characteristics of that system of action in terms of organizational features, objectives and preferred modes of action.

Similarly, the characteristics of those I refer to as “intellectuals-engagés” and their “militant-mobilizers” collaborators, also broadly referred to as “radicals,” correspond to those of actors in the social movement system of action.¹ These actors were intent on generating broader public awareness of the MAI and its critiques in order to generate widespread mobilization and public support thereby generating indirect pressure on the process. Their objectives and motives reflected a concern regarding the impact of the MAI on societies at large. These concerns were grounded in common values and beliefs. Most significantly, intellectuals-engagés expressed the longer-term objective of building widespread awareness and resistance to a process of economic globalization that they judged detrimental to the future of societies at large.

The analysis of the MAI opposition reveals that the coalition struck among these diverse NGOs and activists did not last beyond the MAI negotiations. The radical stance of the coalition was the result of common instrumental purposes. As such the coalition itself was *sui generis*. Nevertheless its role in the MAI opposition deserves attention as

¹ The word *engagés* is borrowed from the French. The French word means someone who is politically committed and its usage here reflects what French activists referred to as intellectuals' collaboration with militant mobilizers. Although the term intellectuals-engagés was coined by French activists the patterned relationship was found in all countries.

do the reasons for its occurrence. However, that coalition must be distinguished from networks that evolved among other actors before, during and after the MAI opposition. Thus more significant to the meaning of the MAI opponents for world politics is the evidence of transnational linkages that point to the emergence of global transnational movement networks with growth potential. Yet, these actors were last to manifest their opposition to the MAI.

As might be expected, the earliest signs of opposition to the MAI were given by the so-called reformists who belong to the interest group system of action. This was due to their relatively earlier awareness of the MAI negotiations. As explained by the civil society model, these actors' earlier knowledge of the MAI is consistent with their proximity to the policy making process relative to that of actors from the social movement system of action. Thus, while these actors signalled their critiques of the MAI as early as the fall of 1996, it was not until April 1997 that actors from the social movement system of action also were manifest.

For that reason, I will begin this chronological analysis of the anti-MAI campaigns with that of the interest group system of action. Although the creation of the transnational coalition opposing the MAI took shape in October 1997, after the campaign of the social movement system had begun, I will include this event in the first section of the chapter since its occurrence was largely due to the groups that belong to the interest group system of action. The second and third sections of the chapter provide an analysis of the evolution of the anti-MAI campaign conducted by intellectuals-engagés and militant-mobilizers, and the development of the movement networks against economic

globalization that grew out of that campaign.

I. Confronting the Policy-Making Process

The Interest Group System of Action

The earliest signs of opposition to the MAI were given by NGOs commonly referred to in activists' circles as reformists or insiders. As illustrated in the following paragraphs, these groups' characteristics correspond to those of actors that belong to the interest group system of action. They are close to various policy-making processes, and directly engage officials on policy issues. This is due to the fact that their expert staff enjoy respect from the policy community and work closely with that community at the domestic and international levels. Policy experts from these organizations are close to the international trade policy-making circles in Geneva, and they also have access to OECD officials in Paris. Their organizational structure is hierarchical and accountable to a particular membership. Their staff seek policy reforms that satisfy specific organizational objectives.

Their early awareness of the MAI and their ability to formally engage officials in a debate on the MAI attest to these organizations' proximity to the policy-making process. The South Centre and the Indian NGO Consumer Unity and Trust Society (CUTS), a member of the INGO Consumers International, were among the first to draw their Northern counterparts' attention to the MAI negotiations. These organizations had followed the investment negotiations at the WTO and were aware, as early as 1995, that similar negotiations had moved to the OECD.

After obtaining a ten-page confidential draft of the MAI in June 1996, CUTS and

Consumers International organized an international seminar which took place on October 18-19, 1996 in Geneva, to discuss the ongoing MAI negotiations. Attending the seminar were several officials from the OECD who were involved in the MAI negotiations, officials from the European Commission, the WTO and the United Nations Conference on Trade and Development (UNCTAD) and several representatives of mission to the United Nations. Also attending was the representative of the Trade Union Advisory Committee to the OECD (TUAC), an organization which, along with its counterpart for the international business—the Business and Industry Advisory Committee (BIAC)—had been involved in the preliminary work leading up to the negotiations.² Also present were a number of Northern INGOs who played an important role in establishing contact between the OECD MAI negotiators and the broader community of MAI opponents. The World Wildlife Fund for Nature (WWF) and the Centre for International Environmental Law (CIEL) are NGOs whose expert staff enjoy the respect of the various policy communities and who at times work closely with these communities at the domestic and international levels.³

The WWF is widely acknowledged among activists as a typical “reformist” organization. The organizational structure and self-description of the WWF further confirm that INGO’s position in the interest group system of action. According to its web

² TUAC, which was founded in 1948, and BIAC, which was founded in 1963, are umbrella organizations that include members from all OECD countries. These two organizations have enjoyed a consultation status with the OECD from its early days in the 1960s.

³ These organizations engage in policy dialogues with the WTO on issues of trade, environment and sustainable development. See O’Brien et al. (2000) for a description of these organizations which they refer to as “reformists.” Among their activities, the authors mention redirecting trade policies and conducting analysis and research aimed at making policy recommendations.

site: “[t]he organisation works with governments in two ways: as a collaborator and lobbyist” (www.panda.org). WWF staff is accountable to its 4.7 million members through an organizational hierarchy that ultimately reports to a Board of Directors. The specific focus of the organization’s activities aims to: “conserve nature and ecological processes” by “combining science-based, solution-oriented conservation projects and policy work” (www.panda.org). Likewise, Consumers International is a federation of over 230 consumers’ organizations that focus on consumers’ interests and protection world wide “through institution building...research and lobbying at international decision-making bodies” (CUTS, 1997). The organization has a consultative status at the Economic and Social Council of the UN and “other international bodies.”

Likewise, CUTS is an organization that engages in policy consultation with various policy-making process. Internationally, as was just explained, the organization invites officials to policy seminars that promote its membership’s interests, domestically it also works with the government of India on policy issues. Thus it describes itself as follows: a “leading social action group in India” which founded the “International Center for Trade and Sustainable Development” in Geneva and serves on several Government of India policy committees” (CUTS, 1997). The October 1996 meeting report reflects the policy orientation typical of interactions between actors from the interest group system of action with the policy-making process. The seminar itself was the third in a series that was organized by the consumers’ organizations “to address issues of trade and economic liberalisation and their impact on consumers” (CUTS, 1997: ii).

Of significance was the fact that that first encounter contributed to future

encounters between NGOs and the OECD regarding the MAI. Thus an informal dinner meeting took place in December 1996 between WWF, CIEL and the Chairs of the Negotiating Group.⁴ The latter invitation took place thanks these officials' respect for these NGO experts, earned through previous consultation work with the OECD Trade and Environment Committees and the WTO. The objectives of these NGOs were to reform the existing MAI draft document. The exclusion of developing countries from the MAI negotiations was also criticised.⁵

The reforms that these groups sought reflected their particular policy foci. International environmental NGOs argued that the draft MAI was incompatible with the Multilateral Environmental Agreements (MEAs).⁶ The policy reforms that they suggested consisted of including binding environmental commitments in the MAI and a general exemption from the MAI conditions on the grounds of environmental protection or compliance with MEAs; amending the dispute settlement process to avoid its abuse by

⁴ Attending this meeting were the Dutch Chair of the negotiations, Franz Engering, and his permanent representative in Paris, Jan Huner, the two deputy chairs, Alan Larson from the U.S. and Kenichi Saganuma from Japan, two representatives from the WWF, Nick Mabey (WWF-UK) and Charles Arden Clarke (WWF-International), the Geneva representative of the American NGO CIEL, Brennan van Dyke, and John Hontelez from Friends of the Earth International (WWF notes from the dinner meeting).

⁵ The *de facto* exclusion of developing countries from the OECD negotiations (with the exception of South Korea and Mexico), had raised concerns in many official circles. For NGOs, the move of investment negotiations to the OECD were seen as a strategic move aimed at undermining Southern opposition to such a multilateral agreement.

⁶ In order to demonstrate the validity of their argument, they undertook analyses of the impact that the MAI obligations would have on trade related policies used to implement existing MEAs. For example, one critique focused on the Rio Principles and Agenda 21 through which countries had committed to manage their economies in a way that would prevent environmental risks with what was called the "precautionary principle." NGOs argued that it was important to ensure that the dispute settlement mechanism in the MAI not interpret such policies as covert protectionism (WWF, Consolidation Paper on the MAI, by Nick Mabey, 17 February 1997). In addition, the use of the OECD as a forum of negotiations excluded developing countries which was also an issue of concern. Developing countries had agreed to signing MEAs in exchange for compensation such as technology transfers which could be found in violation of MAI obligations.

corporations; including environmental expertise inside the dispute process; and, updating the 1976 OECD guidelines on Multinational Enterprises to reflect Agenda 21 (based on WWF draft letter to OECD Ministers).

As will be further elaborated upon in the following chapters, NGOs felt that these first attempts at consultation with the OECD were not yielding conclusive enough results to warrant abandoning their domestic lobbying strategies. Few satisfactory changes seemed to transpire in the MAI draft. In a letter dated February 13, 1997 addressed to U.S. Trade Representative, Charlene Barshefsky, they characterised the few meetings that the OECD held with NGOs as “token gestures.”⁷ Of significance, and evident by the signatories to the letter, was the fact that not only was the opposition spreading but that more radically oriented groups such as Friends of the Earth, Greenpeace and the Sierra Club were supporting those in the interest group system of action—groups known for their vicarious activism and grassroots mobilisation. In any event, organizations that belonged to the interest groups system of action pursued what they called their “inside work,” which consisted in intensifying political pressure from within by getting Parliaments engaged, alerting opposition parties and lobbying domestic environmental ministries.

Another objective and subject of these NGOs’ frustration concerned the request

⁷ See *Inside U.S. Trade* (February 21, 1997: 12) for a reproduction of the letter dated February 13, 1977 to Charlene Barshefsky and endorsed by the Community Nutrition Institute, CIEL, Defenders of Wildlife, Friends of the Earth (U.S.), Greenpeace, Institute for Agriculture and Trade Policy, National Wildlife Federation, Sierra Club, and WWF. NGOs’ frustration was also confirmed in interviews with representatives of WWF, U.K. and FOE International who participated in these efforts during the MAI negotiations. Not only had there been a lack of consultation but a difficulty of access to the officials involved in the process and when contacted officials demonstrated a lack of respect regarding the validity of the critiques raised by these NGOs.

made at the initial dinner meeting to conduct a broader consultation that would include other NGOs so that they could have input into the process. In terms of process, international environmental NGOs had requested, in vain, through several domestic environment ministries and through the OECD's own Trade and Environment Committees that the MAI Negotiating Group consult with them on such matters.⁸ International environmental NGOs were accustomed to the consultative status they enjoyed at the United Nations Commission for Sustainable Development, the body responsible for monitoring Agenda 21 of the 1992 Rio Conference on Environment and Development.⁹ However, the Negotiating Group was made up of Chief Negotiators from OECD member countries some of whom had consistently refused such consultations, which is why the informal dinner meeting of December was eventually organized.¹⁰ Nevertheless, the

⁸ Based on Jan Huner's presentation at Chatham House, October 29-30, 1998. Confirmed in interviews with environmental NGOs during the fall of 1999. The UN system, as seen in the preceding chapter, is more open to NGOs' participation in certain areas. See Kendall W. Stiles (1998) for NGOs' relationship with multilateral donors; Peter Willets (2000) for their changing status in the UN; Charnovitz and Wickham (1995) for their history with the original trade regime; Marceau and Pedersen (1998) for relations with the WTO; and, O'Brien et al. (2000) for an empirical study of their relationship with the World Bank, the International Monetary Fund and the World Trade Organization.

⁹ Per interview with FOE and WWF staff in London, fall 1999. Agenda 21 is an official agreement issued from the United Nations 1992 Conference on Environment and Development (UNCED) which took place in Rio de Janeiro. The Commission on Sustainable Development (CSD) was established to monitor the progress of Agenda 21. Its functions include receiving and analyzing input from NGOs as well as enhancing the dialogue with NGOs (based on Caldwell, 1996).

¹⁰ As E. Smythe (1998b: 251, 252) has observed, the OECD was accustomed to consult with two OECD members' organizations—BIAC (the Business and Industry Advisory Committee) and TUAC (the Trade Union Advisory Committee). While the OECD Environment Directorate had experience consulting with environmental NGOs since 1991, this practice was not shared by other directorates in the organization. As such, the lack of consultation with NGOs was also due to the lack of communication across Directorates within the OECD. The MAI also presented a special situation in that it was a treaty negotiation. The fear was that such consultations would reveal parties' negotiating position. Note that TUAC and BIAC are also part of the interest group system of action. While BIAC and other international and domestic umbrella business organizations were active in promoting the MAI, TUAC played a marginal and ineffective role in raising critiques that reflected the concerns of the labor movement (see Wallach, *Le Monde Diplomatique*, February, 1998, p. 22).

December dinner meeting concluded with these officials promising to put a proposal before the Negotiating Group for a broader consultation process with NGOs.¹¹ However, that promise was not fulfilled until October 1997, almost a year later. By then, opposition to the MAI had spread considerably. As such, the outcome of the call was a radicalised opposition to the MAI.

The Birth of a Transnational Coalition

A larger and radicalised opposition to the MAI was well under way by September 1997 when the OECD called upon WWF to organize a consultation meeting between negotiators and NGOs.¹² As such, the timing of this meeting influenced the direction of all the anti-MAI campaigns. By then, a majority were determined not to request reforms to the agreement, as the initial OECD interlocutors had lobbied for, but to stop its progress altogether. Even though some groups had interests akin to those of the original OECD interlocutors, their concerns were no longer limited to reforming the draft text to include an environmental clause in the MAI. As one environmentalist explained: “our position wasn’t we can’t support the MAI till there is a clause respecting environment in it. It was we can’t support the MAI at all.”

For many activists, it was the meeting that took place among NGOs, prior to their

¹¹ Based on interviews with participants in the dinner meeting and WWF notes from the meeting. During the meeting officials expressed concerns regarding the critiques that had begun to appear on the Internet. NGOs responded that the best way to quieten these down was to hold broad consultations as soon as possible. They also attempted to reassure these officials on the ability of most NGOs to act professionally in light of officials concerns to the contrary.

¹² This organization was specifically called upon due to the respect on of its experts had gained with officials in his capacity as WWF representative in Geneva. Officials who were somewhat apprehensive of this encounter relied upon his ability not only to reunite a representative number of NGOs but also to keep a professional and orderly tone to the encounter.

October 27 encounter with the OECD negotiators, that was most significant for the anti-MAI campaign. The meeting led to an unprecedented transnational coalition opposing the MAI. As co-ordinators of the OECD/NGO meeting, the organizers from WWF International in Geneva and FOE International in Amsterdam were determined to use the occasion to call upon as great a diversity of groups from around the world as they could.¹³ Eventually, over 70 NGO representatives from 30 countries came to Paris. Organizers also intended to present a united front to officials. However, their objectives were not shared by all.

The NGO meeting quickly revealed deep divisions between three main groups of MAI opponents. One group included the so-called reformists who sought to amend the existing draft treaty through a consultative process with the OECD. Another consisted of the more radical groups of mobilizers who critiqued any meeting with officials as co-optation and who favoured protests. In between was a majority that agreed to meet with the OECD this once, but who nevertheless espoused a firm stance against the treaty. In the end, the week-end meeting resulted in a compromise expressed in the “Joint NGO Statement on the MAI” which was submitted to the OECD. The newly formed coalition asked for a suspension of the negotiations, a public assessment of the draft and changes to the existing draft that reflected the diverse concerns of coalition members.¹⁴

¹³ The OECD proposal restricted the time allocated for a meeting as well as the number of participants. Organizers pressed the OECD for more time and participants (based on a joint letter to the OECD from FOE International and the WWF International dated 17 September 1997, confirmed in an interview with the FOE International organizer, November 1999, London, England).

¹⁴ The joint statement submitted to the OECD begins with the self-identification: “[a]s a coalition of development, environment and consumer groups from around the world...” This document appeared on numerous anti-MAI groups’ web site as well as on the OECD web site. Copies are also found in publications

The result of that meeting illustrates the difference between a coalition brought together for instrumental purposes and one formed as a result of social movement formation. The eventual agreement reached was based upon the realisation that a common position needed to be struck. Organizers and meeting participants acknowledged that the consensus expressed through the “Joint NGO Statement” was the most politically difficult position to establish among NGOs. The coalition brought together such an array of groups from different backgrounds, philosophies of action and objectives that their coming together and reaching a consensus was an unprecedented achievement in itself. However, the coalition was of a different nature than the emergent social movement networks against globalization. As illustrated below, this coalition was motivated by instrumental calculations. Members did not share a common world-view, nor a sense of collective identity and solidarity based on trust as is typical of social movement participants.

Divergencies regarding the relationship vis-à-vis the OECD revealed a lack of trust among coalition members. Some perceived a tension within the coalition due to some NGOs wanting to pursue contacts with the OECD in spite of a general commitment not to do so. Peer pressure seems to have been exercised on would-be dissenters. Also, participants commented that they knew they needed one another to achieve their respective goals. As some mobilizers who attended that meeting commented: “[the NGOs] all saw that the only way to win was through unity and that, for example, resulted

such as the Canadian Center for Policy Alternatives' *Dismantling Democracy* edited by Graham and Sanger (pp. 319-324) and trade journals such as *Inside U.S. Trade* (November 7, 1997, pp. 16-17).

in everybody sharing all their information.” Likewise, “insiders” realized that they needed the support of actors from the social movement system of action if they were going to have any impact. As one “insider” commented: “we couldn’t have carried that [campaign] solely by our own individual pressure, because you have to absolutely have public pressure which is building in a variety of constituencies”—an activity these reformist groups typically do not engage in. Another indication of their instrumental motive lay in the shared intention to show OECD officials that NGOs were not divided.¹⁵ Finally, the arguments made in support of the claims included in the “Joint NGO Statement” raised issues regarding the incompatibility of the MAI with various existing international regimes such as those of the environment. This thinking reflected the interest group approach rather than the more critical view of an emerging social movement against globalization.

Although the coalition represented a significant turning point for all anti-MAI campaigners, it must be distinguished from the movement that was taking shape among other groups. One month prior to the December 1999 WTO meetings in Seattle, coalition members observed that this coalition had dissolved in spite of some attempts to keep it together for a WTO campaign. The key outcome of the October 1997 event was a commitment among NGOs to respect diversities among activists’ styles of action, as long as the general aims of suspending the negotiations and public¹ assessing the treaty were maintained. By 1998, 565 organizations in 68 countries had endorsed the “NGO

¹⁵ As one insider commented: “we knew the officials were saying the NGOs will never stick together...particularly the Canadians were saying they’re fractured...don’t worry they’ll never hold together, they’ll be bickering.”

Statement on the MAI.”¹⁶ As such, the “Joint NGO Statement on the MAI” provided a common direction for the remainder of the campaign—one which was more radical than originally sought by reformists.

The meeting between the coalition and negotiators convinced mobilizers and grassroots NGOs that their campaigns should be intensified. The Negotiating Group advised the coalition that instructions to suspend the negotiations had to come from Parliaments. While it can therefore be argued that the OECD as a forum represented a political constraint in terms of its response to opponents, the predominance of democratic regimes among OECD members represented a political opportunity for actors in the social movement system of action. Many mobilizers observed that their mutual strength and success was rooted in the fact that there was campaigning happening in numerous OECD countries simultaneously.¹⁷ These campaigns will be elaborated upon in the following

¹⁶ See *Dismantling Democracy* pp. 324-337 for a list of these organizations. Space prevents reproducing the list here. See Appendix B for a list of countries represented and the number of organizations.

¹⁷ In terms of OECD members and not considering Internet campaigns, anti-MAI activities of significance took place in the following European countries: Austria, Belgium, Finland, France, Germany, Italy, the Netherlands, Sweden, Switzerland, and the United Kingdom. Outside of Europe opposition was particularly strong in Canada, the U.S., Australia and New Zealand. These reports are based upon interviews with MAI opponents, as well as the following studies: Henderson (1999: 27) quotes a report by Oxfam (U.K.) which recorded that by the end of the MAI negotiations active anti-MAI campaigns were taking place in more than half of the OECD; Kobrin, 1998; and articles by Khor and others in *Resurgence* (1997). In spite of the fact that Mexico is conspicuously absent from this list, there is reason to believe that opposition was also strong in that country. The Internet support for the NGO statement from Mexico was one of the most impressive: seventy-four Mexican NGOs signed on (see *Dismantling Democracy*, pp. 330-333). In addition, as will be seen below, several Mexican groups are found in the social movements networks that also participated in anti-MAI, anti-WTO campaigns. Most notorious were the links of the People Global Action network (PGA) to the Mexican Zapatista movement. Therefore, the absence of Mexico from the list of OECD countries where MAI opposition was recorded can be attributed to the lack of information on activities in that country and the fact that the research was conducted in Europe, Canada and the U.S. Although some activists commented on the weakness of opposition in countries such as Greece, Iceland and Turkey, little information or research has been undertaken to find out why this was so. Although Japanese NGOs figured on the Internet campaign, little anti-MAI activity was recorded in that country. Only one South Korean NGO figures on the Internet list and no activity was recorded in that country.

section. Suffice it to say for now that these occurred at several levels be they local, national, regional and international.

However, up until the October 1997 meeting, in spite of a growing awareness and opposition to the MAI among NGOs world-wide, little media attention or public interest had been manifested particularly in Europe. In addition to the insiders' work in Europe, some successful grassroots campaigns were under way in Canada and Australia and lobbying campaigns were taking place in the U.S. After the October meeting, mobilizers and intellectuals-engagés combined their efforts to stimulate grassroots campaigns in Western Europe. I now turn to these anti-MAI campaigns and to the explanation of an emergent social movement. The subsequent chapters will document these actors' influence in more detail.

II. Building a Social Movement

As will be illustrated in this section, intellectuals-engagés clearly placed their work within the social movement system of action. This group of actors built upon networks and solidarities that had developed during and after campaigns opposing free trade agreements. Their campaign objectives consisted of engendering public awareness through educational means and thereby stimulating mobilization against the MAI. Their critique of the MAI was placed within a broader world-view that eventually brought together diverse movements domestically and across borders. In that sense, this group succeeded in creating a social movement with a new world-view that spoke to and challenged the changing structures of a top-down world governance. The movement opposed the current process of economic globalization and its institutional foundations.

This section traces the evolution of this new actor by relying upon social movement theory. In doing so, the analysis documents how these MAI opponents built their campaign and how that campaign in turn reinforced the growth of the movement networks opposing globalization.

From Networks to TSMO

Subsequent to the North American Free Trade Agreement (NAFTA) and the Uruguay Round of trade negotiations, some leading activists and intellectuals regrouped under an organization that would play a key role in the anti-MAI campaign.¹⁸ The International Forum on Globalization (IFG) first convened in San Francisco in January 1994.¹⁹ This meeting aimed at developing conceptual and strategic innovations. As stated on the IFG web site, the result was the realization that the struggle against economic liberalization had to be re-articulated and that the consensus “that a globalized economy would lift all boats” needed to be questioned: “[t]he problem needed to be understood systematically, as a global process...the participants agreed to begin speaking out against economic globalization” (www.ifg.org, 1999:1). Also, it was determined that the critiques needed to expose the role that transnational corporations were believed to be playing to influence the global economic and political reorganization that was under way. The main

¹⁸ In spite of the emphasis placed on this organization, it is important to point out that all activists without exception insisted on the fact that no centralized organization took responsibility for organizing an anti-MAI campaign.

¹⁹ IFG describes itself as “an alliance of sixty leading activists, scholars, economists, researchers, and writers formed to stimulate new thinking, joint activity, and public education in response to the rapidly emerging economic and political arrangement called the global economy....Representing 40 organizations in 20 countries, the Forum’s participants have come together out of a shared concern that the world’s corporate and political leadership is undertaking a restructuring of global politics and economics that may prove as historically significant as any event since the Industrial Revolution” (www.ifg.org). Evidence from interviews revealed that this organization was built upon existing informal networks.

objective of these new strategies would be to build a “globalization from below.” This mobilization would take place through public education and regrouping of cross sectoral interests domestically and transnationally.

Such cross-sectoral collaboration had already taken place in North America during the campaigns opposing the Canada/U.S. Free Trade Agreement (FTA) and the North American Free Trade Agreement (NAFTA). After these campaigns, existing networks with common experiences in this area of activism were revived and joined by new groups. A good example of this process is the formation in the fall of 1996 of the Common Front on the WTO in Canada. The Common Front regrouped the following organizations: the Sierra Club (Canada), the Polaris Institute, the Council of Canadians, the Canadian Environmental Law Association, the Canadian Labour Congress and the West Coast Environmental Law Association.²⁰ Some of these groups, such as the Polaris Institute, the Council of Canadians and the Canadian Labour Congress had collaborated in previous campaigns against the FTA and the NAFTA. In addition to cross- sectoral collaboration, the NAFTA campaign witnessed the development of cross-border networks. The U.S. groups Alliance for Responsible Trade (ART) and the Citizens’ Trade Watch Campaign (CTC), the Mexican national network Red de Acción Frente de Libre Comercio (RAMLC) which included the NGO Equipo Pueblo, and the Canadian coalition at the time—Action Canada Network, Réseau Canadien d’Action—developed working relationships in their trilateral campaign against free trade (Healy and Macdonald, 1997). This entailed a different type of rationale that moved away from nationalist and

²⁰ Based on May (1998: 33) and an interview with same in September 1999.

protectionist arguments.²¹

When IFG was formed, these domestic networks were further linked through the new organization as these leading activists and intellectuals found themselves around the IFG table. The transcontinental linkages that were created with IFG expanded the networks to a much broader geographical area. French activists that had contributed to the anti-GATT campaigns were also found on the IFG membership list, along with intellectuals from developing countries.

The cross-sectoral and cross-border representation is well illustrated in the IFG membership. The list represented old and new partnerships such as, among others: the Canadian Polaris Institute, an organization that focuses on corporate power, the Council of Canadians, a citizens' NGO involved in a diversity of issues, and the environmental NGO called West Coast Environmental Law; the American consumers NGO Public Citizens and the environmental NGOs Sierra Club (U.S.), Friends of the Earth and Rainforest Action Network; the Mexican Equipo Pueblo, a grassroots NGO that promotes peace and human rights (Healy and Macdonald, 1997: 14), and the Mexican Action Network for Free Trade; the Third World Network based in Malaysia which brings together southern intellectuals working on issues specific to those countries; the French anti-GATT activist Agnes Bertrand involved with the Observatoire de la Globalisation

²¹ For example in Canada, the anti-FTA group named "Pro-Canada Network" changes its name to "Action Canada Network" and "Réseau Canadien d'Action" for their campaign opposing NAFTA. There were two reasons for this new name. One was that the name Pro-Canada was also used by federalist groups involved in the campaigns against Quebec separation. The other was linked to the intention to transform a domestic coalition of labor unions, environmental groups, anti-poverty groups and others which was based on economic nationalism to one which regrouped a similar mix of groups from the U.S., Mexico and Canada and which moved beyond economic nationalism (interview with Tony Clarke, the Polaris Institute, Ottawa, September 1999).

Economique, the Observatoire de la Mondialisation and Ecoropa, a small NGO working on Third World issues, as well as the powerful French labour union Confédération Générale du Travail (www.ifg.org).

A number of new additions to the network from North and South also appear on the IFG list. Southern members appear on the web site list such as: Walden Bello from the organization “Focus on the Global South,” based in Thailand; representatives from the NGO RENACE based in Chile; the Foundation for Science, Technology and Ecology from India; South Africa’s Development Research Institute; the Philippine’s Center for Alternative Development Initiatives and the Indigenous People’s Network; and Brasil’s IBASE. Significantly, organizations such as Ralph Nader’s Public Citizen, an American consumers’ NGO which had collaborated with nationalist groups during the campaign against NAFTA (Healy and Macdonald, 1997: 4, 55), now appeared on the IFG membership list. In addition, IFG developed working relations with new groups on an ongoing basis through public workshops and “teach-ins” that helped to expand these networks.²²

Framing the Issues

The anti-MAI campaign benefited from these developments and in turn fuelled

²² For example, a series of “teach-ins” and public meetings were organized in Canada in collaboration with IFG in November 1997. A meeting was organized for activists from around the world at the Canadian Auto Workers Center in Port Elgin (Ontario). The conference, titled “International Symposium on Corporate Rule,” was attended by 90 activists from every continent. This conference was followed by what activists refer to as a “teach-in” which consisted of educational and debates seminars that took place at the University of Toronto. The latter was attended by 2,000 people. Although not intended to focus on the MAI, the issue became a flashpoint in these two meetings. Two Dutch activists who had attended these events were so impressed at the degree of grassroots mobilization in Canada that they were convinced that this type of mobilization should be replicated in Europe. They found that in Europe, campaigning on trade issues had always been more in the style of NGO experts lobbying and that no significant grassroots campaigning had yet taken place (interviews with Corporate Europe Observatory, Amsterdam, October 22, 1999).

their progress. As such the MAI, as an issue, and its negotiations among the mostly-democratic OECD members represented a political opportunity. Reflecting upon the arrival of the MAI in the midst of this evolutionary process, one IFG member observed: “all of that was part of a building process so the MAI became a bit of a focal point and a bit of a gift in that sense because it was such a classic example of what was really going on.” Indeed, with its sole focus on protecting and liberalizing FDI, which is mostly undertaken by MNCs, the MAI was a perfect symbol of the type of globalization criticized by these groups.²³

Intellectuals-engagés achieved that objective by making their analyses of the MAI available to as wide a public as possible, both materially and intellectually. Once they had secured a draft copy of the MAI three key steps were taken: first, develop an analysis of the draft treaty; then release the draft MAI text as well as the analysis on the Internet in order to make these permanently available to as many individuals as possible, and finally to release these in the media.²⁴

As mentioned in the introduction to this section, this anti-MAI campaign only became visible in April 1997 due to the group’s distance from the policy community, and

²³ The MAI as an issue also lent itself to building a social movement. As one MAI opponent explained “there are some issues that lend themselves to very small identity kinds of politics, and there are other issues that are multifaceted, that bring in a variety of different sectors, and it is those issues that allow for serious coalition building of social movement.” In that sense the issue becomes an “organizing tool to bringing people together.” The MAI lent itself to this type of mobilization strategy in that a number of issues of concern to various advocacy groups and diverse domestic concerns could be raised as critiques of the treaty. From safeguarding the “break [the MAI] apart” in order to show its impact on these diverse concerns.

²⁴ Interview with the Polaris Institute, September 1999.

the fact that the draft MAI was confidential.²⁵ The first analysis to be publicized in the manner described above was titled “MAI-Day: A Corporate Rule Treaty.” It argued that the MAI was a “Charter of Rights and Freedoms” for transnational corporations which threatened social and democratic rights “granted to the peoples’ of the planet by the [United Nations Universal Declaration of Human Rights]” and “the commitments to ecological stewardship made by the world’s nations at the 1992 Rio Earth Summit” of the planet (Tony Clarke, 1997*b*: 12; Clarke and Barlow, 1997: 8). The release of these texts on the Internet launched a virtual public campaign that crossed borders and networks of networks linked their sites domestically and internationally.²⁶ The recorded increase in visits to the original site was an indication of the popularity of the document and its potential exposure.²⁷

Analyses of the draft treaty were undertaken in other OECD countries, and were

²⁵ As in the case of the insiders’ campaign, it was an IFG member from a Southern NGO who warned his Northern colleagues of the MAI. IFG members knew of the MAI negotiations as early as 1996 and some had informed their domestic networks. However, it was not until March of 1997 that the Canadian contingent of IFG managed to secure a copy of the draft document. For the details of this stage of the campaign see Clarke and Barlow, *MAI, The Multilateral Agreement on Investment and the Threat to Canadian Sovereignty*, Toronto: Stoddart Publishing Co. Limited, 1997.

²⁶ For example, Friends of the Earth-U.S. distributed these through their own e-mail network which consisted of about 400 organizations around the world. These groups had already established patterns of coordinated activities such as calling-days (to politicians), demonstrations, designing joint pamphlets and distributing them to memberships (interview with FOE-U.S., September 1999).

²⁷ Interview with the Canadian Center for Policy Alternatives September 1999. As Ron Deibert (1999) confirmed in his article on the Internet aspect of the anti-MAI campaign, the Corporate Rule Treaty text was linked to over a dozen different sites around the world. Also, research in Europe revealed that that first analysis was circulated in Europe, translated in several languages and helped to ignite several campaigns at different levels, including the European Parliament.

also made available to the public electronically and in print as didactic materials.²⁸ The strategy of public education proved crucial to mobilizing publics. Grassroots organizations and “mobilizers” used the material in public campaigns. Publics previously unaware of and/or uninterested in trade agreements were made aware of the potential impact that such international treaties could have on their everyday life. Typically, the material included glossaries of the technical and arcane language contained in trade agreements. They also often referred to the United Nations Universal Declaration of Human Rights and its Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. As was done in the “Corporate Rule Treaty,” these analyses exposed the potential impact of the MAI on domestic policies, and were based on two main arguments. One was that the MAI expanded corporate power, the other that it violated democratic rights. This critical focus provided the flexibility to adapt arguments to various interests and political contexts. Comprehensive critiques could be developed so that a common opposition to the MAI could be achieved. The critiques of the MAI reflected intellectuals-engagés’ world-view and would popularize their interpretation of economic globalization. The fact that these arguments resurfaced in the streets of Seattle against the WTO pointed to a growing acceptance of that world-view.

The critiques of the MAI dispute settlement process and the definition of

²⁸ See for example the Australian STOP MAI Coalition web site (www.avid.net.au/stopmai); the French NGO l’Observatoire de la Mondialisation “Manifeste du 28 avril 1998: (28 of April 1998 Manifesto) and the accompanying brochure titled *L’AMI non merci*; Friends of the Earth-US document titled *License to loot*; and Public Citizen’s Global Trade Watch web site (www.citizen.org).

“expropriation” best reflect the broad application of this focus.²⁹ Whether they referred to the legislative protection of the environment, education, social services, culture, rights to secondary boycotts or to strike, MAI opponents pointed to these MAI provisions to show that the treaty gave rights to corporations at the expense of democratically elected governments and their citizens.³⁰ Not only would democratically elected governments be vulnerable to expensive lawsuits and settlements for legislation intended to protect their constituents’ wishes, but the MAI would create a “chilling effect” on the willingness of governments to introduce new laws. This critique was fortuitously illustrated when, in the midst of the MAI negotiations, a U.S. company sued the Canadian government under the NAFTA.³¹

²⁹ As in the NAFTA, the dispute settlement mechanism provided for in the MAI allowed foreign investors to sue domestic (host) governments in cases of expropriation and violation of national treatment. The ability of investors to sue governments was objected-to in itself, and in particular in combination with Article IV, which dealt with investment protection. The concerns raised by the latter resided in the wording of what an expropriation consisted of. Article IV. 2.1 included “measures having equivalent effect” of expropriation and Article IV 3.1 titled “Protection from Strife” rendered governments liable for losses suffered from “civil disturbance, or any other similar event” (OECD draft MAI, April 24, 1998: 57-60). The fear was that any legislation could be interpreted as expropriation and that these and citizens’ collective action, such as strikes or boycotts could render governments liable for compensation.

³⁰ See for example, the French booklet published by the Observatoire de la Mondialisation and titled *Lumière sur l’A.M.I. Le Test de Dracula* that was distributed to the members of the legislative assembly (1998: 44-48); FOE brochure *License to Loot* (1998:88); Australia’s STOPMAI website (p.5); the American brochure titled *A citizen’s guide to the WTO* (1999:17) published by the Working Group on the WTO/MAI that includes among others Public Citizen, International Brotherhood Teamsters, District 11 of the United Steelworkers of America, Alliance for Democracy; the Government of Canada Report of the Standing Committee on Foreign Affairs and International Trade (1997: 25-28).

³¹ Briefly, the American Ethyl Corporation sought compensation from the Canadian government under the NAFTA dispute resolution process which was similar to that provided for in the draft MAI text. The company claimed CD\$350 million which, it argued, was equivalent to the amount it estimated to have lost due to a piece of environmental legislation enacted by the Canadian government. The law prevented the importation of Ethyl’s gasoline additive MMT (a manganese based material) on the grounds that it was harmful to human health. The case was settled out of court for an amount estimated at CD\$20 million and after Canada dropped its ban on MMT and retracted its critique of the product (*The Globe and Mail*, August 21, 1998; *The Magazine*, Canadian Broadcasting Corporation, November 19, 1998).

Thus the MAI provided a crucial opportunity to revive the opposition to free trade and build upon existing networks to expand a growing movement opposing economic globalization. The international networks developed during the NAFTA campaign between Canadian and American activists solidified during the anti-MAI campaign, and expanded to Europe. With this campaign, the arguments had clearly moved beyond protectionist or nationalist concerns. Awareness of a globalization process inimical to ordinary citizens and undertaken in a secretive manner validated the critique of corporate power and democratic deficits. They created a sense of moral outrage and a collective identity of “we” as citizens versus the “other” as corporations along with an alternative view of globalization based on a shared sense of values.³²

As Melucci has observed, social movements experience moments of public activity where they are visible, followed by latent periods.³³ During active periods of public protest, networks expand and ties of solidarity and the collective sense of belonging to a cause develop. When these public moments recede, informal networks nurture the movement through activities of inner reflection and intellectual development. New waves of mass mobilization depend upon the ability of a small group to rekindle the sense of solidarity and collective identity over time. The process of network building around the

³² Note for example the text of the Council of Canadians' *The MAI Inquiry, Confronting Globalization and Reclaiming Democracy*. “Citizens in Canada...weren't satisfied...Why did we never seem to see our values and principles in these international trade and investment deals? Why did they always seem to reflect only the interests of big business?” In her article relating the anti-MAI campaign, Elizabeth May (1998: 42) makes observations that reveal a similar perspective; “*We had been FTA'd and NAFTA'd...to death*” (italics mine).

³³ The following interpretation of the literature is based upon della Porta and Diani's comprehensive review in *Social Movements and Introduction* (1999).

MAI bears these observations out. The following section illustrates the processes through which mobilization occurred and led to the expansion of a transnational social movement network against globalization.

Mobilization in Europe — the French Movement

Subsequent to the OECD/NGO meeting, North American groups collaborated with European mobilizers and intellectuals to help stimulate the building of national and cross-sectoral anti-MAI campaigns in Europe and to encourage links between European and North American activists.³⁴ Drawing upon relations they had developed through IFG meetings, a group of North American activists began, in January 1998, a series of strategy meetings in England, France and the Netherlands that brought together grassroots activists from neighbouring countries.³⁵

Mobilizers in the Netherlands, Belgium and France utilized the didactic material described above and conducted intensive public education campaigns throughout their respective countries. A manual Internet listserv was developed and monitored from Amsterdam. Activists co-ordinated cross-country activities such as the February 7-17, 1998 “International Week of Action” and logjamming strategies such as “operation monkey wrench.” The latter aimed at creating stumbling blocks inside the negotiations by

³⁴ Based on interviews with activists in North America and Western Europe in the fall of 1999. As already mentioned, with the noticeable exception Japan and South Korea and some smaller OECD members, campaigns had spread across the Pacific to Australia and New Zealand. We also noted that Mexican groups contributed to the Internet campaigns. It is safe to assume that the transatlantic bridge was partly due to the fact that a critical mass of OECD members are located on the European continent and that the OECD headquarters are located in Paris.

³⁵ Aside from conducting intensive grassroots information campaigns, some also conducted campaigns at various political levels, including municipalities, Green political parties at the national and the European Parliamentary levels, and with diverse ministries.

informing countries of others' reservations. Most of these campaigns were typical of social movements: street theatre in the Finish capital Helsinki, flyers handed out in Sweden denouncing a multinational's environmental practices, demonstrations in the streets of London in front of the ministry responsible for the negotiations, illegal occupation of the office of the Chief negotiator in the Netherlands (Khor, 1997b: 25, 26).

Unlike Canada where successful mobilization had begun in the Spring of 1997, mobilization only became visible in most OECD countries in early 1998.³⁶ Opposition campaigns intensified between January and October, 1998. Limited space prevents a more detailed account of these multiple campaigns and the following chapters will provide further details on the question of impact. Suffice it to say that the lack of political will to pursue the negotiations in October 1998 must be attributed, in part, to the intense campaigning at several political levels by insiders as well as by actors from the social movement system of action. As has been observed elsewhere, "most governments seized the opportunity to abandon the negotiations offered by the French reluctance to resume the project" (Dymond, 1999: 26; see also Henderson, 1999: 29).³⁷ The remainder of this section will focus on the anti-MAI campaigns which took place in France for several reasons.

First, mobilization in France was significant because it was decisive for the

³⁶ See May, 1998, pp. 32-47, for an account of the Canadian campaign.

³⁷ This view was shared by a senior European Commission official who had been involved in the negotiations. The perception within the negotiations, according to that official, was that there was a general sense of relief when France declared it would no longer participate in the negotiations. A good indication of this view was that none of the European Union members complained about France's unilateral announcement of its withdrawal prior to consulting with its fellow European Union members.

negotiations and also, since OECD headquarters were located in that country international protests and linkages were most visible there. As such, that campaign provides ample documentation for the study. Second, the anti-MAI campaign in France more than anywhere else showed signs of a social movement emerging against the kind of economic globalization critiqued by intellectuals-engagés. The evolution of the French anti-MAI campaign also generated the most media coverage. This media attention was directly linked to the successful cross-sectoral regrouping of diverse interests. The campaign began in earnest in January 1998 when intellectuals-engagés from the Observatoire de la Mondialisation and cultural groups, referred to in France as “les cultureux” (the culturals), joined forces and called in front line activists.

Not only did a coalition with the cultureux provide publicity to the MAI, but the union also meant a significant change in that group’s opposition to multilateral economic agreements. During the Uruguay Round of negotiations, cultural groups and farmers’ groups actively sought and succeeded in gaining protection for their sectoral interests. The anti-MAI campaign transformed this interest group approach as it united these diverse interests under one argument. As described in the remainder of this section and the next, the campaign ultimately transformed itself into a sustained movement which emerged in the anti-MAI demonstrations and continued with protests against the WTO in France and Seattle.³⁸

³⁸ So many protests have taken place since that activists have devised codes to name them: *A16* for the April 16, 2000 World Bank and IMF annual meeting in Washington D.C.; *M8* for the protests against the annual Asia Development Bank meeting in May 2000; *J5* protests on the occasion of the June 2000 of the Organization of American States in Windsor, Ontario; *J12* on the occasion of the June 2000 meeting of the World Petroleum Congress in Calgary, Alberta; *J15* for an anti globalization protest in Bologna, Italy; *S11* at the September 2000 meeting of the World Economic Forum in Melbourne, Australia; *S26* again against the

According to French intellectuals-engagés, it was a February 10, 1998 article published in the main French daily newspaper *Le Monde* that kicked off the media campaign and gave their anti-MAI campaign its impetus.³⁹ The author of this article, Jack Lang, was a well-known and respected politician among the cultureux. He had been the French Minister of Culture under President François Mitterrand, and was considered the father of the idea of “cultural exception” in multilateral economic agreements. At the time of the MAI negotiations he was also the President of the External Affairs Committee of the French General Assembly. Rather than focusing specifically on the cultural exception the article reflects the broader critique against economic globalization espoused by intellectuals-engagés. In that sense, the article represents a significant departure.

Organizations from that sector of the French economy had held several public conferences on the MAI, mainly focusing on securing a cultural exception. As time progressed, and beginning with a February 16, 1998 meeting at the Théâtre de l’Odéon, the cultureux moved from the language of cultural exception to that of democratic rights to be safeguarded against multinational corporations and an ideology of free markets. On the occasion of the latter and most publicized meeting, high profile figures from the French cultural milieu denounced the MAI stressing that it was not their own particular

IFM/ World Bank semi-annual meeting of September 2000; A17 was the name of the protests against the Summit of the Free Trade Area of the Americas (FTAA) in Quebec city (Barlow and Clarke, 2001: 32).

³⁹ See *Le Monde*, February 10, 1998, “L’AMI c’est l’ennemi,” (“The Friend is the Enemy) by Jack Lang. The title is a play on words since in French the acronym of the MAI (AMI) means friend. Intellectuals-engagés approached Lang as early as October 1997. This was confirmed in Lang’s speech to the symposium of April 22, 1998 which took place at the Assemblée Nationale. In that speech he stated that not only had the Observatoire de la Mondialisation warned him of the MAI in October of 1997, but that at the time neither politicians nor journalists were aware of the MAI (Actes du Colloque du 22 avril, 1998 à l’Assemblée Nationale, p. 71).

interests that they were defending but a much higher collective ideal named “democracy and freedom.”⁴⁰ In his speech to the April 22, 1998 symposium organized at the General Assembly, the co-chair of the film producers’ association (Société des réalisateurs de films) warned that securing a “cultural exception” in the MAI was less important than questioning the broader implications of the agreement. He argued that what was at stake in the MAI was not just creative rights but citizens’ rights and the freedom to create within an environment chosen democratically.⁴¹

The third significant group to join the coalition was an organization called “Droits Devant!!.” These activists brought to the campaign their successful experience in mobilization and their ties with a network of social movements. The group had successfully engendered a social movement in 1994 referred to as the “sans logis” (the homeless) which had won over public opinion.⁴² These mobilizers were committed to grassroots mobilization and sought to reunite as many different “citizens’ movements” as possible. Within six months this anti-MAI campaign had succeeded in rallying a diversity of French groups to its cause, and generated media attention and public interest to the

⁴⁰ See *Le Monde*, February 18, 1998. “A l’Odéon: ce n’est qu’un début, continuons le combat...” (At the Odeon: This is only the beginning, let us continue the struggle), by Jean Michel Frodon.

⁴¹ Actes du Colloque du 22 avril 1998 à l’Assemblée Nationale, pp. 28-29.

⁴² See Alain Touraine (1999) *Comment Sortir du Libéralisme*, for an analysis of the emergence and evolution of several social movements which emerged in France between 1994 and the legislative elections of 1997. Among those were groups who made claims with and on behalf of aliens “sans papiers” (immigrants and their children living in France without citizenship papers), those who made claims for the “sans logis” (the homeless) and those who made claims on behalf of the unemployed.

issues it raised.⁴³ These activists and members of their organizations planned to go to Seattle.⁴⁴

One such group was the French farmers' organization called Confédération Paysanne. This organization and its well-known leader José Bové oppose large-scale, intensive industrial agriculture and make claims on behalf of small and medium producers. It denounces programs such as food aid and export subsidies that serve to support large grain producers, be they French or American, at the expense of small Third World farmers. As such, Confédération Paysanne calls for sustainable agriculture and food security through national self-sufficiency and "against a model of agriculture and food production that only serves multinational corporations' interests."⁴⁵ Bové also criticizes what he refers to as *Frankenfoods*, and he fosters a concept of agriculture called "multifonctionnalité" (multi functionality). Multifunctionality of agriculture includes claims for a better quality food, safeguarding the environment through sustainable farming, and

⁴³ A testimony to this rapid evolution is captured in the name given to the emerging movement. The CCAMI, or "Coordination Contre l'AMI" (Co-ordination against the MAI), was formed in early 1998, two and a half years after the MAI negotiations were launched and six months before they collapsed. By the fall of 1998, the CCAMI had become the CCCA - "Coordination contre les clones de l'AMI" (Coordination against MAI clones) as a reaction against other attempts at plurilateral economic agreements. Two months before the launch of the WTO Millenium Round in Seattle the movement was renamed the CCCOMC or "Coordination pour le contrôle citoyen de l'OMC" (Co-ordination for a citizens' control of the WTO). To the list of organizations which signed onto the 28 April 1998 Manifesto that marked the creation of the CCAMI were added newcomers such as the French NGO Attac. The latter organization grew spontaneously from an article in *Le Monde Diplomatique* which criticized capital movements. Within a year it grew to 14,000 members (*Le Point*, 26 November, 1999: 98).

⁴⁴ Their networks extended to the U.S. where a hospitality network was set up so that French demonstrators could find lodging in Seattle.

⁴⁵See José Bové, *Le Monde Diplomatique*, October, 1999, p. 32 and *Campagnes Solidaires*, No. 134, October 1999, p. XII.

preserving farm employment, communities and cultures through traditional agriculture.⁴⁶

The French organization extended its activities through a transnational network that includes the European farmers' organization CPE (Coordination paysanne européenne) and an international organization called Via Campesina that links 69 organizations in 37 countries from Europe, Asia, the U.S., Latin America and the Caribbean. Another way in which Bové's organization fosters its views is through work it conducts in collaboration with ecologists, producers and consumers.

Since the OECD headquarters are located in Paris, it was decided to organize transnational anti-MAI protests in the public parks that surrounded the OECD. French mobilizers organized a first small demonstration in February 1998. A much larger international protest took place on April 28, 1998 on the occasion of the OECD Ministerial meeting that was to decide the fate of the negotiations. For the occasion, French activists published the "Manifeste du 28 avril 1998) which was endorsed by 70 organizations. Among a cross-sectoral representation of French groups, organizations from other European countries and North America were also listed. Leading activists from other parts of the OECD contributed to the events planned for the occasion. Another "international Citizens' Summit" against the MAI took place from October 17-20, 1998 along a similar format and with the same international coalition.⁴⁷

⁴⁶ This concept is gaining increasing popularity in Europe particularly since the multiple episodes of food contamination, such as the Mad Cow Disease and the dioxin contamination of chicken farms in Belgium (interview with OECD Environment Directorate, October 1999).

⁴⁷ Also, in January 1999, the newly formed French organization Attac and CCAMI organized the first in a series of demonstrations against the international business forum in Davos, Switzerland.

III. From anti-MAI to anti-Corporate Globalization

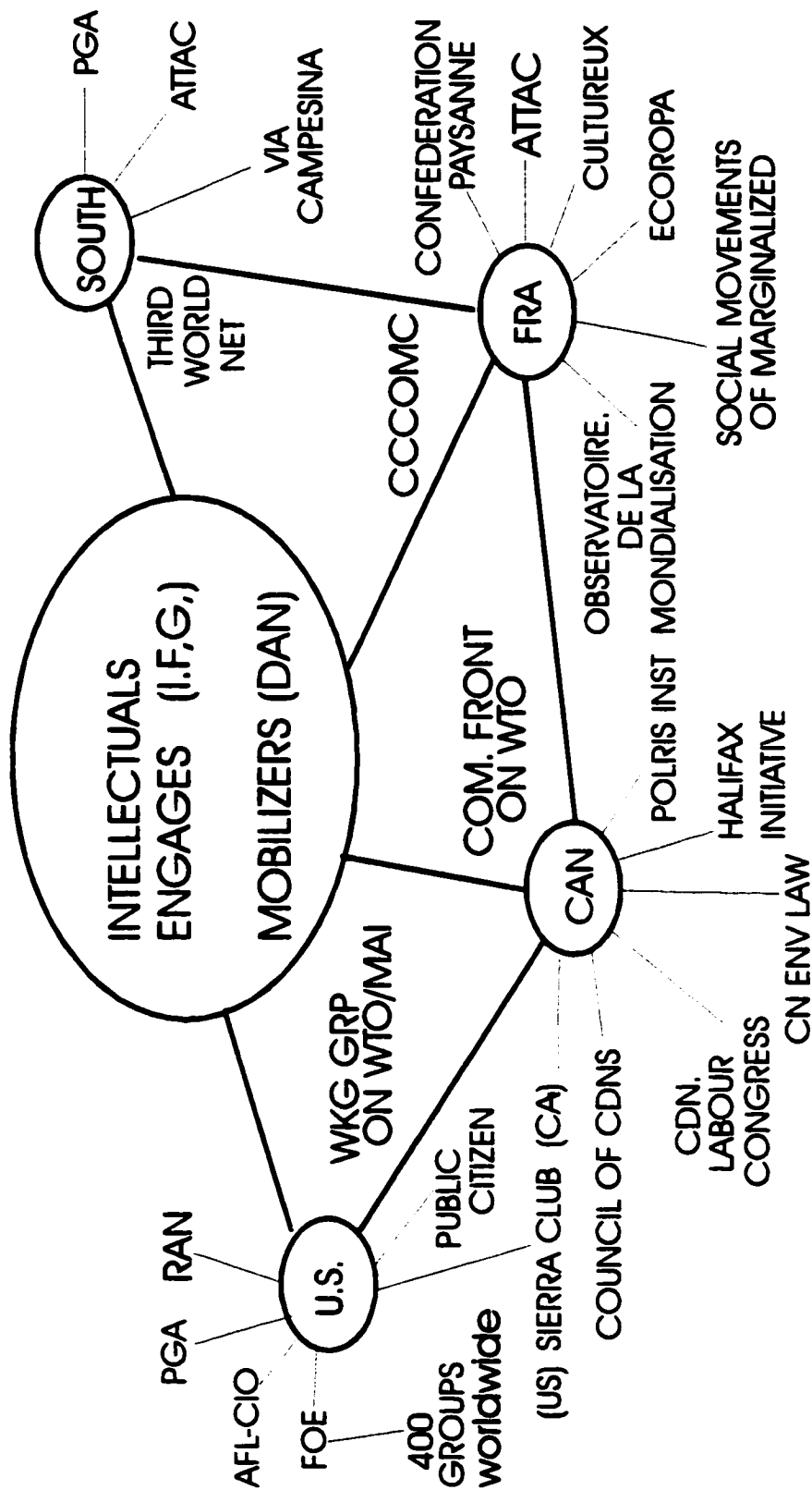
As with the Paris street demonstrations against the OECD MAI, since the WTO ministerial meeting was taking place in Seattle local groups from the U.S. West Coast organized the international anti-WTO protests. Mobilizers' organizations from the West Coast formed the Direct Action Network (DAN) to co-ordinate peaceful protests and other events. DAN was sponsored by, among others, the Rainforest Action Network (RAN), a member of IFG, and the People's Global Action (PGA), an organization that originated in the Mexican Zapatista movement (Moynihan, 1999: 5; Hahnel, 1999: 7). IFG also organized a successful teach-in on November 27 which was attended by over two thousand individuals.⁴⁸ As with many others who found themselves protesting in Seattle, the Confédération Paysanne was part of a growing transnational network. Its links and solidarity with international farmers' organizations and with the French movement, which was itself linked to networks on several continents, was a microcosmic example of a larger transnational pattern. Figure 4.1 illustrates some of these interconnected networks.⁴⁹ Thus, not only were anti-MAI mobilizers and intellectuals in Seattle but new groups had now joined and replicated their action patterns.

This chapter has located the roots of the Seattle protests in the anti-MAI campaign led by intellectuals-engagés and mobilizers. While a movement at the global level had not

⁴⁸ Canadian Broadcasting Corporation, interview with Maude Barlow. *The Magazine*. November 29, 1999, see also Barlow and Clarke (2001: 11).

⁴⁹ The model does not begin to represent all groups present in Seattle. For example, groups from the South were present: Kenya's Consumers' Information Network, Ecuador's Acción Ecológica and Trinidad and Tobago's Caribbean Association for Feminist Research (*Time*, November 29, 1999: 30), as well as individuals such as Guido Espana, a free-lance chemical engineer from Bolivia critical of the Southern diplomats' representation of their citizens at the WTO (*The Wall Street Journal*, December 2, 1999).

FIG. 4.1 - THE MOVEMENT AGAINST ECONOMIC GLOBALIZATION



yet emerged in the anti-MAI campaign, the Seattle events strongly point in that direction. A good sign that the existence of a transnational movement resides in these networks is the adoption of a common world view and the sense of collective identity thus shared by protesters in many countries. The evolution of diverse oppositions against economic liberalization into a movement was in large part due to the formulation of arguments against a particular kind of economic globalization during the anti-MAI campaign. As was illustrated above, the increasing numbers of protesters from the post-NAFTA and Uruguay Round campaigns who shared the intellectuals' world-view confirms the successful evolution of processes described in social movement literature.

Indeed, arguments similar to those raised against the MAI resurfaced in the anti-WTO protests. They were well illustrated in slogans such as "No Globalization without representation," and the banner hung from a crane by the Rainforest Action Network which displayed two arrows pointing in opposite directions—one labelled "WTO" and the other "DEMOCRACY." Similarly, the WTO dispute settlement process was not only criticized for its "secretive" nature, but also for its consistent rulings against domestic legislation arrived at through a democratic process. The latter critique was highlighted by protesters in turtle costumes—symbol of a trade dispute lost at the cost of environmental legislation. The opposition to large multinationals was also expressed in diverse forms such as one bare-chested protester who had written on her back "RATHER NAKED THAN NIKE" (*The Globe and Mail*, December 4, 1999: A7), and the banner used in a French anti-WTO demonstration claiming "LES MULTINATIONALES NE FERONT PAS LA LOI" (Multinationals will not rule) (*Le Point*, November 26, 1999: 101).

As such, the Seattle protests were the outcome of processes described in the social movement literature and reflected the outcomes explained in della Porta and Diani's (1999: 253) conclusion to the effect that:

Most social movements survive the decline of mobilization, oscillating between visibility and latency (Melucci, 1989: 70-3), within a larger family of movements, the organizational infrastructure and mobilization potential of which they help to increase.

In light of such observations, the growth potential of this social opposition should not be dismissed. Together with the anti-MAI protests, the recurrence of protests and their growth in size at international economic ministerial meetings indicates that the processes described in social movement literature are at play. As one observer of trade meetings commented: “[t]en years ago, trade ministers’ meetings attracted only a handful of protesters who were largely seen as cranks” (Greenhouse, 1999: A12). As the Seattle protests were winding down along with the WTO meeting, leading activists were already expressing their determination to pursue their common opposition to the present processes of economic globalization.⁵⁰

In hindsight, the anti-MAI campaigns proved to be a threshold. Not only did they engender the Seattle protests but since Seattle, these societal actors have seized upon several opportunities to sustain mobilization and media attention. By 2001, two years after the MAI events ended, several protests took place in various countries against international economic institutions with a similar message. The semi-annual meeting of

⁵⁰ See Ralph Nader's interview in *Le Monde*, December 3rd, 1999b, p. 2: “I do not think that technocrats will take into account [the Seattle warnings]. This is why we will remain mobilized.” See also John Sweeney's, head of the AFL-CIO, statement in the *New York Times*, December 6, 1999: “We're really in it for the long haul on the trade issue... We've been working on building this coalition for a few years now, and we'll now put our heads together to see how we build on this.”

the two Bretton Woods institutions, the World Bank and the IMF, which take place in April in Washington D.C., also witnessed “anti-globalization” protests in April 2000. Demonstrations took place later that year against the same gathering in Prague. In Canada, a series of protests were planned around the Ministerial Meeting of the Organization of American States in the Spring of 2000 with another much larger international protest that took place against the Summit of the Americas in Quebec City in the Spring of 2001. In Europe, the annual January meetings of global corporate elites and high government officials which take place in the small Swiss resort of Davos have likewise been under assault. In January 2001, while the annual Davos meeting had become an “armed camp” a peaceful World Social Forum was organized in Porto Allegre, Brazil, as a counter statement to Davos. In France, the trial of José Bové, the leader of the Confédération Paysanne who dismantled a McDonald’s, attracted thousands of protesters/supporters from around the world. The movement has now been more clearly identified as a movement against corporate globalization in order to clearly state that the critique is not against trade *per se* but against skewed rules that enable corporations “to usurp local control over the environment, labour, health, education and agriculture” (Johnson, March 12, 2001: 26).

Conclusion

The purpose of this chapter was to provide an understanding of the heterogeneous opposition to the MAI so that I could further analyse their influence on the negotiations and their meaning for world politics. In order to do so, I applied the conceptual framework of civil society devised in the form of a model in Chapter 3. The reasons for

devising a model were multiple. While most terms utilized in various case studies that look at societal actors' influence on the policy making process partially encapsulated the MAI opposition, none did so completely. This was due to the unprecedented coalition among societal opponents of the MAI and the association of particular concepts with distinct approaches in political science such as "liberal pluralism" and "critical theory" (Macdonald, 1994).

For example, the terms "transnational civil society" or "global civil society" (see for example, Lipschutz, 1996; Wapner, 1996; Price, 1998) are as much criticized as they are widely used to refer to a broad range of societal actors. Even when applied at the global level the evaluation of the political significance of such an entity reflects various perspectives. When the term is adopted to suggest the presence of a civil society beyond the nation-state, there are differences between liberal-pluralist and critical theorists' interpretations of such a society. Whereas the liberal-pluralist analysts see non-state actors as being akin to domestic pressure groups, critical theorists focus on "progressive NGOs" with counter-hegemonic potential (Macdonald, 1994: 284).

My contention is that both types of societal actors were present in the anti-MAI campaigns. The empirical evidence reflected such a dichotomy in the anti-MAI opposition. That observation was made possible with the use of the model of civil society devised in Chapter 3. The anti-MAI campaigns eventually presented an unprecedented common front in terms of one objective: to suspend the negotiations. Beyond that immediate objective, however, the strategies of influence and the concomitant changes sought out by these groups were distinct. As Macdonald (1994: 283, 284) observed in the case of

NGOs in Latin America, progressive NGOs hold a “transformational ideology” and “attempt to strengthen social movements linked to the popular sector,” while others seek changes that “avoid modifications in the structure of power.”

The analysis of the anti-MAI campaigns revealed that the groups identified with the social movement system of action belonged to the former category in that they pointed to the process of globalization as inimical to ordinary citizens and benefitting large corporations, and they seek to fundamentally alter that process. The groups and NGOs that we identified with the interest group system of action belonged to the second type described by Macdonald in that they did not criticize the objectives of the international economic regimes but only sought to have policy changes that reflected their concerns included within various international arrangements. As one such reformist MAI opponent confirmed: “you’ve got to take the views of the Board of Directors...you can’t go in there with a ‘trash capitalism’ because half the people, well more than half of the people probably are heads of MNCs....My organization has no mandate to have an opinion about global democracy really.”

Not all case studies described in the literature exhibit such dichotomies. The anti-MAI campaigns did so explicitly, as have other case studies that focused on the interactions of societal actors with various international economic fora. In such analyses the narrowness of one’s question and the concomitant selection bias of the societal actors can affect the analyst’s understanding of these actors. As such, the selection of one’s topic and related non-state actors can provide a picture of societal actors involved in transnational relations that reflects either the liberal pluralist or the critical view of these

actors.

A good example of this problem is found in the study by O'Brien et al. (2000: 134-153). That case study examines the interactions between the global "Environmental Social Movement" (ESM) and the World Trade Organization (WTO). While providing a valuable empirical contribution to the literature, the study offers an incomplete picture of the societal actors that challenge the policies emanating from this regime. Focused as that research was on the interactions between societal actors and such supranational organizations as the WTO, the IMF and the World Bank, an inherent selection bias occurred in terms of the societal actors examined. By their own acknowledgement, the authors' study regarding these societal actors' interaction with the WTO was focused on "reformists" who "engaged in lobbying for reform of the rules of the trading systems" and who work "from a liberal belief in the efficacy of pluralism" (O'Brien et al., 2000: 141, 152). That meant that the analysis of another category of activists whom the authors called "radicals" was neglected. As a result, the meaning of the latter actors for world politics and the difference between the influence they sought to exercise and that sought by the "reformists" was excluded from the analysis.

There are several difficulties involved in referring to societal actors with overarching concepts such as "global social movement" or "global civil society." As was pointed out by Macdonald (1994), civil society at the domestic level includes all types of actors, some of whom are of the kind described by liberal-pluralists while others seek to advance what critical theorists refer to as more profound transformative projects.

Furthermore, as Cox (1999: 5) has put it:

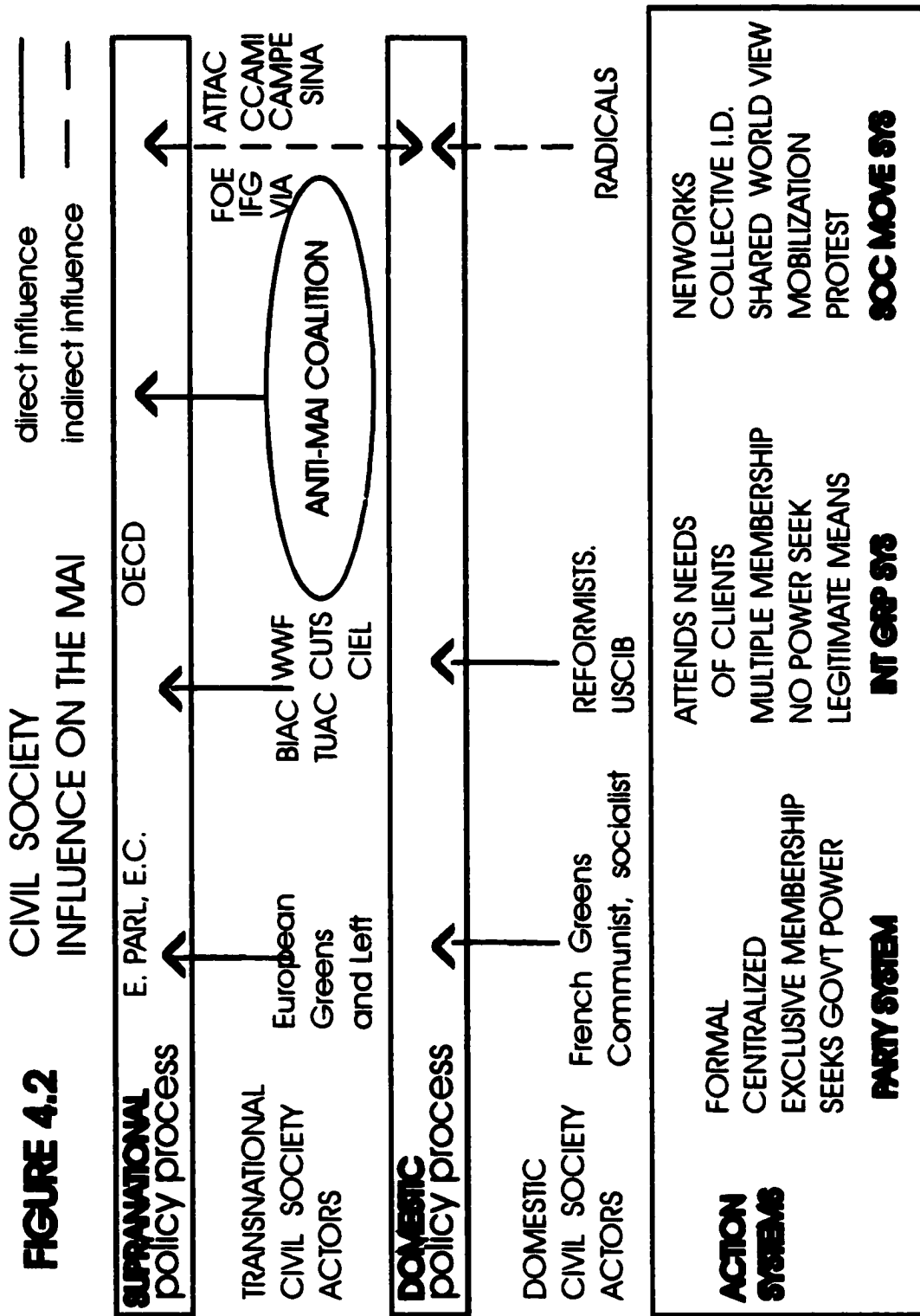
Any fixed definition of the content of the concept “civil society” would just freeze a particular moment in history Rather than look for clearer definitions, we should try to understand the historical variations that have altered the meanings of the concept in the ongoing dialectic of concept and reality.

This observation applies to social movements that have experienced transformations over time. Social movements which emerged in the 1960s have changed and evolved over the past thirty years, as did the political and social environments within which they have evolved. Some movements’ issues, such as those espoused by environmentalists, have become part of the political agenda at the domestic and transnational levels. In Europe, Green political parties have emerged from segments of those movements. In several countries these parties have attained shares of political power. Also, movements have grown since the 1960s from sporadic protests by scattered individuals to large TSMOs such as Greenpeace.⁵¹ Many organizations have sprung up since then, some of which, although sharing similar concerns regarding the environment, seek to fulfil their objectives within existing regimes and interstate arrangements while others seek more profound societal and political transformations that challenge such arrangements. These differences can only come to light through the use of flexible tools of analysis that account for such fluctuations. This is what has been attempted with the model formulated in Chapter 3.

As a result of its application on the case study, I am now able to place various societal actors involved in the opposition to the MAI within the model (See fig. 4.2). Their relative position on the template indicate that those MAI opponents’ display the same characteristics as those of the systems of actions identified in Chapter 3 in terms of:

⁵¹ See Wapner (1996) for a good history of Greenpeace, the World Wildlife Fund and Friends of the Earth.

FIGURE 4.2



their proximity to the policy-making process, their motives and objectives and their behaviour. Differences among MAI opponents also correspond to those drawn between systems of action in the model. As such the model enables us to summarize the results of the analysis.

A number of organizations such as the World Wildlife Fund, CIEL, CUTS, TUAC and BIAC appear in the interest group system of action. These are organizations that have been included on a consultative basis in various economic multilateral fora for some time. As such they describe their activities in terms of collaborating with governments and lobbying. The issues that concern them vary from environmental conservation, labour, consumers' rights and business interests. Their opposition to the MAI reflected their specific issue of concern and their attempts to have changes included in the treaty focused on policies relating to these issues specifically. Their relative proximity to the policy-making process explained the earlier campaign led by reformists such as WWF, CUTS and CIEL, and the inclusion of TUAC and BIAC in consultations with the OECD regarding the MAI since the early 1990s.

A significant result of the analysis concerns the emergence of social movement networks. I relied upon social movement theory to demonstrate the emergence of transnational social movement networks. Although MAI opponents referred to as "intellectuals-engagés" expressed the desire to see a broader global opposition to the processes of economic globalization, of which they considered the MAI to be a crucial component, and although the mobilization against the MAI reached visible and widespread proportions, the long-term success of those actors' objectives were not immediately

apparent. However, and as demonstrated in this chapter, the anti-MAI campaigns undertaken by these opponents eventually led to the significant mobilization against the World Trade Organization (WTO) that took place in the streets of Seattle one year after the demise of the MAI at the OECD. Since then, numerous similar demonstrations have been visible in most parts of the world. This is a new societal actor that seeks to transform international economic relations. As such, the MAI events represent a threshold in world politics and in international economic relations.

Within the social movement system of action we find a new TSMO in the International Forum on Globalization (IFG) that regroups intellectuals-engagés active at the domestic and transnational levels. In addition, and as shown in Figure 4.1, several groups that include domestic SMOs and militant-mobilizers make up the transnational social movement networks. In between the interest group and social movement systems of action we find the coalition that was struck among these various MAI opponents in order to maximize their main objective: to stop the OECD MAI.

The anti-systemic nature of the claims espoused by intellectual-engagés and militant-mobilizers and their preferred mode of action explain these actors' distance from the policy making process. That is, the critique directed against the MAI by intellectuals-engagés and militant-mobilizers was linked to a broader critique against a process of economic globalization perceived to be detrimental to citizens and societies at large. The anti-systemic and normative challenges espoused by these MAI opponents differ from the policy focus of the so-called reformist NGOs such as WWF, CIEL and CUTS. The latter do not challenge processes of economic globalization nor do they argue that MNCs play a

negative role in that process. Rather, they work within existing policy regimes in order to have their particular policy concerns included within those regimes. In that sense they cannot be identified, as are social movement actors, as “anti-systemic.” On the contrary, they describe themselves as collaborating and lobbying with various entities involved in the policy-making process at the domestic and international levels.

As such, the distinction between various MAI opponents was also highlighted by the way in which they led their respective campaigns. While INGOs such as WWF and CIEL attempted to engage a broader formal process of consultation between OECD officials and NGOs, intellectuals-engagés and militant-mobilizers pursued strategies of public information and mobilization. Their campaigns aimed to sensitize a broader public of their critiques, to gain broader support for their cause and thereby demonstrate to politicians through mobilization and the logic of numbers the strength of their opposition. As will be seen in the next two chapters, these respective strategies in the opposition to the MAI brought different results.

The research and analysis undertaken herein have also highlighted the fact that the initial warning about the MAI in both systems of action came from Southern NGOs. Both among insiders and intellectuals-engagés, these NGOs were acknowledged as having alerted their Northern colleagues to the MAI negotiations. The MAI involved two significant difficulties for Southern countries. One was the fact that they were excluded from the negotiations, the other was the reluctance on the part of some Southern states to forego their control on development policies concerning investments. Therefore the role of these Southern NGOs, and their location in the model also needs to be taken into

consideration and assessed within a broader context of international relations.

The coalition that was struck among these diverse MAI opponents did not survive the anti-MAI campaigns since it was motivated by instrumental goals on the part of all MAI opponents. In that sense, the coalition can best be understood as a radicalization of the opposition to the MAI in that the more moderate reformist groups that belong to the interest group system of action adopted an unusual radical stance. They agreed to cease all dialogue with OECD officials and to stop the negotiations of the agreement rather than reforming its content through continued dialogue. The only meeting between the coalition and the OECD negotiators, as will be explained in Chapter 6, did have some direct impact on the negotiations.

While the coalition had a direct impact inside the negotiations, the diverse strategies espoused by reformists and radicals also had distinct effects. These differences are highlighted in Chapters 5 and 6 where the differences among MAI opponents drawn in this chapter and their concomitant chronology of campaigns will be juxtaposed to the progress of the negotiations in order to assess their impact on the negotiations.

CHAPTER V

**FIRST NEGOTIATIONS' MANDATE:
CIVIL SOCIETY IN TRANSITION**

Introduction

The analysis undertaken in this chapter and the next is based on a juxtaposition of the various anti-MAI campaigns documented in the previous chapter with the progress of the negotiations. The latter are broken down into three periods, each characterized by its temporal coincidence with the respective campaigns waged against the MAI. This chapter traces the developments which took place within the negotiations during a *transitional* period dominated by groups within civil society commonly referred to as insiders or reformists. This first period coincides with the first negotiating mandate and the first two years of negotiations from May 1995 to April 1997, the date set as the initial deadline in the mandate. The transitional characteristic of this period is attributed to the transformations which occurred in terms of civil society awareness of the MAI as the so-called insiders from the interest group system of action became aware of the MAI and pressed for substantive changes in the treaty that reflected their particular concerns. Transition also illustrates the beginning of a broader-based opposition towards the end of this period.

A second period characterized as one of *convergence* covers the months from April 1997 to the second deadline of April 1998. That period is taken up in the next chapter. As illustrated in Chapter 4 convergence during this period occurred in several ways. Most significant was the emergence of the so-called intellectuals-engagés' campaigns where groups from diverse backgrounds and nationalities conducted simultaneous campaigns at the domestic and transnational levels. Finally, a third period of *conjunction*, also covered in Chapter 6, characterized the circumstances which resulted in

the demise of the MAI negotiations. The final period consisted of the six-month designated pause prior to the resumption of the negotiations in October 1998.

The following analysis begins by looking at the progress of the negotiations over the first 19 months and then turns to the influence of the insiders' campaign during that period. The chronology of the anti-MAI campaigns outlined in the previous chapter indicated that, during this first period of the negotiations, the opposition to the MAI had been mainly expressed by the so-called "insider" groups in Europe. Although by the end of the first period of negotiations a broader opposition was engendered by "intellectuals-engagés", that campaign was still embryonic and not yet publicly visible.

Two types of MAI opponents' influence are distinguished. *Direct influence* refers to influence on the substantive issues within the negotiations while *indirect influence* refers to the influence gained through increased pressure on elected officials by various means.¹ Since the analysis spreads over two chapters, the discussion regarding the assessment of those influences is undertaken in Chapter 6. Suffice it to say that the first period of negotiations was relatively uneventful as far as societal opposition was concerned. Although officials and negotiators became aware of reformists' concerns, the changes they proposed to address these NGOs' substantive concerns fell far short of their expectations. While insiders' critiques had some effect on the negotiations the failure to reach the first deadline can be clearly attributed to other difficulties inside the negotiations where unexpected and challenging stumbling blocks emerged that would delay OECD

¹ This distinction corresponds to Henderson's reference to direct and indirect impacts in *The MAI Affair* (1999: 28).

members' agreement on a high-standard MAI.

I. Negotiations Period I: May 1995 to April 1997

Completing the MAI Framework

The MAI negotiations were launched in a climate of extreme optimism. Not only were like-minded countries expected to reach an agreement in a short time frame but it was also expected that they would succeed in agreeing upon a high-standard treaty.² Although the mandate to negotiate a MAI at the OECD was adopted in May 1995, the Negotiating Group (NG) only began meeting on a regular basis in late September 1995, thereby leaving only 19 months to complete negotiations by the initial deadline. Since the NG had agreed early on that it would meet approximately every six weeks, the negotiators initially expected to reach an agreement after having met an average of twelve times.

The procedural arrangements under which the negotiations were to be undertaken reflected a desire for efficiency which was made necessary by the short time frame allocated to complete the agreement. Thus the decision was taken by a majority of delegates in the NG to by-pass the OECD committee structure. This was deemed necessary for a speedy conclusion of the negotiations in order to avoid "turf battles" and to eliminate "the need for co-ordination" which the involvement of these committees would have required (Huner, 1998: 4). The independence of the NG from standing OECD committees also reflected the fact that the MAI was to be an independent treaty so that non-OECD countries would later on be able to accede to the treaty. Also intended to

² The OECD ministerial mandate reflected such ambitious goals in that it called for "a broad multilateral framework for international investment with *high standards* for the liberalization of investment regimes and investment protection and with effective dispute settlement procedures" (OECD, 1995a:2).

save time was the idea of relying on ad hoc committees which would work under the authority of the NG. The NG would rely on two types of working groups made up of technical experts from member countries. The NG would be free to form “drafting groups” (DGs) and “expert groups” (EGs) for short periods and specific tasks according to its needs (OECD, 1995*b*). The latter arrangement would avoid groups “taking a life of their own” and spending time “studying theoretical issues behind the investment talks instead of focusing on getting an agreement” (*Inside U.S. Trade*, September 15, 1995: 28).

The program of work which was adopted for the so-called “first phase of negotiations” was to complete what the NG Chairman’s metaphor referred to as “the building framework.” The MAI framework consisted of a “foundation, two pillars and a roof.”³ The foundation corresponded to the definition of investments; the first pillar would include disciplines which applied to investments once established in the host country (post-establishment disciplines); the second pillar would represent disciplines which applied to investment prior to entry in the host-country (pre-establishment or market access); and finally, the roof consisted of dispute settlement mechanisms. These framework items appear in the final MAI draft of April 1998 (see Appendix A) under the following sections: (II) Scope and Application (definition); (III) Treatment of Investors and Investments (pre and post-establishment disciplines); (IV) Investment Protection (post-establishment); (V) Dispute Settlement (intended for pre- and post-establishment);

³ Based on “Report to the Council by Negotiating Group (NG) Chairman Frans Engering - 30 April 1996 (OECD, 1996*e*).

and (IX) Country Specific Exceptions (the mechanisms which would apply to the listing and further liberalization of non conforming measures in the pre- or post-establishment phases).⁴

Once the first phase was completed, the “second phase” of the negotiations would consist of listing country-specific exceptions. This schedule was based upon the understanding that it would be desirable to reach a negotiated agreement on the MAI text prior to having countries engage in commitments on liberalizing particular measures or sectors of their economy. This preferred way to proceed is explained by the fact that in investment treaties all the framework items are subject to negotiations since each has an

⁴ Several types of exceptions and derogations from investment treaty obligations appeared in the draft treaty and are discussed later in this chapter. Three broad categories of exceptions to the non-discrimination principles have been identified by UNCTAD (1999a, b). These are General exceptions, Subject-specific exceptions, and Country-specific exceptions. General exceptions enable contracting parties to derogate from the non-discrimination standards (national treatment - NT, and most favoured nation - MFN) as well as other obligations if necessary for the maintenance of public health, order and morals, and national security. Subject-specific exceptions exempt specific issues such as intellectual property or taxation from NT and MFN. Country-specific exceptions enable a contracting party to reserve the “right to differentiate between domestic and foreign investors under its laws and regulations -- in particular, those related to specific industries or activities” (1999a: 12). An example of such a non-conforming measure would be an investment legislation specific to a country’s economic policies where some maximum percentage of foreign ownership is allowed in a particular sector. Note also that the NG agreed that the term *treatment* “covered all policies which affect investment (economic policy, financial policy, tax policy, policy on public sector subsidies, company law, etc.)” (Charolles, 1997: 19). Such measures would have to be listed as exceptions in order to ensure that that country would not be in violation of the non discrimination standards. Liberalization mechanisms referred to the way in which countries would list their exceptions, whether these exceptions would be negotiated and how future negotiations would take place. A standstill clause would prevent signatories from adding, later on, sectors they had omitted originally. A rollback liberalization mechanism would be: “the liberalization process by which the reduction and eventual elimination of non-conforming measures ... would take place....The most commonly known [way to achieve rollback] in the trade field is that of successive rounds of negotiations where rollback results from the trade-offs or exchange of trade concessions. Peer pressure through periodic examinations of Member countries’ restrictions has been the approach of the OECD liberalization instruments” (Süskel, 1997: 24). Note that country-specific exceptions can at times be referred to as “reservations.” The distinction is attributed to treaty law where the term reservations is used when these have reciprocal effect (see MAI draft text, April 1998: 90, OECD 1998). The draft OECD MAI specifically relied on the term “exception” while specifying that the usage of the term “would not prevent the listing of a measure with a reciprocity requirement.” This specification was due to the fact that no agreement was reached on liberalization mechanisms.

impact on the final scope of the agreement and therefore on the degree of discretion retained by signatories. Thus for example, the scope of the definition of investment and investor affect “the extent of the treaty coverage granted to foreign investors and...the degree of host State discretion in directing and implementing its foreign investment policy” (UNCTAD *c*, 1999: 3).⁵

In addition, it had been agreed that the MAI negotiations would follow what is referred to as a “top-down approach.” This meant that “only those sectors which [were] explicitly excluded by a party [would not be] entitled to national treatment” (Sikkel, 1997: 21.) In the light of these provisions, it would evidently be preferable that negotiators knew the scope of the agreement prior to listing their country-specific exceptions.

Negotiations on the “building framework” began immediately. The first drafting groups that were set up in the fall of 1995 were to focus on pillars one and two, disciplines that applied to pre- and post-establishment, while the NG immediately began work on the definitions.⁶ The list of meetings planned in 1995 and 1996 showed a consistent focus on

⁵ As Schekulin (1997: 10), the Chief MAI Negotiator for Austria pointed out, definitions of who is to be considered and what is to be considered an investment hold far reaching consequences for the scope of the MAI disciplines and the applicability of the dispute settlement process. As such, definitions in international investment agreements “raise difficult policy issues and are often the subject of hard bargaining between the negotiating parties. Accordingly, they should be seen not as objective formulations of the meaning of terms, but as part of an agreement’s normative content, since they determine the extent and the manner in which the other provisions are to be applied” UNCTAD (1999 *c*).

⁶ The list presented here is not exhaustive but intends to demonstrate how the plan of work was expected to progress over 1996, leading to the negotiation of the most relevant issue of liberalization. The first two NG meetings created a drafting group on Investment Protection (DG 1) a post-establishment treatment, and another on pre- and post-establishment treatment of investment and investors (DG 2). DG 1 received the mandate to draft specific provisions on investment protection such as expropriation, compensation, and transfer of funds, and was directed to submit a proposal to the NG by December 1995. DG 2 would draft provisions on selected topics regarding the treatment of investors and investment such as national treatment and most favoured nation, and was scheduled to submit proposals to the NG by March 1996. The latter group’s mandate was expanded at the NG December 1995 meeting to include mechanisms for standstill, rollback and the listing of country-specific exceptions, as well as provisions on general exceptions. The group

these issues and the completion of the MAI text. Initially, it was believed that the NG would be able to enter the second phase of the negotiations after the June 1996 OECD ministerial meeting (*Inside U.S. Trade*, December 1995: 15). However, by April 30, 1996 the NG Chair's report to the OECD Council indicated that the initial plan to complete the framework by June 1996 had to be postponed to December.⁷ By December 1996, disagreements on the text still remained and by February 1997, only three months prior to the deadline, negotiations moved "into a new phase, with parallel efforts to complete text ... and to negotiate exceptions" (Dymond, 1997: 7), in spite of the fact that there was still no final agreement on several significant items of the MAI text.

Although a majority supported a definition with a "non-exhaustive" list of assets to be considered investments, there was no final agreement on the definition (Dymond, 1997: 7; Schekulin, 1997: 10). As Canada's Chief Negotiator (Dymond, 1999: 40) reported later: "[a]n attempt by the chairman to declare the definition agreed upon was sharply rebuffed by Canada and other countries." Considering the relevance of the definition to the coverage of the agreement and to contracting parties' future discretion over their

was expected to be terminated once it completed its work and reported to the NG at its March 1996 meeting (OECD, 1996b). By January 1996 the NG began to experience difficulties with the definition of investor and investment and charged DG 2 with the additional task of analyzing the issue and reporting back to the NG by April 1996. Questions regarding the dispute settlement process would be handled by an Expert Group 1 (EG1) so that they could examine questions prior to commencing drafting. In March 1996 an Expert Group on Special Topics (EG3) was mandated to look into issues of key personnel, performance requirements, incentives, privatization, monopolies/state enterprises and corporate practices (all these fall under Section III of the MAI draft text "Treatment of Investors and Investments") (OECD, 1996c). These latter topics were added after the NG concluded that "observance of national treatment and most favoured nation treatment would not -- in itself -- be enough to guarantee the open investment regime" (Ahnlid, 1997: 27). Other topics which appear in Annex A were added on as negotiations progressed and the need to include them was agreed upon (for example taxation and financial services).

⁷ Based on The Report to the Council by Negotiating Group (NG) Chairman Frans Engering - 30 April 1996. OECD document (OECD, 1996e).

foreign investment policy, disagreements regarding the definition were significant and held considerable implications for the overall negotiations on the substantive obligations of the MAI (Dymond, 1999: 40).

By comparison, the non-discrimination clause (national treatment and most favoured nation) fared much better. It was agreed early on that non-discrimination would apply to both the pre- and post-establishment phases of investments.⁸ Nevertheless, the strength of the non-discriminatory obligations would be determined by the extent to which countries would be allowed to deviate from them through exceptions and derogations, and here, considerable disagreements remained. The latter issue will be covered in the next section.

As far as the dispute settlement mechanism was concerned, the most important stumbling block was whether investor-to-state arbitration should be covered.⁹ One source reported that at the January 1997 NG meeting, seven delegations (Australia, Denmark, Finland, Hungary, Japan, Mexico and Austria) withheld their formal support for such a

⁸ This was a considerable achievement since few existing international investment agreements included the pre-establishment phase. The practice of extending NT to the pre-establishment phase of investments has not been considered pertinent in the past due to the sovereign right of countries to control the entry of aliens and because an "outside" investor was not deemed to be in a similar or comparable position as a domestic investor (UNCTAD, 1999a).

⁹ There are two types of dispute settlement mechanisms. State-to-state mechanisms provide rules to settle disputes between governments. Investor-to-state mechanisms regulate disputes between firms and governments. The latter is not included in the WTO but covers some of the NAFTA. In the NAFTA the mechanism provides "that investor's claims against governments can be submitted to a tribunal of three members....The tribunals have the authority to award damages based on their decisions" (Brewer, 1996: 88). By all accounts the investor-state dispute mechanism represents a major change in international law. Not only does this mechanism imply that investors have a status equal to states, but under "customary international law, there is no compulsory binding arbitration....[whereby] "an offending government can thus avoid or delay resolution of a dispute....The MAI [would] provide for automatic procedures which [would be] compulsory and binding" (Padt, 1997: 32). Should the MAI have included an investor-to-state mechanism, investors would have had "at their disposal a dispute settlement mechanism that they [could] activate" (Baldi, 1997: 33).

provision, and one delegation (Norway) proposed an exemption from an investor-state dispute mechanism altogether (*Inside U.S. Trade*, February 7, 1997: 15). In addition to these a number of “special topics” which had been added to the non-discrimination provisions were not completely agreed upon.¹⁰

The section of the framework which had progressed with most ease was investment protection. By February 1997, the draft provisions on Investment Protection enjoyed broad agreement on core principles (Dymond, 1997: 7). In particular, agreement on the core provisions of the article on expropriation and compensation was easily attained (Karl, 1997: 15).

Liberalization as a Stumbling Block

In addition to these unsettled issues, there was no agreement on several issues concerning exceptions from the MAI obligations. The two most difficult questions concerned country-specific exceptions and general exceptions. Neither the way in which country-specific exceptions would be listed nor the process through which liberalization would take place were agreed upon when delegations were invited to list their exceptions at the December 1996 NG meeting. Furthermore, the outstanding issue between the major

¹⁰ Special topics referred to the inclusion of additional disciplines that would cover activities not necessarily covered by the observance of national treatment and most favoured nation treatment. These topics consisted of: “key personnel” whereby investors would be able to “transfer personnel to perform important key functions for an investment made abroad”; “performance requirements” which refer to “requirements governments impose on investors in order to secure perceived benefits for society as a whole” such as “domestic content requirements”; “investment incentives” that would aim at putting an end to “costly competition between countries” to attract investments”; applying the principles of non-discrimination to “privatisation” which would ensure that foreign investors would not be put in a disadvantaged position in relation to such occurrences; and “monopolies and state enterprises” whereby “government-designated monopolies should be covered by the MAI with the objective of ensuring that these entities do not treat foreign investors less favourably than national enterprises” when, for example, monopolies purchase or sell goods and services (Ahnliid, 1997)

players—the EU and the U.S.—concerning exceptions for Regional Economic Integration Organizations (REIOs) and binding sub-federal entities had not been resolved. In addition, several proposals for general exceptions had been tabled since the beginning of the negotiations, creating further divisions within the NG. These are discussed in the following three sub-sections.

(A) *Country-Specific Exceptions*

Two difficulties were encountered regarding the mechanism covered under Section IX—“Lodging Country Specific Exceptions.” By the time countries submitted their exceptions in February 1997, all that was agreed to was that these exceptions would be subject to a standstill obligation.¹¹ Disagreement remained on the types of lists to be included and the liberalization process through which countries would remove exceptions.

With objections from Canada and the United States, each Contracting Party would list all its non-conforming measures to NT and MFN as an Annex of the Agreement called

¹¹ This meant that countries needed to exercise extreme care in listing their country-specific exceptions since, as one official characterized it, the standstill obligation in a top-down approach meant “list it or lose it.” In addition, as described above in footnote 3, the article on transparency attached to the non-discrimination articles provided for the disclosure of not only “discriminatory measures but also of all policies which affect investment” (Charolles, 1997: 19). Of all OECD members, only the U.S., Canada and Mexico had undertaken such a time consuming exercise under the NAFTA. Considering the time left to the deadline this requirement alone represented a practical impossibility to complete in time for the signature. Exceptions in the NAFTA are listed in the section titled “Annexes I Through VII: Reservations and Exceptions to Investment, Cross-Border Trade in Services and Financial Services Chapters” where each country lists sectors of its economy it does not wish to be subject to certain disciplines. Each entry mentions the type of sector concerned by the reservation, the discipline to which the reservation applies, the level of government responsible for applying the relevant domestic law and a description of the commercial activity affected. Thus, for example, Canada’s first entry stipulates that the National Treatment discipline for investments does not apply to credit granted the agricultural sector. Regulations or measures covering these activities are the *Federal Farm Credit Act* and the *Farm Credit Regulation*. The entry then describes how the reservation applies: “Loans by the Farm Credit Corporation may be made only to: (a) individuals who are Canadian citizens or permanent residents; (b) farming corporations controlled by Canadian citizens or permanent residents; or “cooperative farm associations, all members of which are Canadian citizens or permanent residents.” There is no time limit on the reservation. (NAFTA, Annex 1 - Canada, I-C-I).

List A (titled *Annex A* in the NAFTA). Canada and the U.S. wanted to follow the NAFTA model and include two types of lists. List A would consist of “exceptions generally fixed in legislation and practice” which could be negotiated, whereas List B (titled *Annex B* in the NAFTA) would be non-negotiable in that they covered sectors where these countries “required flexibility to discriminate against foreign investors in respect not only to current measures but any measures in the future” (Dymond, 1999: 35). While future rounds of negotiations to liberalize investment policies were envisaged, no rollback process had been agreed to (UNCTAD, 1999*d*: 131). Underlying the controversy surrounding negotiations on the rollback mechanism was the understanding that the process would be guided by peer pressure, as was the OECD custom, rather than reciprocity as typically practiced in trade negotiations (Dymond, 1999: 35).

At its December 1996 meeting, the NG agreed to the chairman’s proposal to table their list of country-specific exceptions by the end of February 1997 even as these issues had not been resolved. UNCTAD (1999*d*:131) reported that the move to undertake liberalization while still negotiating the MAI text resulted in numerous country-specific exceptions, varying greatly in quantity and character between countries. Without final agreement on the text, “most delegations were sceptical about negotiating away proposed exceptions.” Some of the exceptions listed were believed to have been motivated by tactical considerations, to be used in case reciprocal negotiations would take place, while others were listed as a precautionary measure due to the uncertainty of the effect of some provisions. According to UNCTAD (1999*d*: 131), the outcome had the effect of raising the question of “balanced commitments” and legal certainty.

In fact, when the chairman proposed that delegations table their exceptions at the December 1996 NG meeting, he was already under pressure from the United States to negotiate “up-front liberalization.” Reaching a satisfactory balance of commitments had been a U.S. objective all along. As officials observed at the time, “the U.S. effectively forced the issue by announcing it would table a complete list of federal and state measures that would not conform to MAI obligations” and it expressed its wish to undertake a “request-offer” process in which countries would negotiate away their listed exceptions (*Inside U.S. Trade*, January 10, 1997: 5). As explained in the following paragraphs, the premature listing of exceptions only exposed a more profound disagreement between most European delegations and the U.S.

The issue of liberalization—listing exceptions—revealed serious divergencies between European and American interpretations of the ministerial mandate (Dymond, 1999: 34). At issue was whether the MAI would reflect the degree of liberalization existing within the OECD and provide a framework that would eventually facilitate future progressive liberalization of investments, or whether the current MAI negotiations would also yield improved market access. While some, mostly European, countries were “convinced that the MAI as an agreement represente[d] a convincing liberalising effort,” others insisted upon “a mechanism that ensure[d] that this level of liberalization [was] satisfactory to all” (Engering, 1996: 152).

For the former, the level of liberalization under the OECD Codes was sufficient and the objective with the MAI was to “establish a framework within which further liberalization could be achieved progressively” (UNCTAD, 1999*d*: 132). For the latter,

however, the simultaneous negotiation of improved market access through the MAI and between OECD members had been an objective all along. For those delegations, most notably the U.S., that had entered the MAI negotiations with the intention of improving market access, the outcome was a discouraging setback and one which became a pivotal issue for the remainder of the negotiations.¹²

(B) Other Derogations and General Exceptions

The area of general exceptions suffered from setbacks as well. The issues of Regional Economic Integration Organization (REIO) and binding sub-federal entities between Europe and North America that existed prior to launching the negotiations, had not yet been resolved.¹³ In December 1996, the EU Commission tabled its proposal for a broad exception for REIOs. As Karl (1996:21) explained it, the question was whether the European Union should be allowed “to deviate from the MFN principle in order to preserve its capability to move ahead with its internal investment liberalization at a faster pace than other States [were] ready to go.” The U.S. repeatedly argued throughout 1996 and into 1997 that the EU member states had either “not put forward a detailed explanation of why they should be allowed to violate” this principle (*Inside U.S. Trade*, May 3, 1996: 11) or that their explanation had “not been convincing” (*Inside U.S. Trade*,

¹² Since the respective negotiating position of various countries is the most confidential aspect of these documents, unless countries give information as to what their position was it is very difficult to determine which ones were in agreement with the U.S. The American position was expressed through various media.

¹³ The inclusion of these issues in the OECD working paper that accompanied the ministerial mandate for the MAI had been a deciding factor in U.S. acceptance of the mandate. While an initial report indicated that the MAI would be binding on subfederal governments and identified the issue as “a key demand of the EU” there was no similar mention of U.S. demands regarding the issues of REIO and privatization (*Inside U.S. Trade*, May 5, 1995: 2). As a result, U.S. acceptance of the mandate had been conditional upon statements indicating the satisfactory inclusion of these two American demands in the report.

January 10, 1997: 4). The NG only began work on binding subfederal entities at its February 26-28, 1997 meeting when countries submitted their exceptions. As seen earlier, this exception was included in the U.S. list of exceptions to be negotiated as part of the balanced commitments (*Inside U.S. Trade*, February 7, 1997: 16).¹⁴ Neither issue was resolved by the first deadline of May 1997.

Posturing - "Deal Breaking Issues"

As if the above hurdles were not enough, two issues surfaced during that first period which drew strong language from both the Europeans and the Americans. In March 1996 the Helms-Burton Act and Iran-Libya Oil Sanction Act became law in the U.S. In June 1996 the French delegation introduced France's proposal for a general exception for culture.¹⁵ By the fall, some parties resorted to strong language to signal their intransigence with respect to these matters.

The U.S. laws attracted strong opposition inside the MAI negotiations from Canada and the European Union. At the March 14-15, 1996 NG meeting Canada

¹⁴The U.S. and Canada followed the approach they had adopted for the NAFTA which was to list states' measures and provincial jurisdiction as exceptions (Dymond, 1999: 36; *Inside U.S. Trade*, March 1997: 14).

¹⁵ Title III of the Helms-Burton Act allowed "U.S. citizens and corporations whose property was confiscated by the Cuban government any time after January 1, 1959, to bring suits for damages in U.S. courts against anyone who [was deemed to] "traffic" in their former property after November 1, 1996. Title IV prohibit[ed] the entry into the United States by persons who traffic[ked] in confiscated property, as well as their families, after March 12, 1996" (Canner, 1998: 13). The Iran-Libya Act targeted companies which undertook investments in the petroleum industry in either of these countries (Dymond, 1999: 37). The French proposal on culture was that: "Nothing in this agreement shall be construed to prevent any Contracting Party to take any measure to regulate investment of foreign companies and the conditions of activities of these countries in the framework of policies designed to preserve and promote cultural and linguistic diversity" (reproduced in Dymond, 1999: 52). France was supported in this proposal by Canada, Italy, Belgium, Portugal, Greece and Australia. Opposing this proposal were the U.S., UK, Japan, Germany, the Netherlands, New Zealand and the Nordic countries (Dymond, 1999: 35).

announced that it would table suggestions to be included in the MAI that aimed at preventing the type of extraterritorial provisions contained in the U.S. laws (*Inside U.S. Trade*, March 15, 1996: 8). Although Canada tabled two proposals as early as June 1996 that were supported by virtually all OECD members except the U.S., the issue became the object of negotiations outside of the MAI between the EU and the U.S. As one official commented at the time, "Helms-Burton now seems to have become the political football in this negotiation, it will come back to haunt us" (*Inside U.S. Trade*, July 5, 1996: 8). In any event, Canada and the EU eventually indicated that the conclusion of the MAI negotiations depended upon a resolution of these issues of extraterritoriality and since an initial deadline for those negotiations was set for October 1997 (Canner, 1998: 15) it is difficult to see how these parties could have concluded an MAI by the first deadline date. For its part, the U.S. announced, at the NG meeting of October 23-24, 1996, that it would regard a broad cultural carve-out as deal-breaker (*Inside U.S. Trade*, November 1, 1996).

Thus, by the end of the first period, a number of unexpected challenges and delays confronted the NG. The substantive issues which arose during the first period of negotiations were due to unexpected differences concerning the draft text and misunderstandings regarding the degree of additional liberalization mandated in the MAI ministerial statement. That these were unexpected was evidenced by the optimistic time-frame initially envisaged for concluding the "building framework." Some observers have attributed these unanticipated difficulties to the fact that the MAI was an ambitious "big step forward" (Henderson, 1999: 23, 25). The MAI was not only meant to simplify and

render more transparent a complex patchwork of treaties but also to add value to the existing investment regime. Many of the issues identified during the first period of negotiations concerned these novel rules which, taken together, provided an ambitious package.¹⁶

While various parts of the agreement taken in isolation seemed innocuous, the package as a whole proved, in the end, “too much for governments to swallow” (Henderson, 1999: 25; Lalumière, 1998: 3; Picciotto, 1999: 84). Also, divergent understandings regarding the purpose of the MAI became most obvious when country-specific exceptions were listed. American calls for “up-front liberalization” and negotiated reciprocal commitments revealed a search for greater market access at the outset. What was becoming evident over this first period was that “there were much more diverse views on the scope and applicability of the agreement” (Smythe, 1998*b*: 250).

II. Civil Society: Response and Impact

As seen in Chapter 4, the only opposition campaign to the MAI that was well under way during this first period of the negotiations was voiced by “insider” groups that belonged to what has been described as the “interest group system of action.” In particular, international environmental NGOs which were close to international policy circles in Europe had been the most active in their attempts to lobby for their objections at

¹⁶ See Henderson (1999: 23-25), Picciotto (1999), Smythe (1998*b*) and Lalumière (1998) for further details on this aspect. For example, among Henderson’s list of fifteen items that were new elements is included the “open-ended” definition of investments, including portfolio investments and intellectual property rights, as well as the listings of “all official actions;” the top-down approach, the inclusion of all phases of investments (pre- and post establishment); the dispute settlement processes; and the standstill and rollback applied to country specific exceptions. As Picciotto (1999: 83) summed, obligations were “at as high a level as possible, taking the strongest precedents from existing investment treaties.”

the domestic and at the OECD levels.

Two other groups that belonged to this “system of action” had been included early on in the OECD discussions on the MAI, as part of the traditional corporatist arrangement which had been in place at the OECD for several decades.¹⁷ The Business and Industry Advisory Committee (BIAC) representing business organizations from member states and the Trade Union Advisory Committee (TUAC) playing the same role for trade unions, shared their members’ views on the MAI through exchanges with the OECD committees on a regular basis. While these two groups had had an opportunity to express how their specific interests would best be reflected in an investment treaty, the environmental NGOs had been virtually shut out from any consultation process. As a result, not only did the MAI draft text reflect lacunas in that area, but these NGOs were highly critical of the negotiation process which they labelled as secretive.¹⁸

BIAC demonstrated a strong interest in an investment treaty from the first stages of the MAI project in the early 1990s. The objective of a “high standard agreement” expressed in subsequent OECD papers, such as those appended to the negotiations mandate, met with BIAC’s full support and enthusiasm.¹⁹ To BIAC’s satisfaction the

¹⁷ The term corporatism is used as defined in comparative politics which “usually implies limits on the number of groups that can participate in the political process” (Wiarda, 1993: 154).

¹⁸ These organizations were listed on the model in the conclusion to Chapter 4 as the WWF, CIEL, CUTS, Consumers International and the European Environmental Bureau.

¹⁹ BIAC’s support and approval was expressed at a March 1996 workshop meeting by a member of BIAC’s Committee on International Investment and Multinational Enterprises. In his presentation the committee member recollected how BIAC was “first in” to produce, in the second half of 1992, a “Statement on a Potential Broader Investment Instrument” which contained the key elements for an eventual agreement along with the “business wish list” (OECD, 1996*d*: 20).

OECD reports “had taken up most of [its] suggestions” for a high standard agreement (OECD, 1996*d*: 20). In order to better follow the negotiations, BIAC nominated a special group of experts to liaise with the OECD Negotiating Group. TUAC had also contributed to the early discussions on a “Wider Investment Instrument,” as the MAI was initially referred to. TUAC’s request was that the “spirit and principles” contained in the 1976 OECD guidelines for Multinational Enterprises be reflected in the MAI (OECD, 1996*d*: 23).²⁰ Its initial proposal was that the Guidelines be annexed to the MAI without altering their voluntary nature. Another request was that contracting parties “continue to treat the provision of the Guidelines in parallel to those contained in the ILO [International Labour Organization] Tripartite Declaration on Multinational Enterprises and Social Policy.”

In spite of these pre-MAI contributions and six consultation meetings during 1996, both these organizations were frustrated by the limited amount of information available to them and the lack of access to negotiators (Smythe, 1998*b*: 247). However, relative to

²⁰ The *Guidelines for Multinational Corporations* which are a core element of the 1976 OECD Declaration on International Investment and Multinational Enterprises consist of “voluntary standards of conduct representing the collective expectations of OECD Governments as to the behaviour of such enterprises” (Witherell, 1996: 18). The guidelines include several International Labour Organization core Conventions on workers’ rights, and other standards such as environmental protection, competition policy, science and technology and taxation. TUAC had a clearly defined position: (i) “the OECD Guidelines must be incorporated in the Multilateral Agreement on Investment being negotiated in OECD; (ii) there should be an extensive reference to the Guidelines in the Preamble to the MAI; (iii) the full text of the Guidelines should be annexed to the Agreement; (iv) the text of the Agreement should include the OECD’s decision in 1991 to establish National Contact Points in Member countries to implement and promote the Guidelines; and (v) the OECD must conclude rapidly its review of National Contact Points and once the MAI is concluded in 1997 embark on a major initiative to improve the implementation and promotion of the National Contact Points” (TUAC, 1996). The rationale for TUAC’s position was that when OECD members adopted the Guidelines in 1976 these had been considered as an essential part of a balanced package of measures to facilitate direct investment among OECD Members and that, as such, the MAI should respect these earlier objectives. Eventually, TUAC’s position followed those of other NGOs in requesting much more stringent environmental and labour provisions.

these two organizations, environmentalists had obtained considerably less opportunity to express their views on the MAI. Aside from the October 18-19, 1996 meeting with OECD officials in Geneva and the informal dinner meeting of December 1996 with the NG in Paris (see Chapter 4), environmental NGOs had been completely shut out of any consultation process.²¹ In addition, the procedural arrangement under which the negotiations were taking place meant that the OECD Environmental Policy Committee was excluded from the MAI negotiations (Huner, 1998), and also prevented the NG from consulting with NGOs due to the reluctance of some delegations to do so.²²

As a result, environmental considerations were conspicuously absent from any working papers produced prior to the launching of the negotiations and the environment only came on the NG agenda in October 1996, a year after the negotiations had begun (Huner, 1998: 4). Over those remaining months of the first MAI negotiations' mandate, the approach adopted for the MAI discipline on environment was similar to that on labour.²³ Discussions regarding the environment focused on three "basic themes" referred to as the "three-anchor approach" (Huner, 1998: 4). The first consisted of reaffirming

²¹ The October meeting included only two officials from the OECD: Anders Ahnliid, Chair, MAI EG3, from the Swedish Delegation to the OECD, and Robert Ley, the OECD Head of the International Investment and Services Division (CUTS, 1997). The December meeting, as seen in the previous chapter, included the NG Chair and his American and Japanese co-Chairs.

²² As seen in the previous chapter, this outcome concerned and irritated "insider" environmental NGOs that were accustomed to a much broader consultative role provided NGOs within the United Nations and the environmental committees of the OECD, which prompted them to characterize the negotiations as excessively secretive.

²³ The "task of investigating options or precise formulations" of various alternatives regarding the environment was mandated to existing expert groups and drafting groups at the October meeting (*Inside U.S. Trade*, November 1, 1996: 5). Their proposals were to be discussed at the February 26-28 NG meeting along with the controversial issue of binding subfederal governments and the exceptions (*Inside U.S. Trade*, February 7, 1997).

parties' commitment to the relevant principles of the Rio Declaration in the preambular text. The second included language similar to Article 1114 of the NAFTA that aimed at not lowering standards in order to attract investments. Finally the third anchor consisted of annexing the OECD Guidelines for Multinational Corporations (*Inside U.S. Trade*, November 1, 1996: 5; WWF notes from December 1996 meeting).

None of these provisions would be binding—an omission of great concern to environmental NGOs as expressed during the December 1996 informal dinner meeting.²⁴ They argued that the “social and environmental guidelines for MNCs should be binding, and that [MNCs’] access to the dispute resolution mechanism should be conditional on adhering to such guidelines” in order to balance investors’ rights with responsibilities. The two other main NGO critiques concerned the exclusion of developing countries from the negotiation and the lack of a broader NGO consultation process.²⁵

In spite of the hurdles experienced inside the negotiations, a timely conclusion of the negotiations appeared much closer from the outside, and the imminent signature of the agreement deeply concerned environmental NGOs. In response, insider groups in the U.K. were now engaging the support of their American counterparts in a stern letter writing campaign. Evidently, some more radical organizations endorsed at least one letter, an indication that insiders’ concerns were gaining broader support. Two main objectives were

²⁴ The following is based on WWF notes on the December 1996 meeting.

²⁵ Albeit modest at the time, the usage of the Internet to critique the MAI and denouncing the “secretive” process of negotiations had already raised concerns among the negotiators who expressed their fear that these criticisms could undermine the passage of the MAI through national parliaments. The worry was well founded as far as NGOs were concerned and one, they pointed out, which could be alleviated should a more transparent process take place. The idea of a meeting with the NGO community was discussed as a possible way to remedy the situation.

reflected in these letters. One was to postpone the deadline; the other was to change the non-binding aspect of the provisions to binding ones.²⁶

These mounting critiques were not the only signs of future difficulties with civil society. Indeed, the combined pressures of increasing opposition and decreasing support for the MAI began to emerge at that point. These developments were the beginnings of a trend that would only intensify over time, and few delegations were prepared for the increased intensity of opposition to which the delay in the negotiations offered a window of opportunity.

As in any other multilateral economic negotiations, support from domestic groups was of concern to the negotiators. However, domestic business interest had been lukewarm in several OECD countries.²⁷ Of all OECD members, the American business

²⁶ A letter sent to U.S. officials and dated February 13, 1997 was signed by the American branches of WWF, Friends of the Earth, Greenpeace, the U.S. Center for International Environmental Law, the Sierra Club (U.S.) and other environmental organizations based in the U.S. (see *Inside U.S. Trade*, February 21, 1997: 12). Regarding the first point, NGOs requested that in order for their concerns to be addressed appropriately "the timetable for concluding the MAI must be substantially extended *We thus join a number of our NGO colleagues abroad in calling for an extension of the MAI negotiating deadline by at least a year, i.e., until May 1998*" (emphasis added). Regarding the second point, the letter stated: "[n]on-binding hortatory language - such as 'green' preambular remarks, exhortations against competitive deregulation, or references to toothless guidelines on corporate behavior - *simply are not enough*. These provisions do not even offer the minimal environmental requirements found in the NAFTA - which, we are all agreed, must be substantially improved in the global context of the MAI" (emphasis added).

²⁷ This was due in part to the choice of forum which *de facto* excluded from the negotiation process geographical areas of greater interest to investors. Since most investment flows took place within the OECD and enjoyed an adequate level of protection, the area of interest to the business community lay in developing countries which were effectively outside the negotiations. This was the case for Canada as explained by Dymond (1999: 45) and France as referred to in the report undertaken by Catherine Lalumière (1998: 5). Japan's business community had expressed its opposition to the OECD negotiations favouring the "broader multilateral forum" of the WTO (*Inside U.S. Trade*, March 17, 1995: 10). The International Chamber of Commerce (ICC) was not perceived to be a strong supporter of the OECD MAI (Huner, 1998: 5). Another influential international business organization that supported the MAI was the Union of Industrial and Employers' Confederation of Europe (UNICE), an umbrella organization that represents European business organizations with European Union institutions such as the European Parliament and the European Commission. However, UNICE's support included the added reservation of the desirability of a double approach with the WTO, that would be consistent with the OECD treaty (UNICE, 8 March 1995: 2). This

community demonstrated the greatest interest in the MAI and it is fair to assume that BIAC's interest in the MAI was a reflection of the influence that the U.S. business community enjoyed in that committee.²⁸ Not only was the United States Council for International Business (USCIB) one of the most influential groups in the organization (Smythe, 1998*b*: 247) but it held the chair of BIAC's expert group on the MAI.²⁹ However, by March 1997, those in the business community that had demonstrated strong support for the MAI became increasingly critical of the developments which were taking place in the negotiations. As illustrated by a quote from the letter reproduced below, their criticisms betrayed their intent to withdraw support for the MAI. USCIB's March 21, 1997 letter to the U.S. Administration can be considered as indicative of the MAI supporters' reaction to the developments that were taking place.³⁰

One of the negotiating issues which most affected business support of the MAI was the almost-certain carve-out for taxation. Indeed, throughout 1996 fiscal experts from finance ministries had insisted that applying non-discrimination to fiscal treatment, "could

business response explains why accession by non-members was considered an essential objective of the MAI. As the NG chair pointed out to the OECD Council in his April 1996 report: "Failure to secure non-member adherence to the MAI would be tantamount to failure of the project as a whole" (OECD, 1996*e*). An aggressive outreach campaign with the so-called NMEs (non-member economies) had been launched from the outset through a series of "workshops" which took place in various locations around the world.

²⁸ On the occasion of a business group meeting which took place in Brussels on March 9, 1995, a U.S. delegation made up of the National Association of Manufacturers, the U.S. Council for International Business (USCIB), the Pro-Trade Group and the American Electronics Association, declared itself "strongly in favor" of beginning negotiations for an investment treaty at the OECD (*Inside U.S. Trade*, March 17, 1995).

²⁹ See USCIB letter dated July 11, 1997 to U.S. officials reproduced in *Inside U.S. Trade* (July 18, 1997): "through our chairmanship of the experts group on the OECD's Business and Industry Advisory Committee, we provide participants in the negotiations our views on important issues."

³⁰ The letter was reproduced in the issue of *Inside U.S. Trade* dated March 28, 1997, pp. 4, 5.

conflict with obligations contained in the many bilateral agreements on the avoidance of double taxation” and that certain applications of the dispute settlement mechanism could also be used to “pre-empt the application of taxation treaties” (Engering, 1996: 158). By February 1997, it had been decided that taxation would not be covered by the MAI and that a so-called carve-out/carve-in approach would be followed (Sikkel, 1997: 21). This development contributed to a considerable decline in business support early on in the negotiations, a reaction which did not go unnoticed inside the negotiations (Huner, 1998: 5). As USCIB’s letter confirms: “[w]e reiterate our view that tax measures must be included in the MAI.” The second issue which would become increasingly worrisome for that group were the requests made by environmental NGOs. USCIB’s strongest wording was reserved for the potential outcome of the environmental lobby: “[w]e will oppose any and all measures to create or even imply *binding obligations* for governments or business related to the environment or labour” (emphasis added) (*Inside U.S. Trade* dated March 28, 1997, pp. 4, 5).

What began to emerge as well was the effect of lobbying efforts on opposition parties as Europe was entering a period of electoral change. The first example of such developments were evidenced inside the negotiations by the change of attitude in the British delegation. Indeed, WWF had been lobbying the government in London as well as their shadow counterparts, a strategy which promised to bear fruit in the not-too-distant future as this letter from an opposition member to WWF promised:

Thank you for your letter about the MAI. I have carefully noted the points you make and hope you have been in touch with ... Labour’s Trade and Industry Spokesperson, as well. I have received representations on this subject from the

trade union movement as well, and it is my intention - assuming we win the election and I am in this post in government - to talk to ... the Trade team about getting a development perspective into this issue.³¹

As the British election date of May 1997 approached, and a Labour victory appeared a near certainty, the British delegation which had demonstrated “a very sceptical line towards all of [the MAI discipline on environment and labour] ... became more silent on the issue” (Huner, 1998: 5).

Conclusion

Considering the fast approaching deadline of May 1997, difficulties regarding the inclusion of environmental and social clauses paled by comparison to the number of outstanding issues to be negotiated. Furthermore, at that point in time a majority of delegations supported “the three anchor” approach which provided for the inclusion of non binding environmental and labour rules.³²

The draft text of the May 1997 MAI (OECD, 1997c) reflected the general consensus on the three anchor approach as it included: the preambular language reaffirming the negotiating parties’ commitment to the Rio Declaration on Environment and Development and Agenda 21 along with similar references for labour standards and the ILO; a provision under Section IV which stated that Parties recognized that “it is inappropriate to encourage investment by lowering [domestic] health, safety or

³¹ Letter from Labour’s Spokesperson for Overseas Development to WWF, dated 11 April 1997.

³² As mentioned earlier, the British delegation which had been “skeptical” began changing attitude as the elections approached. The “other opponents of labour and environment clauses in the MAI were Australia, New Zealand, Korea and Mexico” (Huner, 1998: 5). Thus the two major parties, Europe and the U.S., supported such inclusions.

environmental [standards] [measures] or relaxing [domestic] [core] labour standards, and; and the annexation of the OECD MNC Guidelines.” Of these, only the preambular text was mostly in brackets at the request of the delegations which were against it. For these reasons, it is far from certain that insiders’ concerns would have held back the conclusion of the negotiations had the NG been closer to an agreement on other outstanding issues.

Rather, the NG Chairman’s first public statements regarding a possible extension of the mandate attributed the delay to the difficulties on the cultural exception, REIO, binding subfederal governments, non-member accession and the incomplete negotiations of country-specific exceptions (*Inside U.S. Trade*, March 28, 1997: 3). In fact, the U.S. had asked the Chairman earlier that year to submit a proposal for an extension. The reason given was that the U.S. Congress had not been informed of the MAI negotiations and that there was not enough time left to submit the MAI for approval. Thus, while relating the causes of the delay in the interview, the Chairman expressed his concern that the U.S. Administration include the MAI in its upcoming request for fast-track authority (*Inside U.S. Trade*, March 28, 1997: 3).³³ Furthermore, the U.S. was dissatisfied with the degree of liberalization achieved so far. On March 11, 1997 Alan Larson, the American Assistant Secretary of State for Economic and Business Affairs publicly stated the American position regarding the MAI. While emphasizing the “considerable success in drafting the text of MAI obligations” Larson was also quoted as saying “[w]e need to

³³ “Fast-track authority” refers to powers given by Congress to the President of the United States to negotiate international economic agreements. These are granted for a limited time and had run out by the time the United States engaged in the MAI negotiations. For a good understanding of this policy issue between 1994 and 1999, see Kerremans, 1999: 49-85.

make sure this progress is not undone by unreasonable exceptions in such critical areas as privatization, cultural industries and the right of establishment” and further stressed U.S. concerns “about a broad exception for Regional Economic Integration” (*Inside U.S. Trade*, March 14, 1997: 12). Also, considering its opposition to the listing of country-specific exceptions the U.S. would not have signed the treaty. As Larson further commented in an April 1997 interview:

Frankly at this stage of the negotiation, we are not satisfied with the offers that have been made by other countries. We think they have not offered a degree of openness and a commitment to access that would result in a balanced agreement (U.S. Information Agency, April 1997: 3).

Furthermore, as suggested earlier, the negotiations regarding the Helms-Burton Act, an issue which was considered to be a “deal-breaker” for Europe and Canada, had not been completed. By March 1997, the NG had little difficulty recognizing that they were far from concluding a treaty. Thus the chairman proposed at the March 1997 meeting to postpone the deadline “with little consultation but no disagreement from the Negotiating Group” (Dymond, 1999: 30). At that point, therefore, even though the necessity to include environmental rules had been acknowledged, opposition from civil society was not a deciding factor in extending the negotiations.

However, there was a growing awareness that a timely resolution of the outstanding issues was of the essence for the success of the negotiations, and the NG debates regarding the length of the extension revealed concerns to that effect in Europe.³⁴ In general, European members feared that too long a delay would result in a loss of

³⁴ This paragraph is based on the issues of *Inside U.S. Trade*, dated March 28, 1997: 3; April 4, 1997: 7; and May 23, 1997: 11.

momentum and, as the Chair expressed it, “a loss of commitment [or] new problems in the economy or political setting”. Nevertheless, for the U.S the quality of the treaty was not to be jeopardized by too short an extension, and it wanted to “keep things as open as possible”. Eventually, a compromise was reached and expressed in the NG final report to ministers by emphasizing “the importance of concluding the agreement by the [May or June] 1998 ministerial”. Although the political will and confidence in the NG’s ability to solve the outstanding issues was still strong, in hindsight European fears were justified.

Indeed, had a treaty been signed at that point, little public awareness would have been awakened as intellectuals-engagés and mobilizers had had little time to obtain the necessary information and develop their campaigns. This however would all change very soon, and the seeds of the upcoming events were being planted just as the negotiators were debating the extension of the negotiations. In fact, the second period of the negotiations can be best characterized as one where the scales tipped in favour of the MAI opponents. For these reasons this first period of negotiations has been referred to as a period of transition whereas the second period to which we turn in the next chapter is better described as one of convergence.

CHAPTER VI

FROM CONVERGENCE TO CONJUNCTURE: SECOND AND THIRD NEGOTIATIONS' MANDATES

Introduction

The previous chapter provided an analysis of the progress of the MAI negotiations and the response on the part of civil society during the first mandate of the negotiations which took place from May 1995 to April 1997. We saw that during that first period the NG experienced unforeseen stumbling blocks as well as difficulties of a technical nature that required an extension of the negotiations' mandate. During that period only one type of societal actor, that of the interest group system of action, had had the opportunity to express its critiques of the MAI. I also argued that, in the light of the difficulties experienced within the negotiations, civil society had had no significant influence on the outcome of those two years of negotiations. Rather, it was the numerous stumbling blocks that caused the extension of the mandate for another year.

However, in the concluding paragraphs I suggested that apprehensions concerning the delayed ratification of the agreement were insightful. Indeed, as the NG was debating the extension of the mandate, actors belonging to the social movement system of action—also referred to as intellectuals-engagés and militant-mobilizers or radicals—were engaging their anti-MAI campaign. For that reason the first period of negotiations was characterized as a period of transition. Indeed, as will be seen in this chapter, by December 1997 a broad-based opposition had emerged and intensified considerably. Furthermore, a series of fortuitous concurrent circumstances, as far as MAI opponents were concerned, combined to worsen the prospects for the MAI.

The present chapter begins with the second period of negotiations which is best characterized as a period of *convergence* in terms of the developments which took place

within civil society. That section is followed by a third period characterized as one of *conjuncture* in that it resulted in a heightened social opposition to the MAI and the demise of those negotiations.

The chapter concludes with an assessment of the influences that the social opposition to the MAI had on the outcome of the negotiations. In terms of *direct influence*, which was defined in the previous chapter as influence on substantive issues within the negotiations, NGOs succeeded in bringing greater attention to the inclusion of labour and environmental standards in the text of the document. This, however, was deemed insufficient in terms of enforceability. Another substantive impact concerned the dispute settlement mechanism and the provisions on expropriation. In those cases, the influence was of significance not only because the latter part of the MAI text had already been agreed upon but also because they reflected novel concerns regarding such agreements and the process of globalization expressed by actors that belonged to the social movement system of action.

The analysis also reveals that it was societal actors' *indirect influence* exercised through pressure on elected officials that was most effective. Since this type of influence is also typically sought by actors from the social movement system of action, the meaning of this type of societal actor for world politics becomes a question of interest to this research. This is all the more so since we concluded in Chapter 4 that these actors' opposition to globalization was spreading through a growth in social movements networks.

I. Negotiations Period II: April 1997 to April 1998

As seen in Chapter 4, the intellectuals-engagés' campaign began in earnest in April 1997. These provided a new dimension to the ongoing insiders' campaign. Having obtained a copy of the draft MAI, North American activists collaborated to place the draft text on the Internet and simultaneously released a comprehensive critique of the MAI titled "MAI-Day: A Corporate Rule Treaty" (Clarke and Barlow, 1997: 3). At the same time, they organized the first world media release of an article on the MAI in the Canadian daily newspaper *The Globe and Mail* titled "Treaty to trim Ottawa's power."¹ These actions launched a virtual public campaign which quickly spread around the globe.

In North America, they revived anti-NAFTA sentiments. The fortuitous April 1997 announcement of a federal election in Canada enabled anti-MAI groups to draw public attention to the MAI as a threat to democracy. Canadian activists were as astonished as officials to witness the rapid spread of a grassroots MAI opposition. While no grassroots campaigns against the MAI took place in the U.S., more radical groups began to join insiders in their lobbying efforts, an outcome which U.S. officials must have viewed with growing concern.² Although similar campaigns were slower to start in Europe they were no less effective. By December 1997, several groups were collaborating across European borders and with North American activists in contacting politicians and raising public awareness through aggressive campaigns. Political responses

¹ See *The Globe and Mail*, April 3, 1997 p. A1.

² For example a letter dated June 30, 1997 addressed to the Assistant United States Trade Representative for Environment and Natural Resources was co-signed by, among others, Public Citizen and the Preamble Collaborative (see *Inside U.S. Trade*, July 4, 1997: 10).

in Europe were, in some cases, decisive for the MAI.

In addition, MAI opponents were assisted by a series of fortuitous events. The May 1997 elections in Britain brought down the Conservative government, a major supporter of a high standard agreement. In June, the French elections resulted in a coalition government made up of the Socialist, Greens and Communist parties. Considering the importance of these European members within the Union, these electoral changes were significant. Furthermore, an investor-state dispute launched under NAFTA in April 1997 would prove to be a powerful weapon in the hands of MAI critics. Finally, the Asian financial crisis which emerged full blown in early 1998 cast another shadow over a high standard investment agreement.

As a result, during the second period, the MAI drew increased political attention commensurate with the public opposition that was growing in several OECD countries.³ From January to April 1998, multiple anti-MAI campaigns grew gradually, gaining considerable visibility as the need for another extension became evident.

These developments are addressed in the following sub-sections under separate headings. The first sub-section will provide an analysis of the indirect influence that MAI opponents exercised through politicians and the impact of public pressure. The second sub-section will analyse the progress of the negotiations and the direct influence of civil society groups inside the negotiations.

³ One activist reported that campaigns took place in 11 of the 29 OECD countries (Clarke, 1998b: 20).

Indirect influence: Alerting Politicians

Perhaps the greatest vulnerability of the MAI stemmed from the lack of political sensitivity and the lack of domestic interdepartmental consultation which became evident in most countries as the negotiations proceeded.⁴ As has been observed in hindsight, not only did the technical language and complexity of the agreement escape most lay persons, but the periodic communiqués submitted to the OECD Council for approval were worded in general terms giving little opportunity for political oversight of some potential problems (Huner, 1998: 7; Lalumière, 1998: 4). As anti-MAI campaigns progressed, activists increasingly capitalized on that weakness. Not only did they inform politicians and officials of the existence of the MAI, but as they did so, only their interpretation of the agreement was thus conveyed to members of Parliaments. As already explained, the insiders' characterization of the negotiation process as secretive became more widespread as the anti-MAI campaigns radicalized. This characterization seemed to be confirmed when elected Parliamentarians' ignorance of the MAI negotiations was exposed not only to them but also to their constituents.

(A) North American Campaigns

This tactic was very effective in Canada where the fortuitous call for a June 1997 election provided MAI opponents with an opportunity to publicly expose it as a threat to democracy. That message spread throughout the country when the national news

⁴ It has been observed subsequently that indeed some delegations seemed to enjoy much autonomy and that little cross-departmental consultation seemed to have been taking place. Civil society groups from several countries commented on the difficulty they experienced in finding the government bureaucrats responsible for the negotiations.

broadcast a press conference called by the Common Front on the WTO.⁵ Then, on May 29, 1997 the Council of Canadians, with the support of groups such as the Sierra Club, placed a full-page ad in *The Globe and Mail* which stated: "Next Election, your vote may be irrelevant...The New Multilateral Agreement on Investment gives the corporations so much power Parliament won't matter" (May, 1998: 33, 34). The concerns which had been generated at the grassroots level were exacerbated by the exposure of candidates' ignorance of the MAI in public election debates, especially when these were sitting members of the incumbent political party. Activists also sent letters to uninformed cabinet ministers in order to alert them about the implications of the MAI for their respective portfolios (Clarke and Barlow, 1997: 3, 4). As a result, political pressure for a public debate on the MAI came not only from a rapidly mounting public opposition, but also from the incumbent Parliamentarians of the governing Liberal Party whose ignorance of the matter had been exposed to their constituents.

By November 1997, the Canadian Government had organized a country-wide public inquiry on the MAI which tabled its report in December 1997. Among the recommendations made by the Committee responsible for the inquiry was one which called for "an open and transparent process so that public disclosure and consultations can be carried out in a timely manner" when undertaking negotiations "regarding matters of as

⁵ As May (1998: 33), the President of Sierra Club (Canada) and a participant in the conference, remembered it: "[t]he Common Front held a press conference during the election focusing on the threat to democracy represented by globalization in general, and by the MAI in particular. The national radio news carried the news conference, and the Sierra Club and the Council of Canadians immediately felt the impact. People were calling in from all over the country, from the Maritimes to the Yukon, asking about the MAI."

widespread importance as the MAI.”⁶

In the U.S., a similar opportunity presented itself on the occasion of the fast-track application process which took place in the fall of 1997. Activists used the fast-track application process undertaken in the fall of 1997 to bring the MAI to the attention of members of Congress. Anti-MAI NGOs alerted members of the American Congress not only to the existence of the MAI negotiations but of their own interpretation of the treaty’s potential impact on a variety of policies. They did so by organizing membership “calling day” campaigns to members of Congress and officials in the Administration and by distributing the so-called “hill drops,” or briefing sheets on the MAI, to members of Congress.⁷ The strategy had some effect since in November 1997 a bipartisan group of 25 Members of Congress strongly criticized the Administration for having been engaged in the MAI negotiations without notifying Congress. As the letter questioned: “how has this agreement been under negotiation since May 1995, without any Congressional consultation or oversight, especially given Congress’ exclusive constitutional authority to regulate international commerce?” (*Inside U.S. Trade*, November 14, 1997: 11). Of

⁶ See “Canada and the Multilateral Agreement on Investment,” Third Report of the Standing Committee on Foreign Affairs and International Trade, December 1997, p. 7. A Canadian Government information document titled “Multilateral Agreement on Investment (MAI): Consultations by the Federal Government (as of July 13, 1998)” revealed that up until the fall of 1997, the main parties consulted within civil society were those that belonged to particular sectors of the economy the so-called SAGITs (Sectoral Advisory Groups on International Trade), labour, and the provinces.

⁷ Calling campaigns are a strategy used by NGOs where they invite their membership to phone particular individuals on specific dates. Since some of the NGOs have a particularly large membership base (for example the Sierra Club - U.S. counts some 600,000 members) the number of calls received by one individual can be overwhelming. NGOs target officials in the Administration as well as Members of Congress who are deemed to be likely to take political action on the issue rather than officials in USTR for example. In the case of the MAI, telephone calls to the White House Chief of Staff became so intense on one occasion that the responsible NGO, Public Citizen, was asked for a reprieve.

significance for the MAI negotiations was the subsequent withdrawal of the MAI from the second fast-track application (Dymond, 1999: 31). This represented a set-back for the MAI since the credibility of that United State's commitment to the MAI was then considerably diminished inside the NG, undermining other delegations' confidence in the process.⁸

(B) European Campaigns

Given the impact that the lack of Parliamentary oversight of the MAI had had in North America, bringing the treaty to the attention of politicians also became a key strategy in Europe. In addition to fostering the types of grassroots campaigns described in the previous chapter, intellectuals-engagés from Europe and North America collaborated to alert politicians.⁹ Subsequent to the NG/NGO meeting of October 1997, MAI opponents intensified their work with political parties at every level. Parliamentarians within individual countries and at the European Parliament level were alerted to the

⁸ Once the MAI was excluded from fast track authority the only way it could be submitted to the Congress for approval was as a treaty. The latter solution meant that only the Senate would be required to pass the MAI by a two-thirds majority. However, in that case the difficulties would stem from the outstanding disagreements regarding the Helms-Burton and the Iran-Libya Acts. That is, should the Senate be asked to approve the MAI, the ongoing US-EU negotiations concerning these Acts would have to be resolved in a manner satisfactory to the Senate Foreign Relations Chairman and initiator of the Helms-Burton Act, Jesse Helms— a difficult feat in itself. Furthermore, since those negotiations failed to meet the October 15, 1997 deadline, and no solution was envisaged prior to April 1998, the issue was becoming a serious impediment to successful MAI negotiations (*Inside U.S. Trade*, November, 21, 1997 and January 16, 1998).

⁹ As one North American activist worded it: "what we did when we met with [European] groups in January and afterwards was to say if you're going to mount a campaign in your country, one of the most important things that you need to do is to educate people in the government as well as the public at large about what this is about and to understand that there are different parts of your government that are going to be directly affected by it. So that the Minister of Health, the Minister of Education or the Minister of Culture, or the Minister of social programs or whatever, all of these and many more are going to be affected by the MAI. The question is are these departments even aware of what's going on" (interview with the Polaris Institute, September 1999).

existence of the MAI indirectly through the Internet and directly through contacts with European and North-American activists.¹⁰ This section describes some successful examples of such collaboration between groups that belonged to the “social movement system of action” and the “political party system of action.” These were successful in that they resulted in decisive political action which eventually had an impact on the fate of the negotiations.

The first critical analysis of the MAI titled “MAI-Day: the Corporate Rule Treaty” eventually made its way to elected officials in the European Parliament.¹¹ As a result, by the fall of 1997 the Greens along with other minority parties from the left focused their attention on the MAI. By December 1997 they had succeeded, with the help of the newly elected Austrian Presidency, in initiating the Parliamentary process necessary to produce an “initiative report” on the MAI.¹² The report, albeit modified, led to a Recommendation on the MAI negotiations from Parliament to the European Commission which was approved by a majority vote on March 11, 1998. Throughout the process staff and officials from these political parties were in direct contact with activists from the

¹⁰ Unless otherwise indicated, the evidence collected to illustrate the remainder of this section was obtained through interviews with activists in Europe and North America and European officials in the fall of 1999.

¹¹ Note that this analysis of the MAI was translated into several languages.

¹² The Presidency of the European Parliament changes every six months. According to interviewees from the European Parliament, Austria was aware of and concerned by its own growing domestic opposition movement to the MAI. That movement was started by a feminist academic who had obtained the Internet copy of “MAI-day: The Corporate Rule Treaty.” Although these reports do not represent executive decisions, they do hold some degree of political authority in that they may yield Parliamentary Recommendations.

social movement system of action.¹³

Consequently, the recommendations which transpired in the final text adopted by the European Parliament espoused many of the MAI opponents' critiques.¹⁴ Among these were Parliament's concerns "that the draft multilateral agreement on investments (MAI) reflect[ed] an imbalance between the rights and obligations of investors," and that the compatibility of the MAI with EU environmental, social and cultural legislation and its relationship with MEAs had not yet been clarified. Parliament's explicit recommendations to the Commission called for: "a broader public debate and ongoing parliamentary monitoring of the negotiations," and an "independent and thorough impact assessment in the social environmental and development fields investigating to what extent the draft MAI [was] in conflict with relevant international agreements such as the Rio Declaration, Agenda 21" and the OECD MNC Code of Conduct of 1992. The Resolution further called upon "parliaments and governments of the Member States not to accept the MAI as it stands" and further instructed the President of the European Council "to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States and the Secretariat of the OECD." The overwhelming majority of votes in

¹³ Beginning with an informal meeting in December 1997, regular strategy meetings were scheduled and lasted throughout the anti-MAI campaign into the fall of 1998. As mentioned in Chapter three, subsequent to the NG/NGO meeting North American activists decided to engage in such meetings starting in January 1998. The latter reunited politicians with members of the French movement and in particular l'Observatoire de la Mondialisation and that organization's collaborators from France, Belgium and North America as well as activists from other Northern European countries. Even activists who considered themselves mobilizers contributed to a "fax sending" campaign in order to convince Parliamentarians to vote in favor of the Recommendation.

¹⁴ The excerpts which follow in this paragraph were taken from the European Parliament document PE 267.866, pages 50-55 which were the "Minutes of the sitting of Wednesday 11 March 1998, Part II, Texts adopted by Parliament."

support of this document provided activists' with a formidable tool to question their respective governments' involvement in the MAI.¹⁵

Throughout their contacts with European activists, intellectuals-engagés from the U.S.-based NGO Public Citizens, Friends of the Earth-U.S. and the Canadian Polaris Institute not only stressed to their European colleagues the importance of alerting European politicians but participated in the process. Beginning in January, these activists briefed French politicians from the Communist and the Green parties that had formed a coalition government with Lionel Jospin's Socialist party.¹⁶ In addition to holding private meetings with Parliamentarians, these North American activists joined their French counterparts and politicians in several colloquia which took place at the French Parliament.¹⁷ The contribution made by North Americans through their knowledge of the NAFTA and examples of investor-state disputes provided European activists with concrete examples to illustrate what were at times abstract critiques of a treaty, the language of which few understood.

Contacts with politicians and high level officials from different ministries also enabled intellectuals-engagés to engage in a strategy they referred to as operation

¹⁵ The final vote count was 437 in favor, 8 against and 62 abstentions (based on a Press Release dated 11 March 1998 from the Greens in the European Parliament and transmitted by electronic mail from the European Parliament to Friends of the Earth International).

¹⁶ These activists also worked in close collaboration with the Greens from the franco phone region in Belgium called the Ecolos. The Ecolos party, which was in opposition at the time, undertook public information campaigns as well as political challenges in Parliament and with politicians. This political party was also involved in the campaign to pass the report at the European Parliament. There is also evidence of North American activists meeting with politicians as far North as Sweden (based on interviews with activists and archival documents from the Observatoire de la Mondialisation).

¹⁷ At least two such meetings took place: one on December 4, 1997 and the other and more visible meeting on April 22, 1998.

“monkey wrench.” This strategy consisted of drawing the attention of officials of one country to the exceptions of another country and pointing out discrepancies with the exceptions filed by those officials’ own delegation. The objective was to create reactions that would help to increase the number of country-specific exceptions tabled. Although it is difficult to document whether such a strategy contributed to the growing number of exceptions which had been tabled by April 1998, there is little doubt that activists’ interpretation of the MAI and its impact on various portfolios created concerns in several administrations.

The “absence of politics” from the MAI process, as it was referred to in Europe, resulted in a significant political backlash against the MAI. The difficulties activists experienced when attempting to obtain information on the MAI from their domestic bureaucracies only exacerbated the secrecy label that was becoming widespread. The apparent lack of transparency and interdepartmental communication increased politicians’ concerns. Furthermore, the lack of consultation with or even information given to politicians left a vacuum which was filled by MAI opponents’ views at the expense of the MAI proponents. Some have argued that the most “decisive impact” of NGOs was to make the MAI a “prominent and sensitive political issue” (Henderson, 1999: 28). While the grassroots campaigns and the media attention described in the previous chapter contributed to that influence in many OECD countries, NGOs’ indirect influence on the MAI caused by “parliamentarians who felt that they had been insufficiently informed and consulted” (Henderson, 1999: 28) was as significant. As was observed in UNCTAD (1999*d*: 136): “NGO influence -- often through direct links to parliamentarians -- brought

about unexpected developments ... which appeared to have caught negotiators by surprise.”

Direct Influence on the Negotiations: Raising Substantive Issues

The second period of negotiations began with a meeting at the end of June 1997 followed by a summer pause and the resumption of the usual schedule of meetings in September. The five meetings which took place in the latter half of 1997 failed to bring negotiators any closer on the most pressing issues which divided the largest negotiating parties involved, the United States and the EU. In particular, the European Commission and its members continued to defend the requests for REIO and cultural exceptions, a position strongly opposed by the U.S. Conversely, the outstanding issue of extra-territoriality continued to represent a threat to a successful conclusion of the negotiations. As the October 15, 1997 deadline initially set to conclude the negotiations on the Helms Burton and the Iran-Libya Sanction Acts came and went without an agreement, the likelihood of reaching a conclusion on the MAI negotiations by April 1998 became increasingly remote (*Inside U.S. Trade*, November 21, 1997: 13). Neither was any progress made on the issue of binding subnational levels of government which led Europeans to oppose North Americans. Continued disagreements on the process of liberalization and the listing of country-specific exceptions further stalled progress.

In the meantime, the issues of labour and environment were given increasing attention, an indication of the growing level of anxiety raised by MAI opponents in several OECD countries. As Canada's Chief Negotiator observed later: “by the latter half of 1997 [labour and environment] had attained status as major negotiating issues” (Dymond,

1999: 38). These were not only time-consuming; they also provided yet further grounds for division within the NG.

The growing opposition in North America began to affect the U.S. position inside the negotiations. At the first NG session of June 30-July 3, the American delegation engaged in informal discussions with other delegations on new proposals which went beyond existing ones.¹⁸ The U.S. proposal included adding language similar to NAFTA Article 1114.1 (rather than the previous proposal of including NAFTA 1114.2) which was perceived to be tantamount to creating an exception from MAI rules for environmental measures. In addition, the U.S. proposed that language be included that would be similar to articles 3 and 5.1 of the NAFTA side agreements and “language on allowing countries to conduct environmental impact statements (EISs) for proposed investments which could have environmental effect” (*Inside U.S. Trade*, January 23, 1998: 5). Responses to the American proposals reportedly ranged from the “cool reaction” of European countries to “strong reservations” from other OECD members (*Inside U.S. Trade*, January 23, 1998: 5).

Similarly, insiders’ lobbying efforts were felt inside the negotiations subsequent to the May 1997 British elections. As one negotiator commented, referring to the recent

¹⁸ This sudden interest in improving upon the environment and labor provisions was indicative of the pressure exercised by European insiders’ counterparts in the U.S. Indeed, as the NG Chair’s representative observed, during the three years of preparatory work on the MAI, no discussions had taken place on how the MAI would relate to Multilateral Environmental Agreements (MEAs) although work on the relationship of the MAI to other agreements had taken place. Such inattention on the part of European experts might have been understood since outside of the NAFTA no other international economic agreement contained environmental provisions. Thus the question was raised as to why the U.S. had not raised the issue in light of that country’s experience with the opposition to the NAFTA and the compromises on environment and labor that had enabled that Administration to obtain ratification of the agreement (Huner, 1998: 3).

British and French elections: “[labour and environment] will have to be addressed very carefully in the MAI. There has been a remarkable shift” (*Inside U.S. Trade*, July 11, 1997: 1). As early as September 1997, the British delegation began to pressure the NG for an environmental review of the MAI.¹⁹ Considering the fact that the British delegation had been, until then, a strong proponent of a “high standard agreement” and highly sceptical of environmental provisions, the shift in that new central government’s position was significant.

The intensification of the anti-MAI campaigns and that on the Internet in particular also had an impact on the NG. As the MAI draft text was made public, its labelling as a “Confidential” OECD document seemed to confirm the criticism of the process as secretive. In order to placate that critique, the Chair requested that MAI documents be declassified, an idea which never materialized since it was resisted by a small group of countries (Huner, 1998: 55). The second and more significant NG response to the virulent anti-MAI Internet campaign was that all delegations agreed to hold a consultation process with NGOs. As the Chair’s representative worded it: “[b]y the early autumn of 1997 it became clear that some form of direct dialogue between NGOs and the negotiators

¹⁹ This request had been the first item on a list of requests made in a letter from the WWF and endorsed by a group of NGOs (Correspondence from Dr. Claude Martin, Director General, WWF International, dated 19 May, 1997). The WWF had first requested this in vain from the previous British government as early as December 1996 (WWF, 1998). The initial British proposal was submitted in DAFTE/MAI/RD(97) 43 in September 1997 and the delegation followed up with another request submitted in DAFTE/MAI/RD(97)50 at the NG meeting of October 29-30, 1997. In a letter dated November 4, 1997, the Department of Trade and Industry wrote to WWF providing feedback on that meeting and stating that “[a]n important UK objective was to speed up work on an environmental review of the MAI....The review will be discussed in December and January and I expect a report will be published early in 1998 with a view to getting further NGO reactions/suggestions and taking necessary action before negotiations conclude.”

was inevitable” (Huner, 1998: 5).²⁰ Thus, in September 1997, WWF and FOE International finally received the request from the OECD to organize a meeting with NGOs on October 27, 1997 prior to the scheduled NG meeting.

Although the impact of the encounter between negotiators and NGOs was not immediately evident to activists, the meeting had a direct influence on the negotiations. As explained in the previous chapter, by the time this meeting occurred, the opposition to the MAI had radicalized to a point where all NGOs’ objective was to stop the agreement altogether. Since the NG rejected that request, the perception was that the meeting had served little purpose. However, several points which were raised provided constructive criticism which negotiators attempted to address subsequently. In particular, Canadian NGOs’ description of a lawsuit filed under the NAFTA investor-state dispute settlement mechanism reverberated on several provisions.²¹

The “Ethyl case” convinced negotiators that the MAI provision on expropriation needed to be reconsidered. The prospect of corporations suing governments for “regulatory takings” had not been considered when the provisions on expropriation had been drafted. In response, the article on investment protection which dealt with

²⁰ Interviews also confirmed that officials agreed to meet NGOs in light of the growing opposition and in the hope of calming the antagonism which had been generated towards the MAI.

²¹ On April 14, 1997, the United States-based Ethyl Corporation “launched a NAFTA claim against the Government of Canada for damages done to its Canadian subsidiary by legislation which prohibi[ted] the importation and interprovincial trade of MMT, a manganese-based gasoline additive produced by Ethyl” (letter from Ethyl Corporation to World Development Movement, Friends of the Earth UK and WWF-UK dated April 1998). Since the “damage” was deemed to have been done as a result of a Canadian Government legislation, MAI critics used this and other NAFTA cases as examples of potential misuse of several MAI provisions which were similar to the NAFTA investment provisions. See Steve Shrybman and Michelle Swenarchuk’s respective articles in *Dismantling Democracy* for the legal critique adopted by NGOs.

expropriation, and which had been one of the first to be agreed upon, was re-examined.²² Early in 1998, negotiators expressed their common view that the MAI would not interfere with the “normal regulatory powers of government and that the exercise of such powers [would] not amount to expropriation” (*Inside U.S. Trade*, February 20, 1998: 17). In March of 1998 the NG chairman proposed changes to the draft text to that effect (Graham, 1998: 611).

Linked to this issue was NGOs’ opposition to the investor-state dispute settlement mechanism. Here also, MAI opponents found receptive ears in Europe. The Ethyl case seemed to confirm perceptions of cultural differences between Europeans and Americans with regard to legal conduct. For some Europeans, the Ethyl case was an example of the Americans’ readiness to sue by taking provisions out of the broader context of an agreement—a prospect which frightened some delegations. As one European observer worded it: “[t]here is a tradition in the United States in particular of lawyers trying to pursue perverse interpretations of texts. There is a clash between North American and European culture, the European way of approaching things is that everything should be seen in its context.”²³

Europeans’ understanding of the investor-state dispute processes was based upon their experience with bilateral investment treaties (BITs). Under BITs, which European countries have signed mostly with developing countries, the investor-state dispute

²² Graham (1998: 604) defines the understanding of “regulatory takings” in the U.S. as “laws or regulations that reduce the value of a private asset or property.”

²³ Based on interviews conducted with officials in Europe in the fall of 1999.

settlement mechanisms have been intended to provide corporations with legal recourse in cases where the judicial system in the host country was deemed inadequate.²⁴ The implicit situation was that of a Northern corporation investing in a developing country. The idea, exemplified by the Ethyl case, of a Northern corporation suing a (Northern) government that enjoyed a fully developed judicial system, was foreign and shocking.

The Ethyl case lent credibility to the MAI opponents' critique that the agreement would "subject state sovereignty to multinational corporations" (Dymond, 1999: 40). NGOs claimed that such law suits would result in a "chilling effect" on legislators.²⁵ As a result, the already embattled proposal for an investor-state dispute settlement mechanism was further set back by the exposure of the Ethyl case. As pointed out by UNCTAD (1999*d*: 135): "[f]ailure to resolve this matter would have thrown into question one of the main pillars of the MAI."

Several documents illustrate the way in which negotiators addressed NGOs' concerns. By the end of January 1998, negotiating parties were asked to carry out their respective environmental reviews (OECD, 1997*b*). As well, the OECD secretariat undertook studies on the relationship of the MAI to MEAs (DAFFE/MAI(98)1) and the relationship between FDI and the environment (DAFFE/MAI(97)3). Furthermore, the

²⁴ See Graham (1998) for an informed discussion on this topic.

²⁵ This argument appeared on many NGO web sites. Following is an example taken from the submission of the Sierra Club of Canada to the Canadian Government hearings on the MAI on November 18, 1997: "[t]he MAI would restrict Members of Parliament's freedom to legislate, without fear or threat of financial penalty to Canada, to protect the environment, public health and other non-monetary interests deeply valued by Canadians.... While the proposed MAI wouldn't stop governments from enforcing environmental laws or enacting new ones, the MAI would allow those foreign investors to turn around and sue taxpayers, to recover their lost profits. And that's the chilling effect of the MAI and our primary concern. Governments aren't going to think once, they're going to think 50 times before enacting future environmental legislation."

NG Chair's proposal on labour and environment dealt with the issue of regulatory takings (DAFFE/MAI(98)10).²⁶ Concerns regarding regulatory takings were addressed by including language to the effect that contracting parties would be able to adopt measures "to ensure that investment activity is undertaken in a manner sensitive to health, safety or environmental concerns, provided such measures are consistent with this agreement."²⁷ Another article concerned the issue of "Not Lowering Measures" and read as follows: "A Contracting Party shall not waive or otherwise derogate from ... its domestic health, safety, environmental or labour measures as an encouragement [to investments]." While still under negotiation in April 1998, the Chair's proposal reportedly found majority support. The April 1998 MAI draft reflects the debates and number of alternatives submitted to that effect. Not only does the draft include the preambular language, the section on "Not Lowering Standards," and the annexation of the OECD Guidelines for Multinational Enterprises included in the 1997 draft, but a new section on "Additional Clauses on Labour and Environment" was added in Section III.

Whether these efforts provided the hoped-for results was a matter of some disagreement. As far as negotiators were concerned, significant attention and a genuine attempt to address NGOs' concerns were made, albeit in a way that would be balanced with the interests of business groups.²⁸ However, environmental NGOs felt that these

²⁶ See Mabey (1999: 77) regarding the three last OECD documents listed.

²⁷ The excerpts quoted are taken from the Annex to Engering's Paper on Labor and Environment as reproduced in *Inside U.S. Trade*, March 27, 1998: 17-19.

²⁸ As such, some negotiators were puzzled by the continued NGO opposition. It was felt that NGOs had missed an opportunity to see such provisions included in a multilateral economic agreement.

attempts fell far short of their demands and viewed them as “too little, too late” (Mabey, 1999: 77). This opinion applied to insiders as well as the more radical groups. Their reservations were informed by their experience of diverse rulings under the NAFTA and the WTO and the growing distrust which ensued in the environmental community regarding such provisions.²⁹

While the NG attempts at dealing with the labour and environment issues did not ameliorate the MAI opposition they contributed to an erosion of support from the business community. Throughout the second period, as focus increased on the labour and environmental provisions, business groups’ interest in the MAI moved from concerns to critiques to indifference, thereby undermining the only source of civil society support for the negotiations

At first, the early American proposals prompted an immediate and stern response not only from USCIB but also from other business groups that had been relatively quiet observers up until then. The American business lobby group objected to any provisions that “would turn the MAI into a vehicle to promote environmental and labour objectives unrelated to (and possibly inconsistent with) the goals originally outlined by the

²⁹ For an informed discussion of Environmental NGOs’ concerns see Nick Mabey, “Defending the Legacy of Rio” in *Regulating International Business*, pp. 60-81. Regarding the Chair’s proposal Mabey wrote: “the proposed amendments would still open up environmental laws to challenge under the MAI for discrimination, and the burden of proof they would have to surmount remained unclear. Experience with similar clauses under the GATT system shows that an environmental regulation has never survived a challenge from an international economic agreement As yet, the negotiators had not adequately dealt with the expropriation or MEA conflicts, and the issue of binding environmental standards on companies was yet to be addressed.”

Agreement.”³⁰ At a January 12, 1998 consultation meeting with the NG, 40 business representatives from 7 international and regional business groups supported BIAC in expressing their concerns over the new proposals on labour and environment.³¹ In sum, the business community questioned whether the final package would “really add value to the current investment environment.” Added to this growing concern were the developments on country-specific exceptions and other unresolved debates on liberalization provisions as well as the investor-state dispute settlement mechanisms. Thus, as Henderson (1999: 29) observed: “[f]or all these reasons, the feeling spread that whatever was eventually signed would not be worth a great deal.”

Thus, by April 1998, negotiators and their governments were beginning to experience what Dymond (1999: 26) referred to as a “negative gain/pain ratio.”³² That is, as the “value added” of the MAI appeared to be waning governments were losing the fragile domestic support of those constituencies that stood to gain from such a treaty while still being criticized by other constituencies. That situation would prevent

³⁰ Letter from USCIB to Jeffrey Lang, Deputy Trade Representative dated July 11, 1997 as reproduced in *Inside U.S. Trade*, July 18, 1997, pp. 13, 14.

³¹ See “BIAC Statement on MAI” reproduced in *Inside U.S. Trade*, January 23, 1998, pp. 6, 7 and signed by the European-American Business Council, Fédération Bancaire de l’Union Européenne, the International Chamber of Commerce (ICC), the International Organisation of Employers (IOE), UNICE, and World Business Council for Sustainable Development.

³² Note, however, that Dymond (1999: 26) attributed the “negative political gain/pain ratio” solely to the fact that, as explained earlier, investors within the OECD had little to gain from a treaty being negotiated “among countries with well-established, liberal, and transparent foreign investment policies.” Evidently, when that situation was combined with one where environmental and labor provisions threatened business interests, the situation was further exacerbated. Note also that Dymond’s view reflects Canada’s position that investment negotiations would have been preferable at the WTO. As explained earlier, although many negotiating parties found the investment regime within the OECD satisfactory, others, and among them powerful OECD members such as the U.S. were seeking greater liberalization within the OECD and through the MAI (see previous section on country-specific exceptions).

governments from balancing divergent interests in order to sway public support for the treaty and thereby justify the negotiations to their respective constituencies.

These challenges are best captured by Putnam's (1988) concept of the "two level game." The concept reflects the dual role that negotiators are called upon to play. This dual role was also observed in Winham's (1986) analysis of the Tokyo Round of trade negotiations where: "[t]he internal negotiation was characterized by discussions between government bureaucracies, legislators, and interest groups, and it was the arena where decisions were reached about how much the nation could accommodate the interests of other nations."³³ Thus the response of civil society was not only one where opposition became intolerable but also where the support that is normally relied upon to justify negotiations was eroding. Delegations also appeared to be experiencing difficulties in accommodating one another's divergent interests. Tensions between two alternatives seemed to have been at play: either they obtained domestic support by seeking greater openness in the existing OECD investment regime, or they sought the status quo and gained little domestic support. Either way, opposition created an increasingly untenable compromise. In the end, negotiators were faced with a sharply "negative political gain/pain ratio" (Dymond, 1999: 26).

April 1998: A Second Extension?

By December 1997, the NG had reached such an impasse with some of the outstanding substantive issues that the Chair felt it was necessary to resort to retreats.

³³ Note that as observed earlier the internal process between bureaucracies seemed to not have been undertaken in a majority of countries involved in the negotiations, a situation that MAI opponents benefitted from.

These were meant to bring key negotiators together in an attempt to break the deadlocks and restore some level of confidence in the negotiations. In addition, a “high level meeting” was called for February 1998 in order to make progress on the more political issues and in particular those of labour and environment, and exceptions/reservations (*Inside U.S. Trade*, January 23, 1998).

The U.S. delegation’s announcement at that meeting to the effect that the MAI could not be completed in time for the April 28, 1998 OECD ministerial meeting shocked most delegations. That conclusion had been reached at a U.S. interagency meeting earlier in the month when deputy-level officials concluded that “finalizing the agreement at that time would not bring a significant reduction of barriers to U.S. investment, that there [was] at best lukewarm support for the MAI among private groups and in Congress” (*Inside U.S. Trade*, February 13, 1998: 1). While this announcement had negative repercussions on the morale of the NG, solutions to several outstanding substantive issues were proposed, reflecting a willingness to move to narrow the gaps which had resulted in the earlier impasse.³⁴

Thus, in January, the European Commission had signalled its willingness to narrow its proposed exception for REIO and by February EU member states and the U.S. were discussing a compromise over this issue. The U.S. and European countries also reached a tentative agreement on cultural industries that aimed at adopting an approach for

³⁴ The following summary of the state of negotiations towards the end of the second period was taken from *Inside U.S. Trade* publications between January and May, 1998.

reservations in that economic sector similar to those of the Uruguay Round.³⁵ The most problematic and as yet unresolved issue concerned the Helms Burton and Iran-Libya sanctions, the investor-state dispute settlement mechanism and liberalization. However, work was progressing in the U.S./EU negotiations on extraterritoriality and by May parties declared they were closer to a resolution. Also, as seen in the previous section, labour and environment provisions were gaining increased support, such that only two delegations opposed the proposal.³⁶

Nevertheless, between February 1998 and April 1998 the NG once again became embroiled in debates regarding the extension of the negotiations. As experienced the previous year, disagreements concerned the length of the extension. That issue was linked to the debates on the degree of liberalization to be achieved in this first round of negotiations. At issue was whether a more modest agreement with future liberalization would not be preferable to simultaneous negotiations of the framework and country-specific exceptions.³⁷ While the U.S. adopted its usual position of openness toward an indefinite period and a negotiated balanced commitment, delegations from countries such as Canada which had initially pushed for investment negotiations at the WTO attempted once again to move the negotiations to that forum.³⁸ The French government, under

³⁵ However, France reiterated its position in support of a general exception on culture.

³⁶ Indeed, by April 1998, only Australia, Mexico and New Zealand "expressed opposition to points in the statement on labor and environment, although they did agree tentatively to the draft" (*Inside U.S. Trade*, April 24, 1998: 23).

³⁷ Based on interviews with officials in Europe conducted during the fall of 1999.

³⁸ See *Inside U.S. Trade*, February 20, 1998, p. 16 where the statement made by U.S. Deputy Trade Representative Jeff Lang and the Under secretary of State, Stuart Eizenstat is quoted as follows: "[w]e are ready to continue at a steady, serious and meaningful pace and to conclude agreement at the earliest feasible

considerable public pressure, suggested a pause in order for negotiating parties to undertake domestic consultations and an assessment of the MAI. In the end, the French proposal was adopted with the mandate to resume negotiations in October 1998 without any specific deadline and with an acknowledgment of the work on investment at the WTO.³⁹

II. May 1998 to October 1998: The “Coup de Grâce”

The crucial question raised by the debates concerning the extension of the negotiations and the ensuing six-months pause, is whether the negotiations could have resumed beginning October 1998. Such an understanding would shed light on the much-debated role that civil society played in the demise of the MAI.⁴⁰ Indeed, it was in the

date.”

³⁹ Paragraph three of the OECD “Ministerial Statement on the Multilateral Agreement on Investment (MAI)” read as follows: “[t]aking into account the positive results produced by the Negotiating Group, as well as the remaining difficulties and the concerns that have been expressed. Ministers decide on a period of assessment and further consultation between the negotiating parties and with interested parts of their societies, and invite the Secretary-General to assist this process. Ministers note that the next meeting of the Negotiating Group will be held in October 1998. Ministers direct the negotiators to continue their work with the aim of reaching a successful and timely conclusion of the MAI and seeking broad participation in it. In the same spirit, they support the current work programme on investment in the WTO and once the work programme has been completed will seek the support of all their partners for next steps towards the creation of investment rules in the WTO” (OECD, 1998b).

⁴⁰ Examples of such debates appeared in the Canadian media as early as April 1998 when the six months pause was called. While some fully credited the MAI opponents for derailing the negotiations others denied their impact or simply ignored their relevance. Diverse opinions were not limited to officials and activists. They also embroiled think tanks, academics and the media. Thus the following quote attributed the failure of the negotiations to the MAI opponents’ effective reliance on the Internet: “High-powered politicians had reams of statistics and analysis on why a set of international investing rules would make the world a better place. They were no match, however, for a global band of grassroots organizations, which with little more than computers and access to the Internet, helped derail a deal” (*The Globe and Mail*, 1998). In contrast, *The Economist’s* (1998: 18) assessment of the MAI troubles at the end of the second period makes no mention of the social opposition, and blames the difficulties on the venue chosen for the negotiations, countries’ lack of enthusiasm for the MAI and the numerous reservations filed. Canadian researchers and academics also disagreed on the influence of the MAI opponents. Thus Robert Wolfe (1998), from the School of Policy Studies at Queen’s University wrote in a short letter published in *The Globe and Mail* which he titled “MAI imploded all by itself”: “[i]t may suit OECD Secretary-General Don Johnston to blame the fiasco on public

third period that anti-MAI campaigns achieved their greatest force and it was also during that period that hopes of reaching an agreement were brought to an end. In order to dispel misunderstandings surrounding the last six months of the MAI process, I begin with a more precise account of the negotiating parties' willingness to pursue the negotiations. That discussion will be followed by one regarding the reasons why the negotiations did not resume.

There is no doubt that this third period represented a turning point for the future of the MAI. However, the alternatives envisaged by the NG did not consist of a choice between abandoning negotiations or pursuing them. As the April 1998 deadline approached, the alternatives revolved around one question. The choices were to either reach a diluted agreement, consisting of a less ambitious text with a provision for future liberalization, or to pursue negotiations for an indefinite period of time until all parties agreed on balanced commitments.⁴¹ Although the European delegations expressed their reluctance to consider another possible extension, when the U.S. declared its opposition to a speedy April conclusion, European countries obliged as they recognized that without the U.S. there would be no MAI.

opinion, but the reality is that the agreement was stillborn." His colleague at the University of Toronto, Alan Rugman (1998: 1), could not disagree more when he wrote: "the real reason for the defeat of the MAI...is due to the negative role of Non Governmental Organizations (NGOs) as critics of international trade agreements." For his part, Owen Lippert (1998) the director of the Law and Markets Project at the Fraser Institute, an economic think-tank based in Vancouver, publicly rejected the claims of victory made by Canadian MAI opponent Maude Barlow: "[t]he Multilateral Agreement on investment (MAI) has been indefinitely delayed, and Maude Barlow, keyboard in hand, is claiming at least partial credit. That's nonsense. The MAI process collapsed because countries such as Canada and France refused to question their rat's-nests of subsidies."

⁴¹ In fact an alternative and more modest MAI draft was produced during the summer of 1998 at the OECD.

Such a power play applied only to the other main trading partner, the European Union. Any other negotiating party of lesser relevance could choose to withdraw from the OECD negotiations without preventing progress towards an agreement. Indeed, some commented that Mexico might have chosen that option due to that country's disagreement with the proposed labour provisions. Therefore the willingness of the U.S. to pursue the negotiations and the Europeans' acceptance of renewed negotiations in October were definite signals of the political willingness on the part of crucial players to pursue the negotiations to a satisfactory conclusion. The fact that delegations pursued negotiations in spite of growing differences which brought talks to a standstill during the second period, and that they accepted, albeit reluctantly, two extensions, are indications that the willingness to resume negotiations in October 1998 was never at issue in the minds of the negotiating parties.

Rather, the ultimate *coup de grâce* to the MAI came from France. As seen in Chapter 4, by February 1998 just prior to the high level meeting at the OECD French MAI opponents from the social movement system of action had succeeded in generating considerable media interest in the MAI and the public opposition to the negotiations was mounting rapidly thanks to the networks that were established among diverse groups. The arguments that mobilized such an opposition were those of the intellectuals-engagés; militant-mobilizers from other movements had contributed to generate this mobilization and visible protests. Similarly, the Greens and the Communists began questioning their

partners in Government on the MAI during Parliamentary sessions.⁴²

These events prompted the French government to request the six-months pause. In May 1998, having argued with its OECD counterparts in favour of a pause to undertake public consultations and an assessment of the MAI, French President Lionel Jospin mandated a French member of the European Parliament, Catherine Lalumière, to undertake such a study. Lalumière began her work in June 1998 in collaboration with the French senior negotiator, Jean Pierre Landau, and produced a report for the government by mid-October, just before the MAI negotiations were to resume.⁴³ Consultations were undertaken with the public and private sectors including major business organizations and the SMOs Observatoire de la Mondialisation, Greenpeace France, and FOE France. Of significance to France's decision regarding its future course of action on the MAI were the alternative recommendations proposed to the government. In sum, one recommendation was that, should the government choose to resume negotiations, the current foundations of the MAI should be fundamentally altered. However, the report warned that, in such a case, France still ran the risk of not seeing all of its requests satisfied. Another alternative was to move investment negotiations to the WTO. Such arguments left little choice for the Government's decision.

The other events which moved the French government to its decision to withdraw came from the political parties sympathetic to actors from the social movement system of

⁴² See, for example, *Le Monde*, February 13, 1998c where it is reported that the Green Representative Yves Cochet confronted Dominique Strauss-Kahn, the then French Minister of the Economy and Finance, on the MAI.

⁴³ See *Rapport sur l'Accord multilatéral sur l'investissement (AMI)* on the French Government's website at www.finances.gouv.fr.

action. These parties had formed a coalition government with Jospin's Socialist party. At their national meeting of October 10-11, 1998 the French Greens agreed, through a majority vote, on two significant decisions. One was to object to the continuation of the MAI negotiations and to call on the government to withdraw from the negotiations; the other was to withdraw from the Jospin coalition should the government ever sign the MAI.⁴⁴ As these decisions were reproduced in the media they were perceived by the Government to be tantamount to a public display of dissent within the coalition, a move which it found highly distasteful.⁴⁵ As a result, it was agreed that a Communist member of Parliament, Robert Hue, would speak on behalf of the "gauche plurielle" (the united left) during the next session of Parliament in expressing these parties' opposition to the MAI and require that Jospin explain France's intentions for the upcoming MAI NG meeting. It was in response to that question and in reference to the Lalumière report and the public opposition that Jospin announced publicly France's decision to withdraw from the negotiations.⁴⁶ These events took place during the October 14, 1998 session of Parliament, a week prior to the planned resumption of the MAI negotiations.

France's decision took the other members of the European Union and the European Commission by surprise. Technically, such a unilateral action was in breach of Community discipline. Indeed, the Council of the European Parliament had endorsed a mandate for the European Commission to negotiate the MAI alongside member states.

⁴⁴ These motions were found on the minutes from the meeting and numbered decisions Cnir-98-216 and Cnir-98-219.

⁴⁵ See the French daily newspapers such as *Le Figaro* and *L'Humanité* (1998a) from these dates.

⁴⁶ For a complete reproduction of these speeches see *L'Humanité*, October 15, 1998b, p. 4

This meant that unlike the case at the WTO negotiations where the European Commission was the spokesperson for the European Union, in the case of the MAI each country had a seat at the table with the European Union also playing a negotiating role. This meant that the European Union as a whole was considered to be part of the negotiations and, as such, France's decision to withdraw had an impact on all other members. However, none questioned the French government's decision. At the October 20, 1998 NG meeting, the European Commission announced that no European member would pursue the negotiations without France, thereby giving a decisive and final blow to the MAI negotiations. As the European Commission's attempts at pulling France back into the negotiations failed so did all subsequent attempts at reviving the negotiations (*Inside U.S. Trade*, October 23, 1998; Dymond, 1999: 32, 33). A December 1998 meeting only confirmed the inevitable. These meetings and the attempts to salvage the negotiations further testify to the determination of major parties to resume the process.

Given the intense domestic and international anti-MAI campaigns which took place in France, and given the close working relationships that had developed between activists, the Greens and the Communists of Jospin's coalition, as well as officials from the European Parliament, it is difficult to deny the impact that these groups exercised on the ultimate fate of the MAI. However, France encountered little protest and resistance from its fellow members of the European Union, an indication of the impact of anti-MAI sentiments in terms of these governments' loss of ardour for the negotiations. The significance of the election of left-leaning governments in key European states, including France, Britain and Germany (the latter in September 1998), should not be

underestimated. These political changes no doubt influenced France's response to the concerns of civil society groups and its fellow European Union members' reaction to it.

III. Assessing MAI Opponents' Influence

Respective Impacts

At the outset of this analysis I drew a distinction between *direct influence*, which concerned societal actors' influence on substantive issues, and *indirect influence*, which referred to increased political pressure on elected officials. I also pointed out in Chapter 3, that direct influence on substantive issues is an objective typically sought by actors who belong to *the interest group system of action* in that these are achieved through dialogue with officials, policy analysis and lobbying that aim to reform particular policies. While actors that belong to the *social movement system of action* may also seek to influence states and policies they primarily seek to promote changes through influence on society. As such the behaviour of actors from the social movement system of action typically consists of gaining media attention, alerting and educating publics and generating mobilization through protests. In doing so they seek not only societal change but also indirect influence on officials.

The empirical evidence indicates that direct influence strategies were less successful in meeting MAI opponents' objectives than were indirect influence strategies. The coalition saw its objective of interrupting the MAI negotiations realized. Since the coalition as a whole applied every means of pressure available it is difficult to decipher which specific actor was more effective. Nevertheless, as the following discussion highlights the radicalization of the campaign reflected a stance typical of actors from the

social movement system of action. Likewise the grassroots campaigns, critiques of the MAI and mobilization efforts typical of those actors' behaviour and motives gained media attention and, eventually, politicians' support. The following discussion provides an assessment of these respective types of influence as they affected various outcomes in the MAI negotiations.

(A) Direct Influence

I have shown in Chapters 4 and 5 that during the first period of negotiations, from May 1995 to April 1997, it was only the MAI opponents whom I referred to as "reformists" or "insiders" that had an opportunity to signal their objections regarding the MAI to OECD officials. During that period, these societal actors only enjoyed a minimal impact since the extension of the negotiations' mandate had more to do with the lack of progress on major stumbling issues.

However, the analysis of the two subsequent periods of negotiations revealed that these MAI opponents exercised some direct influence on the negotiations regarding the inclusion of labour and environmental provisions in the draft treaty. NGOs succeeded in raising the profile of these issues within the NG during the second period of negotiations, to a point where these figured among the main negotiating issues. This took place mainly through domestic lobbying pressure and some delegations' insistence inside the negotiations. In that sense, insiders' sustained lobbying efforts at the domestic level bore fruit. Nevertheless, the results of this direct influence did not meet insiders'

expectations.⁴⁷ The proposed changes to the MAI fell far short of reformist NGOs' objectives. Had the NG reached an agreement on all other outstanding issues it is very likely that the provisions on labour and environment to be included in the MAI would have remained similar to these unsatisfactory proposals. I also intimated that officials' response was most likely motivated by the threat of a growing opposition to the MAI—an outcome clearly resulting from the mobilizing efforts of actors from the social movement system of action in various countries and the eventual radical common front adopted by all MAI opponents when they formed a coalition.

Reformists' continued dissatisfaction with the way the NG addressed their concerns, the prolonged exclusion of NGOs from consultations with the NG and the apparently imminent ratification of an agreement resulted in the formation of a coalition with more radical objectives. Thus reformists coalesced with the more radical MAI opponents in October 1997 on the occasion of the first and only encounter between MAI opponents and the NG. Radicalization of the MAI opposition was illustrated by the common objective of the coalition to stop the OECD MAI and to cut further dialogue with OECD officials and the NG. Although the coalition requested that the NG suspend

⁴⁷ That dissatisfaction has been observed in another more comprehensive study of NGOs' relations with the main international economic organizations responsible for such multilateral policy making. Thus O'Brien et al. (2000: 141) ask whether the relationship between environmental NGOs and the WTO would not be best characterized as a "dialogue of the deaf." While these authors fall short of explicitly answering that question, their analysis of that relationship clearly indicates that an intellectual impasse between reformists and officials has been reached. In sum, the goal espoused by the WTO to combat protectionism conflicts with these societal actors' attempts to use that venue to defend and promote stronger environmental policies. One of the problems is that such enforcement could be used as a disguise for protectionist aims. In that sense, insiders' lobbying efforts confront states' commitment "to liberal international trade espoused by the leadership of the key advanced industrialized countries" (O'Brien et al., 2000: 141). The debate has been fuelled by all environmentalists' negative experience with the settlement of disputes that concerned environmental policies both within the WTO and the NAFTA.

the negotiations during that meeting, the decision to stop the OECD MAI did not result from such direct influence.

The coalition exercised other direct influence on the MAI on the occasion of its only meeting with the NG. As demonstrated earlier, the encounter of October 1997 resulted in the reexamination of the provisions on expropriation and a heightened debate concerning investor-state dispute settlement mechanisms. These issues were more broadly linked with actors that belonged to the social movement system of action as they were directly linked to their critique of globalization, the relationship of the MAI to that process and the role and interests of MNCs in that process.

For actors who belonged to the emergent social movement networks opposing economic globalization, the MAI was taken as a symbol of that phenomenon. They argued that current processes of economic globalization were influenced by powerful MNCs in order to promote their interests at the expense of ordinary citizens' democratic rights. The provisions on expropriation and investor-state dispute settlement were used as examples of the role that international economic treaties such as the MAI played in shaping such globalization. They were used to demonstrate the effect such policies would have on states' sovereignty, their future regulatory autonomy and democracy. Of interest is the fact that these concerns resonated not only with various domestic publics but also with politicians and European delegations.

(B) Indirect Influence

It was through their indirect influence that MAI opponents fostered their most urgent objective: to stop the MAI negotiations. With regard to that outcome, it was MAI

opponents' indirect influence that was most effective. Such influence was also associated with actors that belonged to the social movement system of action. Indirect political influence through successful mobilization at various domestic and transnational levels affected the future of the negotiations. The collaboration among actors from the social movement system of action that resulted in simultaneous campaigns in a majority of OECD countries enabled the interruption of the negotiation process.

More specifically, the analysis of events during the six months pause prior to resuming negotiations demonstrated that it was France's unilateral decision to withdraw from the negotiations that dealt the MAI its final blow. The grassroots campaigns, street protests, media attention and growing public opposition point to a strong influence from actors from the social movement system of action on that decision. Intellectuals-engagés' critiques were used to educate the public and engender broad mobilization. Those critiques were also used to inform politicians and convince them of the validity of these MAI opponents' arguments. In addition, direct relations between activists from the social movement system of action and politicians from that country also establish a direct link between those MAI opponents and the negative outcome of the negotiations.

The concerns which had thus been raised within many OECD members' Parliaments, including the European Parliament, and the aggressive anti-MAI campaigns that had developed throughout Europe provided little incentive, on the part of other EU members, to counter France's decision. Therefore, the failure of the MAI as it related to these anti-MAI campaigns must take into consideration the multiple and simultaneous domestic campaigns which occurred through an unprecedented collaboration among

actors from the social movement system of action across borders. As such, that MAI opposition effectively turned into transnational social movement networks that would grow beyond their opposition to the MAI to mobilize against the WTO. For these reasons, the impact of this new social actor merits further explanation.

Explaining Indirect Influence

(A) Transnational Social Movement Networks and International Fora

The outcome of the indirect influence applied by actors from the social movement system of action on the MAI negotiations can be explained by using existing understandings of similar events. Thus Rucht (1999: 208-209) observed that “when international bodies remain immobile because of internal disagreements, this may encourage social movements to put pressure on them.” As we saw, the difficulties encountered early on in the negotiations and the resulting extensions of the mandate provided room for MAI opponents to challenge the treaty. Another aspect of supranational governmental bodies that Rucht (ibid.) identified as presenting a condition favourable to social movements was the fact that these bodies “lack direct democratic legitimation by voters.” As seen in the anti-MAI campaigns this critique was useful and it was further enhanced by the fact that NGOs had been excluded from consultation while business organizations had not.

On the other hand, Rucht (ibid.) has observed that the “inflexibility and limited power of international institutions” to respond to movements’ claims has meant that these societal actors continue to focus on national governments as their primary target. However, should such pressure not succeed, movements will seek to exert indirect

pressure by (i) increasing domestic pressure through strengthening oppositional forces, (ii) mobilising attentive publics and gaining supportive press coverage, and (iii), influencing particular governments and movements in other countries. Clearly these processes were at play in the case of the MAI opposition.

(B) Novel Dynamics

The latter point represents a novel element in terms of our understanding of state-society relations when analysing international economic negotiations. While the domestic support of business groups for a MAI can easily be explained with traditional models of analysis, the transnational interactions of social movement actors just described do not follow such patterns. For example, we saw that business support for the MAI in the United States was linked to that country's position in the negotiations—gaining increased access to other countries' markets. However, we also saw that disagreements among negotiating parties on the extent to which the MAI should simultaneously improve upon existing openness of OECD markets revealed that not all negotiating parties shared that objective. Few were willing to move immediately beyond the existing degree of liberalization already enjoyed within the OECD. The delegations of those countries enjoyed only lukewarm support from their business community. When it became evident to business organizations interested in the MAI that the treaty would not only fail to provide these benefits but that provisions on labour and environment would further undermine their interests, support vanished into criticism and then indifference. In the meantime, opposition did not wane. To explain these domestic societal factors, we referred to Dymond's (1999) explanation of the domestic political negative gain/pain

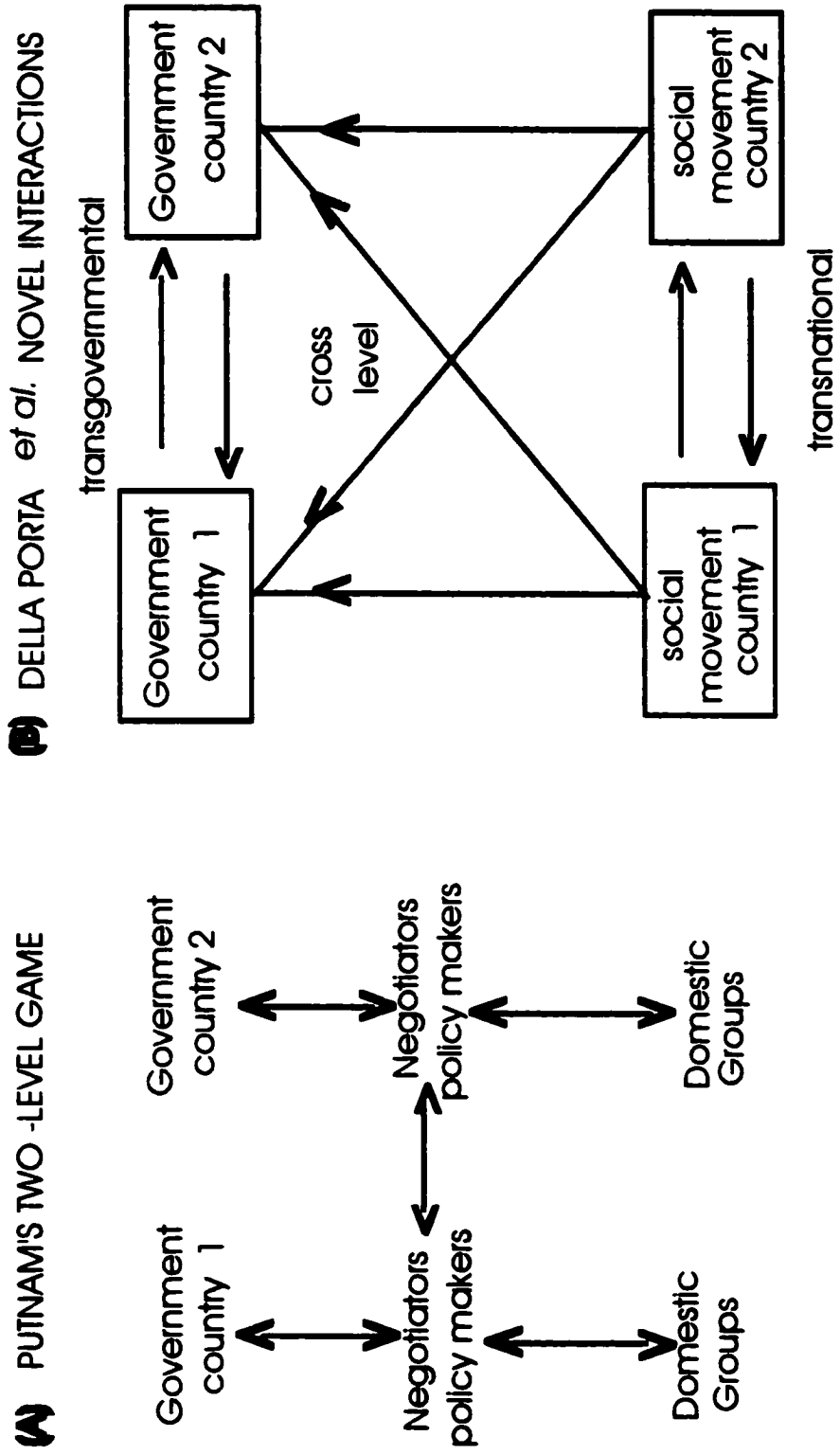
calculus that the MAI then represented for many delegations.

These challenges are explained by Putnam's (1988) two level game analysis whereby domestic policy makers and negotiators seek to strike a balance among various domestic pressures while at the same time accommodating the interests of their negotiating partners. These dynamics are represented in Figure 6.1 diagram (A). In the case of the MAI, negotiators and policy-makers found themselves in a position where a combination of conditions placed the MAI on precarious ground domestically and internationally.

Nevertheless, some MAI opponents also undertook novel interactions and expressions of advocacy against multilateral economic negotiations. The nature of the radicals' concerns, their convergence across borders and their interactions with foreign governments represented several departures from Putnam's model. As such, the generic label of "interest group" hides a considerable difference between the nature of those MAI opponents and the traditional interests considered in trade negotiations. In the case of the movement networks opposing globalization, the model no longer applies. That is, traditionally, domestic interest groups involved in trade negotiations have represented different economic sectors. This is not the case of the MAI opponents that belong to the social movement system of action. Not only are their concerns different from those of actors from specific economic sectors, but they do not limit their actions to the domestic level.

Although negotiators focus, as Putnam's model describes, on domestic interest groups, MAI opponents worked across borders and their claims were not limited to

FIG 6.1 Putnam's Two Level Game Compared with New Forms of International Interactions



domestic sectoral economic interests. For example, from the standpoint of the Canadian MAI negotiators “public consciousness [in Canada] paled compared to the free trade debate in the 1980s” (Dymond, 1999: 26). However, Canadian MAI opponents, who belong to the emergent movement networks against globalization, found support for their objectives in other OECD member countries. Not only did they appear to find support but their objective of stopping the MAI was fulfilled, whereas their similar quest to stop the NAFTA was not. Diagram (B) in Figure 6.1 illustrates such new dynamics with a model suggested by della Porta *et al.* (1999: 3-5). The model, these authors argue, aims to reflect the novel forms of interactions attributed to “the changing international context on national social systems and national politics.”

Contributing Factors

Nevertheless, the assessment of these MAI opponents’ influence must take into consideration additional factors that represent conditions conducive to their success. Contributing to these campaigns was the political sea change that had taken place in Europe by October 1998. In addition, existing structures of influence within the OECD helped to push the MAI negotiations over the precipice. France alone would not have caused the demise of the MAI. Only the EU and the U.S., two major negotiating parties, could bring about such an outcome unilaterally. As such, France’s decision was decisive only to the extent that its fellow members in the European Union remained united, and due to its relative importance in that forum.

In addition, the analysis revealed that the MAI negotiations suffered setbacks from other directions. The first consisted of stumbling blocks within the negotiations which

manifested themselves early on. A good number of difficult substantive issues had emerged within the negotiations well before those brought forward by NGOs. Most of the lasting substantive difficulties had been encountered by May 1997 during what we referred to as the first period of negotiations. Although it would be pure speculation to judge whether these outstanding issues would have been resolved had the negotiations resumed beyond October 1998, there is no doubt that progress had been considerably jeopardized by February 1998. In that sense, the MAI was “a leaky boat.”

Finally, the role played by another group from civil society must also be considered when assessing the influence of MAI opponents. Most domestic business groups’ lukewarm support for the MAI was due to the fact that it was being negotiated at the OECD. In addition, the partial accommodation of NGOs’ demands in the MAI together with the substantive challenges on other issues were responsible for the negative reaction of business organizations and the erosion of interest and support from these groups.

These contributing factors raise questions for further research. One concerns the domestic and international political environments within which societal actors evolve. Given the enabling role of the OECD as a forum of negotiations, how does that international forum compare to others in terms of civil society’s ability to influence world politics? For example, what is the difference between the OECD, the WTO or the United Nations in terms of leverage and impact of civil society? At the domestic level, the electoral system in France could be compared with those of Canada and the United States in terms of the alternative responses MAI opponents received from their mutual governments. Another question raised by the case of the MAI concerns the actors

themselves. I have drawn a distinction between reformist and radical societal actors and shown to the extent possible their relative influence on the MAI negotiations. Other distinctions were also drawn regarding the proximity of NGOs to their governments, their funding sources and relevance in terms of geographical location. One related question that deserves research was the role of Southern NGOs in the anti-MAI campaigns, given their governments' reluctance to an investment agreement such as the MAI.

Conclusion

The MAI was an investment agreement negotiated among the like-minded countries of the OECD where various instruments and codes had already fostered a high degree of investment liberalization and protection among these countries. Nevertheless, high expectations were shattered after difficult negotiations were abandoned without an agreement. The unexpected failure of these negotiations was all the more surprising in that the outcome was linked to a visible social opposition to the treaty in a majority of OECD countries. The preceding chapters have provided empirical evidence that verify these impressions.

While the influence of these societal actors on the MAI represents a noteworthy event, the research yielded other results of further interest. As I argued, the MAI events represented a threshold in international economic relations not only because of the influence the social opposition exercised but also because of the emergence of a novel societal actor in this domain of world politics. The discreet policy dialogues and lobbying efforts conducted by reformist groups would not have attracted broad public interest in an obscure and arcane agreement such as the MAI. It was the strategies of the radical

elements of the anti-MAI coalition that opened a public debate not solely on the MAI but on broader issues they find with current processes of economic globalization. As such, these MAI opponents succeeded not only in generating concerns over the MAI but by linking these concerns to their perception of the nefarious future all societies would face should such processes not be interrupted, they engendered a broader and longer lasting debate on the future(s) we might face under ongoing processes of economic globalization.

As Lalumière and Landau (1998) observed, the opposition to the MAI was not unique to France, nor was it restricted to the traditional claims from economic sectors. The authors observed other novelties in that MAI opposition. Among these they pointed out that: “it appeared simultaneously in several countries, it included new actors and the negotiation process itself was contested.” The report went so far as to note that “for the first time we assist in the emergence of a global civil society” (Lalumière, 1998: 2,3). I have called this phenomenon emergent transnational social movement networks against economic globalization and demonstrated, in Chapter 4, its growth potential.

Many officials acknowledged the novelty of this MAI opposition. Such official understanding was expressed during one of the last public announcements concerning the MAI. On that occasion, the OECD Deputy Director General, Joanna Shelton, “hinted that countries realize they must find a new way to address criticisms of the MAI and issues that have been raised as a result of globalization” (*Inside U.S. Trade*, October 23, 1998: 7). Shelton was specifically quoted as saying: “[t]oday’s meeting also made it clear that we are not engaged in business as usual, and that we must address the concerns that have been raised about the scope and direction of the efforts to date.” As such, the MAI

represented a threshold moment in international economic negotiations, and the theoretical relevance of transnational social movement networks for world politics merits more study.

I have already demonstrated conceptually and empirically that this phenomenon had growth potential. Anti-globalization protests have been sustained since the interruption of the MAI negotiations. Questions of interest concern the reasons for which such widespread support for the arguments against economic globalization have taken hold, and given this support and the sustained activities of these networks, how we explain their meaning for world politics. Section III begins to address these questions by relying upon existing frameworks. Should the popularity of anti-globalization rationales be understood as a societal reaction to the recent progress toward a globalized economy, and if so, can we understand this new actor to represent a double movement or a counter-hegemonic social force as critical IR theorists suggest? Is it likely to have an impact on world politics beyond that of contributing to the failure of the MAI negotiations? If so, how do we explain such influence? Is that influence similar to existing cases of civil society influence on world politics?

SECTION III
THEORETICAL IMPLICATIONS

CHAPTER VII

CONTESTED FUTURE(S) AND NORM PATHS A CONSTRUCTIVIST VIEW OF GLOBALIZATION'S OPPONENTS

Introduction

The protests we have witnessed over the three years since the suspension of the OECD MAI negotiations are now widely acknowledged as manifestations of worldwide anti-globalization sentiments. It would be fair to say that few intellectuals-engagés and militant-mobilizers, who participated in the anti-MAI campaign early on, dared hope such subsequent growth of anti-globalization sentiment would occur. Even though in the fall of 1999 just prior to the Seattle protests against the WTO they provided an accurate estimate of the number of protesters expected in Seattle, few of these activists hoped to say with certainty that movement networks had truly emerged.¹ By April 2001, on the occasion of the protests against the FTAA in Quebec city, activists were confident that they participated in worldwide movement networks that opposed economic globalization and that they shared views with other participants in distant places.

Their arguments have now become the subject of heated debates among citizens in televised talk shows and in the printed media. Likewise, anti-globalization activists and officials engage in debates through the media on the occasion of protests. As such, the awareness of the issues that initially concerned these particular MAI opponents has gained attention among a broader segment of the population in Northern as well as Southern countries. Given these outcomes, several questions are worthy of consideration.

I have already hypothesized, in Chapter 4, that there is little doubt that transnational social movement networks against economic globalization are now well

¹ In the course of interviews with French militant-mobilizers in early November of that year, they estimated their numbers in Seattle at around 30,000.

established and will continue to be active. Other questions of interest concern the meaning of this novel actor for world politics. The first question of interest is what is this an instance of? Does it represent a Polanyian double movement and the emergence of counter-hegemonic social forces of significance to world orders, as hypothesized in critical IR theory? What impact, if any, has this societal actor had so far other than its influence on the MAI negotiations? What is the meaning of the debates globalization opponents have engendered for world politics? In order to answer these questions I turn to three perspective that, I argue, provide us with the necessary complementary framework to explain the potential of this novel actor for world politics.

One is Robert Cox's (1996: 514-519) historical dialectic framework, which hypothesizes the potential emergence of counter-hegemonic social forces. The second builds upon social movement theory hypotheses that I have already alluded to in the previous chapters. These concern the meaning of social movements in terms of their influence on larger collectivities. Analyses of existing movements have already observed the cultural and ideational influences that existing movements have exercised on society. I suggest that opponents to economic globalization display similar ideational and cultural challenges that are likely to influence larger collectivities. Finally, the IR social constructivist framework will be relied upon to explain how such ideas might influence world politics. Empirical case studies undertaken with the latter framework have demonstrated ways in which non-state actors have influenced international outcomes. I rely upon such examples to infer ways in which anti-globalization ideas have already engaged such a process and how they may further influence international economic

relations.

IR social constructivists refer to the processes through which the post-war arrangements were reached as the social construction of reality among a society of states whereby principled ideas (beliefs about right and wrong), and causal beliefs (beliefs about cause-and-effect relationships) become norms—collective expectations about proper behaviour. However, for critical IR theorists, these post-war developments are understood to be the result of a more perverse consequence of hegemony. These divergencies lead these two approaches towards different explanatory frameworks in terms of understanding societal actors' meaning for world politics.

Cox's (1996: 514-519) historical dialectic framework looks at societal actors through a structural materialist lens. It is based upon the hypothesis that society "produces in its structure the antagonisms that lead to its modification" (Cox, 1996: 514). As such, the objective of that framework is to determine whether societal actors such as the opponents to globalization represent counter-hegemonic social forces that will transform the current world order. In that sense, significant transformations must be observed to understand the role of social forces as counter-hegemonic. IR social constructivists argue that agency and ideas are theoretically relevant in and of themselves as sources of norm change that affect world politics. Thus, the two frameworks offer complementary tools of analysis. One places societal actors in a broader historical context, the other examines more closely how these actors may engender transformations.

Both approaches have strengths and weaknesses in understanding the significance of movement networks that oppose economic globalization. I begin with a discussion of

critical IR theory, showing that while that framework provides a good understanding of hegemony as the focus of opposition for these actors it lacks the necessary tools to understand the ways in which their influence could bring about changes at the societal and institutional levels. That is, critical IR theory refers to ways in which a change in world orders might occur but not how social forces might undertake such a “war of position.”

I argue that a complementary framework that combines social movement analysis and IR constructivist conceptual tools fills that analytical gap. I first discuss ways in which social movement analysis conceives of such a role at the societal level. I follow with a discussion of the contribution that IR social constructivism brings to explaining influence at the institutional level. I discuss some of the conceptual tools provided by that framework which explain how world orders are socially constructed. That discussion includes comparisons between the opponents to economic globalization and existing case studies which suggest avenues to evaluate the transformative potential of the former.

I. Meaning of Radicals in Critical IR Theory

We saw in the previous chapter that this study of the MAI opposition shared with O’Brien et al. (2000) the understanding that there is a distinction between “reformers” and “radicals” among societal actors interacting with international economic regimes. These identities coincided with the NGOs that I located respectively in the interest group system of action and the social movement system of action. Among the reformers O’Brien et al. (2000: 142) mentioned those found in the anti-MAI campaign such as the World Wildlife Fund and the Centre for International Environmental Law (CIEL)—those identified in Chapter 4 as belonging to the interest group system of action. Among the

radicals they identified “the loose coalition called the Peoples’ Global Action” (PGA) which I identified as being part of the emergent social movement networks against globalization. However, the narrower focus of that study on the interaction between environmental NGOs and the WTO prevented a more in-depth understanding of the meaning that radicals bring to these non-state actors’ interactions with international economic regimes.

The distinctions drawn in the analysis of the anti-MAI campaigns, which were achieved with the help of a model of civil society and an analytical framework based upon social movement theory further elaborated upon the differences between radicals and reformists. They enabled us to trace the evolution of movement networks that were made up of societal actors opposing globalization, and which held transformative objectives. We traced the growth of networks and their re-emergence in the Seattle protests and subsequent gatherings that aimed at challenging various global economic fora. Thus I identified an emergent movement with growth potential that, unlike the reformists, contested the current trends toward economic globalization.

Such anti-globalization expressions were found not only among groups such as the PGA but also in broader coalitions of groups under the US “Working Group on WTO/MAI,” the Canadian Common Front on the WTO and the French “Coordination pour le contrôle citoyen de l’OMC” (CCCOMC) along with their linkages to Southern individuals and organizations. We also identified a TSMO linked to the movement in the International Forum on Globalization (IFG). While here too there may have been a diversity of groups and individuals from different advocacy themes, they all shared a

similar criticism of economic globalization and likewise espoused transformative objectives.

The question raised by those MAI opponents and the subsequent events such as the Seattle protests against the WTO was whether these actors could be understood as what critical theorists refer to as “counter-hegemonic” social forces or a Polanyian double movement.² Three related questions are raised in this section. One concerns a definitional identification of globalization opponents with these concepts: do their struggles against globalization mean they struggle against a perceived hegemonic order or that they respond to a fear of the free market? A second question concerns empirical and/or quantitative assessment of their significance as a counter-hegemonic social force: are they numerous enough or is their composition such that they can eventually fulfill a counter-hegemonic role as foreseen in theory? Do their objectives represent such a goal? Thus a third question concerns the claims made by these societal actors in terms of what they would like to achieve and whether these goals coincide with critical theorists’ vision of a counter-hegemonic order. I address these three questions in turn in this section.

Radicals as Opponents of the Hegemonic Order: A Definitional Match

According to Cox (1996: 137), the Gramscian concept of hegemony at the international level “is expressed in universal norms, institutions and mechanisms which lay down general rules of behaviour for states.” That view of hegemony includes in particular “the rules governing world monetary and trade relations” and international organizations, such as the OECD and the Bretton Woods institutions, that foster such rules (ibid.).

² For debates on how to understand the Seattle protests see *Millennium*, Vol. 29, No. 1, pp. 103-140.

Based upon this definition of hegemony, the MAI opponents who belonged to the social movement system of action perceived themselves as being involved in a counter-hegemonic project. Their critiques of, and continued opposition to, processes of increased economic liberalization—be it through an MAI negotiated within the OECD or the World Trade Organization—and their understanding of this process as one reflecting particular power structures (see Chapter 4), clearly situated those MAI opponents as challengers of what critical IR analysts define as the current hegemonic order. Furthermore, as seen in the previous chapters, their strategies of public education, generating media attention and building domestic and transborder networks in order to build such a social force revealed that such a project was self-consciously under way.³

Likewise, based upon the concerns they have expressed, the opponents of economic globalization may also be identified with Polanyi's second movement which Cox (1996: 514-519) included in his "historical dialectic" approach. The approach relies upon the idea that society "produces in its structure the antagonisms that lead to its modification" (Dahrendorf in Cox, 1996: 514). Polanyi's analysis of nineteenth century European economic and social history provided such a dialectical understanding. The second movement was "society's unplanned and unpredicted response of self-preservation" from the first movement which was "the introduction of the self-regulating market ... a utopian vision backed by the state." Here again we can find confirmation of

³ However, based on interviews with anti-globalization activists in the fall of 1999, it is important to point out that no activist will argue that the objective of building such a social force is even near completion. One French activist commented that so long as the majority of the public would not come on board and so long as the major media were controlled by commercial interests they saw little chance of any significant change occurring.

such fears in MAI opponents' requests to re-assert the regulatory power of the state to implement protective policies. It may therefore be argued that, from the standpoint of the opponents of economic globalization, their reaction can be understood as part of a Polanyian second movement.

These definitional "matches" between economic globalization opponents' perceptions of what they understand the processes of economic globalization to be and what Gramscian IR theorists define as hegemony provide some conceptual identification of these societal actors as counter-hegemonic social forces. However, there still remains the question of whether these radicals empirically represent such a meaning for world politics.

Empirical Assessments of Radicals as a Counter-Hegemonic Social Force

A counter-hegemonic social force would be one with the potential to transform an existing hegemonic order. Thus for Gramsci, a counter-hegemonic force (at the domestic level) was "one which could compete with, and eventually supplant, the bourgeois hegemony which prevailed in his time" (Gill and Law, 1988: 64). Likewise, a contemporary version of such a counter-hegemonic force would be one that would espouse an alternative vision for and seek to supplant what critical IR theorists have identified as the current hegemonic world order. This order, as just explained, includes international economic institutions and the policies that emanate from them.

Therefore, one way to assess empirically whether the opponents of economic globalization represent such a social force would consist of assessing their potential strength relative to the criteria that would identify such a force in theory. The existence of

a counter-hegemonic social force could also be empirically assessed in terms of social actors' objectives, their own perception of their goals/roles, and the way in which these would fulfill a counter-hegemonic role such as that envisioned by the theory. I will discuss each of these indicators in turn as they relate to the opponents of economic globalization.

(A) An Empirical Assessment of Globalization Opponents' Potential

So far, much caution has been exercised, even on the part of sympathetic observers, to avoid over-celebrating the opposition to economic globalization. Pointing to eruptions of domestic protests around the world in the 1990s, Cox (1999: 13) maintained that although "these various instances are indicative of something moving in different societies across the globe toward a new vitality of 'bottom-up' movement in civil society.... This movement is, however, still relatively weak and uncoordinated." Diversity rather than unity among those who protested against globalization has been highlighted.⁴ Likewise Kiely (2000: 1066) recently concurred with the literature in that: "while protest against a global neoliberal agenda is welcome, there is a danger of uncritically celebrating resistance. There was a wide variety of organizations and interests at Seattle." His argument highlights the tensions among environmentalists, between the claims of labour and deep ecology, local action versus global action and direct action versus the more diplomatic way of dialogue.⁵

There are several reasons for such a cautious assessment on the part of critical IR

⁴ For an overview of that literature and such arguments see Ray Kiely (2000) "Globalization: from domination to resistance" in *Third World Quarterly*, Vol. 21, No. 6, pp. 1059-1070.

⁵ These observations do not mean that other less sympathetic observers are not equally sceptical regarding the potential of this actor.

analysts. One of the difficulties resides in the fact that critical IR theory offers few if any tools to empirically assess such social actors. Over a decade ago, Gill and Law (1988:375, 376) speculated that for a counter-hegemonic movement to be successful “it would require the support of *more* material and institutional power” (such as that found in religious institutions for example) and that counter-hegemonic groups would need to “create a *grand*, transnational coalition in order to synergise their potential” (italics added). These suggestions offer little in terms of testing empirically whether we are witnessing such quantifiably significant support, or whether those opposing globalization are likely to reach such a stage. Neither are criteria provided that would enable analysts to identify when such a coalition would be deemed to have occurred or what critical amount of material and institutional power is required for achieving counter-hegemonic potential.

Although critical IR theorists such as Cox (1996: 30-35) have suggested the possibility of a Polanyian double movement at the end of the twentieth century, and although opponents of globalization espouse arguments that match that theoretical concept, the framework provides few criteria in terms of the critical mass required for such an occurrence. As Cox (1996: 515) acknowledged in 1992 regarding the possible emergence of a double movement: “[t]he question remains open as to what form these may take, as to whether and how they may become more coherent and more powerful, so that historical thesis and antithesis may lead to a new synthesis.” Thus the theoretical framework lacks guidance in terms of empirically assessing the significance of societal actors such as those opposing economic globalization.

(B) An Empirical Assessment of the Objectives and the Role of Transformatory Social Forces

Another way of assessing empirically whether the opposition to economic globalization can be identified as what critical IR theorists identify as a counter-hegemonic social force would be to show that the role espoused by these actors is akin to that assigned such actors by the theory. A related empirical question would be whether the substantive alternatives to the current processes of economic globalization that have been expressed by its opponents represent an elaborated vision of an alternative hegemonic order as is conceived by the theory. I will begin with the substantive alternative envisioned by opponents to economic globalization and conclude this section with the role envisioned by critical IR theory for such social actors.

Based upon the critical description of the latest hegemonic order and the stated objectives expressed by the opponents of economic globalization, radicals' aspirations reflect a desire to reassert a world order based upon an interventionist state which would enjoy more regulatory autonomy than that permitted under the international economic rules recently ratified.⁶ Likewise, their opposition to the MAI targeted rules which appear in the NAFTA, rules that, had the MAI been ratified, would have been extended to a broader region and could eventually have been adopted world wide. In that sense, their struggle reflects a desire to safeguard a type of democratic interventionist state that,

⁶ It is clear that the objective is to undo the more recent international economic policies reached under the Uruguay Round with the creation of the WTO as well as other more recent regional economic agreements such as the NAFTA. Thus Lori Wallach a prominent contributor in the campaigns against the MAI and the WTO explains that one of the main goals of opponents to economic globalization "is to prune back the WTO....It's not just taking the rules out, it's either depowering the WTO relative to other institutions, international ones, or empowering institutions such as the International Labour Organization (ILO)" (Naim, 2000: 37. 39).

according to the critical IR framework, characterized the hegemonic order which emerged at the end of World War II.

This is clearly reflected in a document produced by MAI opponents as a proposed alternative MAI.⁷ The desired principles underlying the alternative treaty include the rights of states to:

Maintain control over their fiscal and monetary policies as well as to enact laws, policies and programs designed to regulate the economy in the public interest. In particular, states have the right and responsibility to protect (a) strategic areas of their economies [eg. finance, energy, communications] by establishing public enterprises and (b) sensitive areas known as the 'commons' [eg. environment, culture, health care] through government-run public services (p. 5).

Likewise, the desired components of such an agreement would include a provision for

“Public Enterprises” which stress governmental responsibilities as follows:

Governments also have a responsibility to use tax revenues for protecting the commons by making public investments such as: (i) exercising public ownership of key sectors of the economy that affect all citizens [eg. electricity, communications, transport etc.]; (ii) establishing social programs and public services to ensure delivery of adequate education, health care, and social services (p. 8).

Critical IR theorists consider the type of state described in these quotes as an obsolete component of the latest hegemonic order known as *pax americana*. That order, which emerged in 1945 and began its decline by the late 1960s, was characterized in advanced industrialized countries by what Cox (1996: 198) referred to as a “neoliberal

⁷ The excerpts quoted in the text were taken from a document prepared by Tony Clarke (1998a) of the Polaris Institute in collaboration with other MAI opponents working on investment and related issues from different countries. Also acknowledged is the work undertaken for the Popular Summit of the Americas in Santiago (1998) by the Ecumenical Coalition for Economic Justice of Canada and the Red Mexicana de Accion frente al Libre Comercio from Mexico along with other individuals from IFG, the Third World Network, Law and Democracy USA, and the Research Foundation for Science, Technology and Natural Resource Policy in India. The document was found on the web site of the Council of Canadians (www.canadians.org).

form of the state” which legitimated capitalism. Cox refers to the Keynesian interventionist welfare state as “neo” liberal in that unlike the liberal state of the *pax britannica*—the hegemonic order that preceded *pax americana*—the neoliberal state aimed to moderate the effects of classical liberalism (ibid.). The purpose of that state was not counter-hegemonic. On the contrary, its purpose was to legitimate that order. As Cox (1996: 200) explained: “[t]he neoliberal state played a hegemonic role by making capital accumulation on a world scale appear to be compatible with a wide range of interests of subordinate groups.” That hegemonic order and its domestic arrangements were challenged by a world crisis from late 1968 to 1975. As that hegemonic order began its decline with the economic crises of the 1970s the form of state that enabled its stability also eroded.⁸ For some, the internationalization of the state not only meant the demise of the interventionist welfare state but its desired return was also characterized as “mired in [the left] Keynesian positions of the 1960s” (Cox, 1996: 191).

While the latest hegemonic order was in decline, Cox (1996: 34) refrained from confirming that a new hegemonic order had emerged. Nevertheless, the continued decay of that post-war order led him to hypothesize the possible emergence of a new one. Of two alternative new world orders contemplated in the late 1970s early 1980s, one would be founded on a hyper-liberal state, and could emerge as a result of the Thatcher-Reagan hyper liberal tendencies which were espoused beginning in the 1980s.⁹

⁸ For a discussion of various understandings of this process see Panitch (1997: 83-113).

⁹ Hyper liberalism is defined as an ideology which “[r]ejects state intervention to influence the results of market behavior and views the state only as the enforcer of market rules....The key words...are competitiveness, deregulation, privatization, and restructuring....Competitiveness is the justification for dismantling the welfare states built up in the post-World War II period—negating the effort in the more

Opponents of globalization can be identified as struggling against what Cox perceived to be such a process of hyper-liberalism which began in the 1980s. From a critical theory perspective, their stated objectives indicate that, rather than attempting to create a new hegemonic order, opponents to globalization are attempting to reverse or prevent policies that foster tendencies toward the creation of a hyper-liberal state and the possibility of its concomitant world order. At the very least then, their objectives can be understood as ones which attempt to prevent the emergence of a new hegemonic order built upon the hyper-liberal state—the possible emergence of which Cox (1987) suggested.

There are, however, indications that some radicals' objectives seek transformations that go beyond a simple return to the post World War II nation-state and that world order. For example, their critiques of the power structures and their preferred international arrangements would affect the interests of MNCs who are deemed to benefit from the processes of economic globalization. The first critique is evident in the sympathy expressed for the plight of Southern populations faced with insurmountable debts, and the related critiques of the IMF and the World Bank.¹⁰ The opposition to MNCs represents both a critique of hegemonic power and an attempt to alter the benefits these

industrialized countries to legitimate capitalism by avoiding a recurrence of the immiseration that occurred during the Great Depression of the 1930s" (Cox, 1996: 31).

¹⁰ An expression of this challenge was voiced by a protester against the IMF and the World Bank: "most of us believe that decisions should be made in local communities and not by economists and trade bureaucrats in Washington and Geneva" (Cienski, 2000). See also Barlow and Clarke (2001: 137) regarding the links between the Jubilee 2000 campaign which manifested itself in Seattle as a human chain "demanding action to lift the debt burden."

organizations are deemed to be gaining from the current order.¹¹ These targeted criticisms and their attendant solutions correspond to counter hegemonic objectives in that they seek to affect “the ideas, practices and agents of governance fora so that interests of the status-quo are compromised in deference to the interests of alternative understandings and practices of authority” (Beir and Crosby, 1998: 88, 89).

However, for critical IR theorists, whether such anti-globalization forces succeed in their objectives is what will render them counter-hegemonic. That is, to qualify as counter-hegemonic social forces the transformative role envisaged by critical IR theory requires that profound transformations of the hegemonic order take place, not just that attempts to achieve such changes are made. For critical IR theorists social forces will have fulfilled their transformative role if these “forces of transition *succeed* in altering the ideas, practices and agents of governance fora so that interests of the status-quo are compromised in deference to the interests of alternative understandings and practices of authority...” (Beir and Crosby, 1998: 88, 89). Cox’s (1996: 105-108) attribution of one such hegemonic change — from the nineteenth century *pax britannica* to twentieth century *pax americana* — to the emergence of industrial workers in the nineteenth century provides an illustrative example of the role expected from counter-hegemonic social forces by critical IR theory.¹² It is one where social forces could “ultimately bring

¹¹ As one activist worded it: “I would take intellectual property rules and revert them to the World Intellectual Property Organization, for instance....there is a need ... to have rules on how to balance the need of people to have access to medicine with the interests of the pharmaceutical industry.....I wouldn’t impose a worldwide 20-year monopoly on patents on every single country” (interview of Lori Wallach from Public Citizen by Moisés Naím in *Foreign Policy*, Number 148, Spring 2000, pp. 29-55)

¹² Cox (ibid.) directly attributes the change from one hegemonic order to the other to the emergence of industrialised workers in that the emergence of this new social force “had an impact on the

about a transformation of the structure” of the international hegemonic order (Cox, 1996: 107). This understanding of social forces is perhaps the one that most strongly justifies critical theorists’ cautious assessment of the opponents to economic globalization.

That is, the understanding of the role played by social forces envisaged in the critical IR framework, and therefore their meaning for world politics, can only be assessed *ipso facto*. Furthermore, short of a complete transformation of the existing order, the role played by social forces and their meaning for world politics are rendered insignificant in the sense that the lack of complete systemic transformation will mean that social actors have been effectively co-opted.

Thus Cox (1999: 11) expressed scepticism when considering social movements as potentially constituting “a basis for an alternative world order,” observing that states and corporate interests will co-opt “elements of popular movements” in order to make civil society “an agency for stabilizing the social and political *status quo*.” The Gramscian concepts of “war of movement” and “war of position” are relied upon to refer to two strategies available to oppose hegemonic state-societies. The war of movement, as occurred in Russia at the beginning of the twentieth century, is one through which “[t]he vanguard party could set about founding a new state.” The war of position describes a strategy by which civil society would slowly build up “the strength of the social foundations of a new state.”

structure of state” domestically whereby “the liberal form of state was slowly replaced by the welfare-nationalist form of the state.” Thus “[t]he incorporation of the industrial worker, the new social force called into existence by manufacturing capitalism, into the nation involved an extension in the range of state action in the form of economic intervention and social policy. This in turn brought the factor of domestic welfare (i.e., the social minimum required to maintain the allegiance of the workers) into the realm of foreign policy.” This also altered the international configuration of states power.

Since Cox (1996: 139) ruled out a war of movement of global proportions as a likely occurrence at the end of the twentieth century, it would appear that the theoretical framework leaves only one way of conceiving of a true counter-hegemony—a war of position. However here, an empirical assessment of such social forces is limited by the idea of *trasformismo* as one of co-optation due to the “pressures and temptations to relapse into pursuit of incremental gains for subaltern groups within the framework of bourgeois hegemony” (Cox, 1996, 28-139).¹³ For example, critical analysts see co-optation of the concept of sustainable development (Gill, 2000: 139) and the emancipatory notion of self-reliance in development, in that these ideas were transformed and applied in a manner that became “complementary to and supportive of hegemonic goals for the world economy” (Cox, 1996: 139).¹⁴ Examples of institutions deemed responsible for such outcomes are the UN Conference on Environment and Development (UNCED) at Rio in 1992, and the World Bank. Thus, the alternative outcomes caused by social forces which are contemplated in the theory render social actors either participants in hegemony or not.

(C) *On Structure and Agency*

Critical IR theory constitutes a historicist approach concerned with cyclical

¹³ It is interesting to point out that one of the reasons opponents to globalization are referred to as radicals is that they refuse to dialogue with officials and corporate leaders. Their reason for such behavior was explained as a fear of being co-opted, and that dialogue was a tool of legitimation used by officials.

¹⁴ Thus the notion of self-reliance went from meaning “endogenously determined autonomous development” to “do-it-yourself welfare programs” aimed at preventing mass migration to the cities of populations that the world economy cannot integrate (Cox, 1996: 139). Gill (2000: 139) finds such co-optation in the definition of “sustainable development” in “public policy as compatible with market forces and freedom of enterprises.”

historical changes in “persistent patterns of human activity and thought that endure for relatively long periods of time” (Cox, 1996: 514). These patterns concern economic and political practices and the relations of social groups (ibid., p. 55). They are referred to as historical structures. The research program of historicism is to “reveal the historical structures characteristic of particular eras” and, more importantly, to “explain the transformations from one structure to another” (Cox, 1996: 53). As such, the framework provides useful tools with which to understand the broad contours of systemic changes and the forces involved in such processes.

Many of the difficulties in empirically accounting for the opponents of globalization are due to this theoretical focus and the ontologically primitive position of the structure that results from it. Such an approach yields an epistemological position whereby structures generate or explain agents themselves (Wendt, 1987: 340). As such, the meaning of social forces for world politics is determined by the role they play in structural transformations. The outcome of the structure defines the agent.

As a result, collective action is considered as a “means to an end” and assessed in terms of “instrumental rationality” (Melucci, 1989: 74). There are two difficulties with this limitation. One is that it prevents a more in-depth understanding of such social actors; the other is that there is a tendency to discount their actions and their influence should they not obtain the anticipated end. As such, what Cox’s framework does less well is to provide an understanding of the counter hegemonic role of social forces in processes of transformation. More specifically, how do such forces engender changes and how can we see this process taking place?

Also implicit is the understanding that ideas and culture are produced by the structure, not by agency. Under a hegemonic order, the agent is restricted or constrained by the structure to behave in a certain way. Thus Gill and Law (1988: 77) explain: “Gramscian analysis highlights the role of ideas and culture, in that they serve to shape preferences and constrain perceptions of what is possible....such constraints are so internalised that they appear both natural and inevitable.” How do we explain self-conscious counter hegemonic agency such as the opposition to economic globalization if “[h]egemony frames thought and circumscribes action” (Cox, 1996: 518)?

In spite of Cox’s intentions to the contrary, the framework suffers from what social movement analysts have observed to be the weakness of traditional Marxist theories. That is, it conceives of an actor without an action (Melucci, 1995: 107; Touraine, 1999: 8). This lacuna leaves many questions regarding the role and meaning of societal actors for world politics unexamined. For example, what role does agency play in changing the ideas and culture which are critical components of the Gramscian concept of hegemony? How do counter hegemonic ideas and culture evolve and how do they spread to other collectivities and entities that sustain hegemony? That is, how do social forces engage in and build a war of position?

These analytical lacuna raise several difficulties for the analysis of collective action such as the opposition to economic globalization. The framework offers no tools to understand this societal actor in terms of its actions, potential for influence or interactions with its political and social environments. Until we can assess their role as having been counter hegemonic after-the-fact, what is the meaning of these societal actors for world

politics? And until such time how do we explain their transnational interactions, objectives and evolution?

II. Explaining Counter hegemony with Social Constructivist Frameworks

In order to address these lacuna, I propose a complementary framework which, I believe, fills the analytical vacuum left by the structural and materialist approach of critical IR theory. Social movement analysis in combination with the IR constructivist framework provide a framework that explains how social actors, and the ideas and norms they espouse can have influence at the societal and systemic levels. In that sense, these approaches can be seen as tools that enable the analyst to go inside a war of position and explain the diverse influences of counter-hegemonic social forces. Even if at the end of the research a complete transformation of the hegemonic order cannot be anticipated, such an analysis provides an understanding of the ways in which counter hegemonic ideas penetrate various levels of activity that are considered in the critical IR framework.

Social movement analysis provides an understanding of the influence and development of new ideas and culture at the societal level while the IR constructivist framework provides the tools with which to understand how such ideas may influence states and international institutions. Both approaches belong to what has broadly been identified as social constructivism. As the following description indicates, constructivism aims to provide an understanding of agency that is missing in the structural approach of critical IR theory. As Risse (2000: 55) explained:

Constructivists claim...that agents do not exist independently from their social environment and its collectively shared systems of meanings ('culture' in a broad sense). At the same time, social constructivists maintain that human agency

creates, reproduces, and changes culture by way of daily practice. In sum, social constructivism occupies a—sometimes uneasy—ontological middle ground between individualism and structuralism by claiming that there are properties of structures and of agents that cannot be reduced to or collapsed into each other.

Accordingly, to expect from a framework such as Cox's to provide both types of understandings may be too ambitious. For that reason, I suggest that the following choices of analytical tools enable the researcher to investigate empirically the processes through which counter hegemonic influences manifest themselves and penetrate sites of hegemonic power.

Social Movements as Social Forces of Transformation

The study of social movements emphasizes the analysis of processes by which societal actors construct reality for themselves and society at large. Like the constructivists in IR, social movement analysts in comparative politics rely upon sociological traditions that focus on the way in which identities and interests are shaped by actors through the social construction of reality (Keck and Sikkink, 1998: 4). As McAdam, Tarrow and Tilly (1997: 149) have expressed it: “[f]or a growing school of constructionists, social movements were *both* carriers of meanings and makers of meanings, that, by *naming* grievances and expressing new identities, [they] constructed new realities and made these identities collective.”

As such, these analysts have rejected case studies that focus solely on these actors' impact on states or policies, arguing that the objectives and influences of such societal actors are much broader than such state- or policy-focused analyses suggest (Thiele, 1993; Rochon, 1988; Melucci, 1989; Wapner, 1996). Thus for example, Rochon (1988: 205)

argued that “[t]o look solely at its impact on policy is to reduce the peace movement to a lobbying organization.” For Wapner (1996: 13), “NGOs are significant in world affairs not only because they influence states but also because they affect the behaviour of larger collectivities throughout the world.” Thus an integral part of movement analysis concerns the role of such phenomena as agents of social change.

The emergence of social movements in the 1960s initiated a debate concerning the differences between these movements and the more familiar and “older” labour movements.¹⁵ Among others, the observation was made that contemporary movements represent a departure from past movements in that the actors in the so-called “new” social movements challenge and overturn “the dominant codes upon which social relationships are founded” (Melucci, 1989: 75). For Melucci (*ibid.*), these cultural innovations affect “everyday life activities and the market” through modifications in areas such as language, sexual customs, affective relationships, dress and eating habits.¹⁶ As such, these actors help to challenge existing social orders by challenging “dominant cultural codes” and rendering “visible the power that hides behind the rationality of administrative or organizational procedures” (Melucci, 1989: 75, 76).

We have already seen in the previous chapters how the MAI opponents that

¹⁵ See Plotke, 1990; Epstein, 1990; Slater, 1994; Carrol and Ratner, 1994; Kearney, 1996; Steinmetz, 1994 and Melucci (1995) for examples of the debate.

¹⁶ Thus to name a few examples, over the past three decades the women’s movements have altered our understanding of the relationships between men and women, gay and lesbian movements have introduced the notion of diverse sexual identities, the environmental movement has raised awareness regarding the relationship of people to nature, their health and what they eat. We should, however, remain aware that many difficulties present themselves when attempting to attribute particular influences to social movements. For discussions and suggestions regarding these difficulties see della Porta and Diani (1999: 226-254); Lofland (1996: 345-354); Tilly (1999: 253-270).

belonged to the social movement system of action sought to render visible the power structures that they perceive to be inherent in international economic relations. In addition, the various networks that are part of the opposition to economic globalization also exhibit a variety of challenges to existing cultural codes. As reflected in a book titled *No Logo: Taking Aim at the Brand Bullies* (Klein, 2000), younger networks of the movement against economic globalization express resistance to what they perceive to be the homogenization of culture fostered by MNCs and their hijacking of identity politics (Johnson, 2001: 28). Much of this co-optation is perceived to be taking place through invasive advertising and several groups have accordingly given a response in kind. Thus Klein describes groups that undertake activities such as “cultural jamming” and “reclaim the streets” as cultural forms of protest against the invasion of public spaces by private interests. Cultural jammers fill advertising spaces with advertising parodies while street reclaimers attempt “to fill [space] with an alternative vision of what society might look like in the absence of commercial control” (Klein, 2000: 313). These types of activities are directed at what has been called a global commercial culture.

Likewise, the objections expressed against genetically modified organisms and “frankenfoods” (see Chapter 4) reflect not only concerns for the environment and agricultural communities, but also health and dietary practices. They also target large biotech companies and expose future risks caused by a lack of intellectual and regulatory oversight. Thus the head of Public Citizen, Ralph Nader, warned that

Bio-engineered products are being sold under the process that we call autocratic corporate science. It's not open science like academic science. It's not peer-reviewed by scientists that don't have a vested interest in the outcome, the way

(academic) science does.... You've gotta know what you're doing. If you're doing it just to maximize next quarter's sales and profits, you're not as likely to be as careful—especially when your information is secret and subject to trade secret requirements (McGregor, 2001: 7).

These concerns translate into consumer activism such as that promoted by the Sierra Club of Canada, the Canadian Health Food Association and the Canadian Organic Growers.¹⁷

Thus we find among members of the antiglobalization movement networks new and old expressions of counter-hegemony. As such, the opposition to economic globalization represents radicalized networks of the new social movements that emerged in the 1960s as well as novel counter hegemonic cultural manifestations. The younger cultural networks just mentioned are joined by environmentalists, social justice groups, feminists, labour activists and consumer groups that have evolved over the past thirty years. In addition, a bridge has been built between North and South as evidenced through the various movement networks documented in Chapter 4. This represents a growth not only in numbers but in geographical and generational breadth. As such, the cross-border and cross-interests represent a strength rather than a weakness, and the diversity which troubles critical IR theorists should, on the contrary, encourage these sympathetic observers. While there may have been aspects of these movements that were co-opted over the past thirty years, the evidence indicates that co-optation has not been complete and that actors from the social movement system of action have re-ignited these counter

¹⁷ A pamphlet produced by these three organizations encourages individuals to use their consumer buying power to undermine the production and sale of such products by encouraging readers to consume instead organic products. During a recent visit to Canada, Ralph Nader suggested requesting mandatory labeling so that consumers could choose (McGregor, 2001: 7).

hegemonic tendencies.¹⁸

As social movement analyst Alberto Melucci (1995: 112) observed:

Contemporary movements are multi-dimensional realities that affect different levels of the social system, pursue diverse goals, and belong to different phases of development of a system or even to different historical systems.... The analysis of a social movement should explain how these diverse elements are combined in a unified empirical actor.

We have throughout the analysis of the anti-MAI campaigns explained how and why this opposition brought together diverse groups and advocacies across borders into one empirical actor. As such, a more optimistic hypothesis regarding the significance of this social phenomenon would consist of explaining it as part of an ongoing war of position the beginning of which coincided with the decline of the hegemonic order known as *pax americana*.

In addition to these cultural influences of large collectivities, Paul Thiele (1993: 282) has observed that “[t]he importance of social movements is often most clearly observable in their creation of a background of social and political understandings and orientations that are participated in (for various reasons) by state officials, business leaders, and the general public. The political significance of this social osmosis should not be ignored.”

In terms of political culture, the politicization of international economic negotiations as they relate to a renewed awareness of citizenship cannot be ignored. The awareness campaigns conducted during the anti-MAI campaigns and subsequently on the

¹⁸ This renewed movement activity which brings together (old) new social movements and (new) new social movements deserves further comparative study and understanding of these developments.

occasion of other international meetings have contributed to a broader public debate on the implication of such agreements for democracy. Citizens' concerns over the implications that such agreements have on domestic policies and their claims for transparency have by now been amply documented in North America with the NAFTA and the negotiation for the Free Trade Area of the Americas (FTAA) as the most recent evidence.

In terms of radicals' concern regarding the unequal distributional effect of economic globalization (see Chapter 4), Thiele's process of osmosis quoted above appears to have been engendered. An example of such osmosis was the theme "how to sustain globalization" of the Davos annual World Economic Forum of January 2001, which brought together roughly 2,000 of the world's top business and political leaders (Drohan, 2001). The topic of the forum reflected the concern that in order to make globalization sustainable it had to work for every one (ibid.). Thus the new Mexican President, Vicente Fox, addressed the World Economic Forum by calling for an end to a "world in which 1.2 billion people live on less than a \$1 a day, and where the gap between rich and poor continues to grow" (Carnegy and Barber, 2001: D3). In the same vein, billionaire financier George Soros, a regular forum attendant, argued that: "[m]arket fundamentalism seeks to abolish collective decision-making and to impose the supremacy of market values over all political and social values" (Francis, 2000: D3). Similarly, statements taken from the media quote the new director of the International Monetary Fund, Horst Kohler as saying that his organization is "willing to change" to meet some of the protesters expectations (Wallace, 2000: B4). Evidently, these comments may be understood as

necessary political appeasement tactics. They say little about the ways in which the critiques of opponents to globalization might translate into more profound transformations at the ideational level of world politics.

Nevertheless, a debate that reflects a contest over the future(s) we may face as a result of economic globalization is now taking place in several fora as well as the media. Thus a dialogue has taken place between the “Davos Men” and their opponents the “Porto Alegre Persons.”¹⁹ Indeed, on the occasion of their respective meetings, “Davos Man recognized Porto Alegre Person immediately, and proposed a debate through a TV link. On a Sunday night...the two sides entered the lists, and clashed” (Lloyd, 2001: A13). Not only is a direct dialogue taking place but the number of debates reproduced in diverse media that address issues of concern to the opponents of globalization have multiplied considerably since the MAI. In that manner, the arguments of this new societal actor in world politics have reached a broader segment of societies.

The extensive analyses of social movements which have been undertaken since their emergence in the 1960s provide an array of tools and observations that enable me to conclude that the numerous movement networks opposing globalization will in all likelihood be sustained and that they will continue to grow. In this section I have also relied on that literature to indicate that these actors will likely sensitize larger collectivities

¹⁹ The expression “Davos Man” was coined by the American political scientist Samuel Huntington (Ash, 2001: A13). The term “Porto Alegre Person” appeared in a column written by John Lloyd (2001: A13) a few weeks later and, since not attributed to anyone, seems to have been his own. The term refers to the first World Social Forum in Porto Alegre, Brazil which was organized and attended by participants of the transnational anti-globalization movement networks in response to and coinciding with the latest Davos meeting of January 2001.

about the cultural, social, political and economic issues they find to be associated with economic globalization. This is not a negligible aspect of movements' influence since decision makers and officials who engage in interstate relations are not only part of these larger collectivities but they are also politically sensitive to shifts in public opinion. However, to understand how the ideas espoused by societal actors may influence world politics we must turn to IR social constructivist frameworks.

Contested Future(s): Causal Beliefs, Principled Beliefs and Norm Paths

As explained in the introductory chapter, the preoccupation of IR social constructivists with the normative sources of states' behaviour is rooted in their understanding that states can form a society and that their behaviour can be influenced by processes of socialization. That is, there exists the presupposition of a "community able to pass judgements on appropriateness" (Risse et. al., 1999: 7). Through processes of socialization, "principled ideas ('beliefs about right and wrong held by individuals') become norms ('collective expectations about proper behaviour for a given identity')"(Jepperson, Wendt and Katzenstein 1996: 54, in Risse et al., 1999: 11). The behaviour of states can thereby be understood as a result of "collective intentionality," which means that individual actors behave the way they do because of "intersubjective beliefs" (Ruggie, 1998a: 20).

While some analysts focus on the role of non-state actors in ensuring that existing international norms are respected domestically (Risse et al., 1999), others seek to understand the role of non-state actors in transforming such norms (Finnemore, 1996; Price, 1998; Drake and Nicolaidis: 1992). The main focus of research then is on the

generation of ideas and processes of socialization through which norms that influence what states want or how they behave come to be shared. Several assumptions underlie these approaches. They are: (i) that “state interests are defined in the context of internationally held norms and understandings about what is good and appropriate,” (ii) that “that normative context influences the behaviour of decision makers and of mass publics who may choose and constrain those decision makers,” and that (iii) “the normative context also changes over time, and as internationally held norms and values change, they create coordinated shifts in state interests and behaviour across the system” (Finnemore, 1996: 2). As such, analyses have confirmed that norms compliance has, at times, been fostered by societal actors and that at other times norms have been transformed by societal actors.

Therefore, these approaches bridge the analytical gaps that leave out ways in which ideational influences of social forces can affect states’ behaviour and developments in world politics. As such, IR social constructivism may provide an understanding of existing norms that may foster globalization opponents’ objectives, should some of their ideas coincide with existing norms or, alternatively, indicate ways in which they could alter existing norms through principled or causal beliefs. Although no such analyses have been attempted as these concepts may apply to counter-hegemonic social forces or ideas, the conceptual framework offered by this approach and the existing empirical evidence of societal actors’ influence provide useful means to understand how and why such ideas may influence international outcomes. Comparative analyses of existing cases with opponents of economic globalization would seek to reveal which types of norms are more likely to

sway the current tendencies toward a hyper-liberal world order in the direction of one that espouses its opponents' norms.

(A) The Power of Causal and Principled Beliefs

Gill and Law (1988: 64) made the interesting observation that Gramsci “went as far as to suggest that certain types of ideas can become akin to material forces, in that they can incorporate themselves into the way reality is perceived and understood by the mass of society and/or its leaders.” IR constructivists suggest that principled and causal beliefs can be that powerful and play such roles. While Gill and Law refer to the power that hegemonic ideas play in maintaining hegemony, I suggest that we need to explore whether the process can be reversed. One way the opponents of economic globalization are attempting such a feat is through their challenge of the principled and causal beliefs invoked in support of the design of international economic agreements currently underway.

The IR constructivist framework enables us to better understand the challenges that opponents to economic globalization are undertaking at the ideational level. The following focuses in particular on three related concepts that concern the ideational source of international policy making. These concepts provide an improved understanding of the challenges that opponents to economic globalization have engaged in as they question the principled and causal beliefs and the resulting norms upon which international economic policies are founded. That is, by challenging these beliefs, opponents to economic globalization challenge the morality and credibility of the ways in which reality is understood and upon which the future of the global economy is being constructed.

These conceptual tools suggest that the targeting of domestic and international economic institutions by the opponents of economic globalization can be understood as an ideational contest over world views. As such, the “communicative action” (Risse, 2000) between the opponents of economic globalization, epistemic communities, the international bureaucracies and elected officials merit further enquiry. The following aims only to illustrate how the contest over future(s) takes place at the ideational level and suggest some avenues through which opponents could influence the outcome of international economic relations.

Drake and Nicolaidis (1992) traced the influence of societal actors on states’ understanding of their economic interests that resulted in a systemic shift in behaviour. In that case, it was an epistemic community consisting of “a group of experts with shared causal and principled beliefs, shared validity tests, and a common policy project (ibid., p. 38)” that succeeded in revolutionizing the way governments thought about services.²⁰ Up until the launching of the Uruguay Round of trade negotiations in 1986, the idea that services could be conceived of as tradeable goods was not only foreign but actively resisted. The reason for this, as the authors explain, was that not only had services never been conceived of as such but that they had been heavily regulated domestically for centuries.

The change in the meaning of services took place through a new understanding of these activities that illustrates what IR constructivists refer to as the social construction of

²⁰ Services make up a broad range of activities such as “transportation, shipping, banking and finance, management consulting, advertising, education, telecommunications, construction, entertainment, massages and hair cuts” (Drake and Nicolaidis, 1992: 43).

reality. First, the redefinition of services as tradeable goods changed states' collective understanding of such domestic activities. Once this transformation had taken place it was possible to apply the language and norms of trade relations to services and their attendant domestic regulation. As the authors pointed out, "[t]he very act of defining services transactions as 'trade' established normative presumptions that 'free' trade was the yardstick for good policy against which domestic services regulations, redefined as non tariff barriers (NTBs), should be measured and justified only exceptionally" (Drake and Nicolaïdis, 1992: 40).

There are interesting parallels and contrasts between the above case study and the MAI opposition. The first parallel is that both concern the institutional settings of international economic relations and the global economy. Second, as was ascertained in Chapter 5, a similar epistemic community with similar causal and principled beliefs convinced decision makers of the desirability of liberalizing their investment policies. The contrasts concern the new societal actors involved in the MAI opposition and the nature of the ideas they advanced.

By definition, decision makers turn to epistemic communities in times of uncertainty when faced with changes (Haas, 1992). Thus the epistemic communities who conceived of services as tradeable goods were gathered as early as 1972 to provide analyses and solutions to what were generally perceived to be significant transformations in the structure of the world economy. Furthermore, the principled and causal beliefs and the concomitant norms regarding services that the epistemic community proposed were congruent with those of the trade regime. They resulted in the General Agreement on

Trade in Services (GATS) by which states adopted new norms in terms of services. These norms were, nevertheless, similar to those already applied for trade in goods. Unlike the epistemic communities promoting liberalized 'trade in services' or investments, MAI opponents were not invited to produce experts' reports. More importantly, the principled and causal beliefs they espoused diverge from those that justify such norms, and the new norms that flow from such beliefs conflict with those of the trade regime.

The principled and causal beliefs that inform the world view that increased liberalization of all domestic markets is good is that it will, in the long run, be better for all of humanity. The principled beliefs which inform the opponents of economic globalization concern the appropriateness of the post World War II collective intentionality regarding the regulatory role of the state. This is reflected in their concerns regarding the increased encroachment of such "trade" on domestic policies and democracy. The other ideational contest takes place at the level of causal beliefs. As seen in Chapter 4, the opponents to economic globalization argue that not all will benefit from this type of continuous liberalization. Not only, they argue, does globalization skew wealth distribution but large segments of population are excluded from this economy. They also question whether some of the rules included in these globalization instruments are necessary.

From a social constructivist perspective, the arguments and ensuing public policy debates that have begun to emerge contribute to what Risse (2000: 6, 7) identified as "the logic of truth seeking." According to that perspective, when actors engage in such activities they either attempt to demonstrate that they are correct or they attempt to justify the norms that guide their behaviour. Risse and Sikkink's (1999: 13) framework

conceives of four types of “socialization processes through which such communication can have an impact. Among these we find moral discourse which “challenge and seek justifications of norms.” While principled beliefs exercise influence through “shaming and denunciations” and “changing minds by embarrassing” (Risse and Sikink, 1999: 14), causal beliefs are powerful in several other ways.

The power of causal beliefs is directly linked to the power of epistemic communities. Such communities are powerful at the domestic and transnational levels because “decision makers solicit their information and delegate responsibility to them” Haas (1992: 4). Furthermore, to the extent that these consolidate bureaucratic power at these levels, they stand to institutionalize their influence and insinuate their views in broader international politics. These processes, I argue, are currently at play and they open avenues for social influence on norms. I refer to such avenues as norm paths.

(B) Norm Paths as Windows of Opportunity for Change

Risse-Kappen (1995: 31) observed that regimes affect the policy impact of non-state actors whereby “[r]egime norms tend to strengthen those domestic coalitions advocating compliance.” The correlation between regimes and effectiveness of societal actors’ success was further confirmed by Risse and his collaborators in a subsequent series of case studies on human rights campaigns. One of the conclusions reached in assessing the conditions under which human rights norms were most likely to lead to the domestic policy changes called for by advocacy networks was the “increasing strength and robustness of both the international human rights regime and the transnational advocacy networks” (Risse et al., 1999: 21) If, as these cases suggest, non-state actors’ objectives

are better attained when they coincide with prevailing norms, it would appear unlikely that the anti-MAI forces who oppose current processes of economic globalization are likely to have any significant normative impact.

However, non-state actors' effectiveness at influencing norm changes at systemic levels have been documented. They provide some opening for conceiving of the potential influence that the opponents of globalization could have. At times, the norms these societal actors advocated were quite the opposite of those of the established regime. Thus Price (1998) has documented how states were taught (socialized) by societal actors to accept and adopt "more appropriate" norms in their security policies—removing land mines from their military arsenals. In this case, then, states were "taught" what was appropriate and good behaviour not by epistemic communities who espoused ideas congruent with the regime but by societal actors who espoused ideas challenging existing norms of the security regime.²¹

One of the conditions Price (1998: 639) identified for the success of the anti-personal (AP) land mines campaign resided in how the issue was defined. Rather than defining the issue as a war issue, where states would be reticent to change, the campaigns defined the issue as a "humanitarian or health crisis for which norms have developed that legitimize rapid multilateral action." Thus Price (1998: 628) explains that the norms invoked related to the international humanitarian law of civilian discrimination and

²¹ Note however, that the changes sought out by these advocacy networks were modest by comparison to those who critique economic globalization in that they aimed solely at preventing the use of AP landmine and removing mines left after conflicts were over. In that sense, their objectives did not specifically reflect counter-hegemonic challenges to the existing world order.

unnecessary suffering. As the author explains “discrimination (or noncombatant immunity) is one of the oldest notions of the just war doctrine” and unnecessary suffering “refers to the principle that means of warfare that cause superfluous injury are prohibited.”

Such a condition could be redefined as a “*norm path*.” Thus, I define norm paths as the inconsistencies that exist among internationally shared principled and causal beliefs and the norms that flow from them. Such inconsistencies provide opportunities for social forces that seek to influence world politics to challenge existing norms. For example, Jones (1992: 54) observed that there exists a tension “between the principle of nonintervention and the principle of respect for human rights and fundamental freedoms.” These tensions provide windows of opportunity in terms of justifying interfering in a state’s domestic affairs, as has happened in the case of human rights violations. The redefinition of issues can create such an effect provided the redefinition places the issue in a category of activities for which different norms apply. In the cases of AP Landmines and trade in services the redefinition of these issues enabled the application of norms that did not previously apply to them. As a result the newly defined issues could be made to comply with norms that were based upon different principled and causal beliefs. Norm paths differ from Risse and Sikkink’s (1999) understanding of regimes as facilitating influence in that the norms invoked may not necessarily be those of that particular regime.

We can find such tensions between the *principled beliefs* and norms that inform trade proponents and globalization opponents. IR constructivists have explained that the post-World War II economic order was built upon the principled beliefs that governments had the responsibility to protect their population from the ills of international economic

adjustments.²² The increasing impact of trade norms on domestic policies challenge that prior collective intentionality. Opponents of economic globalization have pointed out that economic agreements that foster economic globalization undermine governments' regulatory autonomy. This autonomy, they claim, is necessary to protect societies from negative effects such as ecological damage, unemployment and deteriorating work conditions, growing socio-economic inequalities and the deterioration of public goods such as health and education.²³

If IR constructivists are correct in their understanding of the post-World War II collective intentionality regarding the domestic regulatory role of states, the critics of economic globalization may successfully remind states that the international agreements they are now signing are undermining the norms informed by those collective intentions. The debate changes from one which questions the goodness of trade to one which questions the relative appropriateness of the principled beliefs and causal beliefs that informed states' understanding of their domestic responsibilities and the trade policies that undermine them. As such, the argument for the re-assertion of the regulatory state as expressed by the opponents of economic globalization may be an effective norm path.

²² We referred earlier to Ruggie's explanation of "embedded liberalism." Ikenberry (1992: 296, 303) confirms this understanding of the post World War II rationales: "After World War I, the main purpose of postwar economic policy was to 'reconstitute as rapidly as possible the automatic forces in economic life. The drive all around was a return, in the broad essentials, to laissez-faire.' By the late-1930s...all of this had changed. A new social purpose infused postwar planning the second time around....The overriding view...was that social welfare and economic management must dictate postwar international economic plans, rather than the other way around."

²³ This view is exemplified in the chapters of a book by Canadian opponents of the MAI: "The Assault on Economic Rights, The Threat to Environmental Rights, The Demise of Social Rights, The War on Cultural Rights" (Clarke and Barlow, 1997).

Indeed, these MAI opponents' success in highlighting the infringement of the new norms inherent in the MAI, such as the investor-state dispute mechanism, on states' regulatory autonomy was one of their most effective direct influences.²⁴ By comparison, activists' insistence on applying "the precautionary principle" for products such as genetically modified organisms has been less successful.²⁵ The latter norm change directly challenges those that seek to eliminate protectionism and has been strongly resisted. A more useful path consists of redefining the issue as one of customers' right to know what they are consuming through compulsory labelling.

Another norm path would relate to the challenge of the *causal beliefs* expressed by opponents to economic globalization. As seen throughout the foregoing analyses, radicals challenge the causal beliefs which are embedded in the domestic and international bureaucracies that are responsible for the design, negotiation and implementation of international economic treaties. While social movement analyses have demonstrated that "the logic of numbers" sought through protests is a source of movements' influence on policy makers they also point to the power of allies at other levels of the policy making process. Thus in terms of their challenge to the causal beliefs that inform the international economic agreements the opponents to globalization may find avenues of influence

²⁴ The reader may recall that MAI opponents drew the attention of negotiators to the dispute settlement process whereby investors would be allowed to sue governments. This resulted in reconsidering several provisions already agreed to in the draft treaty so that the "regulatory autonomy" of different levels of governments would not be considered as "regulatory takings."

²⁵ For example, the Rio Principles and Agenda 21 "commit countries to managing their economies in a way that prevents environmental risks — operationalising the 'precautionary principle.' This may involve placing restrictions on new and novel processes (e.g. biotechnology and new chemicals) which an investor wishes to use inside a country" (WWF, 1997). A country could thereby restrict the importation of such products unless the importer demonstrates that the product to be imported is safe.

through what social movement analysts have called “influential allies” (Klandermans and Tarrow, 1988). Experts whose understandings influence epistemic communities should not be discounted as such influential allies. The degree to which experts such as economists and trade lawyers, for example, agree with the arguments presented by opponents to economic globalization will foster their challenges.

To the extent that epistemic communities will agree with some of the critiques of the causal beliefs relied upon to justify international economic agreements, the opponents to globalization may enhance their influence. It is therefore noteworthy to point out that the renowned trade economist Jagdish Bhagwati criticized the inclusion of intellectual property rights in the WTO and questioned the validity of the MAI.²⁶ Similarly, the critiques of the Washington consensus expressed by an economist from the World Bank lend support to some of the concerns formulated by the opponents of economic globalization.²⁷ Thus Augusto de la Torre, a World Bank economist and co-chair of a research group established by the Carnegie Endowment for International Peace, was quoted as saying that such prescriptions failed to address “the root causes of poverty in [Latin America]—lack of education [and] absence of workers rights” among others (McCarthy, 2001: B8).

Space prevents further elaboration of “norm paths” as conditions facilitating non-state actors’ influence on international outcomes. These observations suggest, however,

²⁶ Based on a public presentation made at Carleton University during the fall of 2000.

²⁷ The policies prescribed by the Washington consensus relate to the type economic liberalization fostered by the treaties under scrutiny in that they include privatizing the state-owned sector, reducing tariffs, and liberalizing trade and investment rules.

that among existing international norms and principles shared by an international society of states, some are held in greater esteem than others and tensions exist between them at various times. The ongoing debates on causal beliefs that relate to international economic relations should also be understood as indicators of possible shifts in policy direction. Further research is required on these conditions of influence in order to understand “norm paths” as conditions of success.

Conclusion

Critical IR theorists and IR constructivists disagree on the motivations that lie behind the adoption of the interventionist welfare state in the post World War II industrialized countries. However, they agree that such an outcome was rendered necessary as a response to the effects of unfettered *laissez-faire* policies on domestic societies. As such, each of these frameworks can contribute to a more comprehensive understanding of the contested future(s) we are witnessing at the dawn of the twenty-first century. Cox’s (1987) framework enables him to foresee and interpret broad transformations in the post-World War II order. IR constructivism provides tools with which to understand the role of agency in these transformations.

The strength of critical IR theory lies in its historicist approach and its structural framework. That framework has enabled Cox (1987) to hypothesize that a transformation of the world order based upon the interventionist welfare state—what Ruggie (1982) referred to as “embedded liberalism”—was coming to an end. Cox hypothesized that, as the twentieth century was ending, a struggle between two types of capitalisms would be taking place. One of these capitalisms would be founded upon the hyper-liberal state.

The other, which he called “state capitalism” included corporatism and social democracy (Cox, 1996: 31). The outcome of this rivalry and the pressures of globalization could “lead towards a more democratically participant kind of economic management and planning inspired by the egalitarian idea innate in socialism” (Cox, 1996: 206). Such an outcome would depend upon civil society and its role in “the emergence of an alternative political culture that would give greater scope to collective action and place greater value on collective goods.” The latter would only come about through a long war of position.

As seen throughout the foregoing, the opponents of economic globalization espouse aspirations such as those described by Cox and there is no doubt that their claims are made against the building of a world order based on a hyper-liberal state. In that sense, Cox’s framework is insightful. Nevertheless, Cox’s framework prevents a more in-depth understanding of the various levels at which these claims and aspirations take place or how they may translate into transformations at these levels. In order to provide such explanations, I suggested relying upon two other constructivist frameworks.

The strength of these social constructivist frameworks lies in their understanding of agency and collective intentionality. As such, they conceive of transformations as being the result of cognitive frames and intersubjective meanings. These are analyzed in order to understand interactions at the transnational level and the conditions that foster societal influence on the behaviour of states and larger collectivities. I have suggested that the conceptual frameworks provided by these approaches would enable analysts to understand the evolution of a war of position. I offered two such approaches: a social movement approach that explains the influence of economic globalization opponents at the societal

level, and an IR constructivist approach that explains social forces' ideational challenges at the institutional level.

Social movement frameworks have enabled us to see that the anti-MAI campaign spurred nascent transnational movement networks against globalization. Actors from the social movement system of action who opposed the MAI and expressed that world view subsequently sustained and expanded their struggle against all processes that fostered such outcomes in international economic relations. As seen in the foregoing chapters, movement networks spanned borders, advocacies and generations. They linked North and South in the issues they raised, and various previously divergent advocacies such as labour and the environment. They also generated new cultural codes.

As these words are being written, it is fair to say that this sustained growth and opposition has not yet abated. Not only do the repeated occurrences of protest indicate a virtual and tangible global vigilance, but the impact of economic globalization opponents' arguments on public discourse has been clearly established. Previous studies of earlier and similar movements have demonstrated the effect of such phenomena on broader collectivities. The cultural expressions and concomitant values of these movement networks challenge a social construction of the future where commercial rights would supercede other values such as a broader definition of collective goods and a more inclusive implementation of democracy. As such, globalization opponents' influence at the societal level may succeed in affecting outcomes in ways hypothesized by Cox.

IR constructivists focus on the influence of societal actors on international outcomes. They draw attention to the ways in which societal actors' influence on states'

behaviour takes place through ideas. The mobilization against the MAI, and its subsequent evolution against the WTO and other economic fora that espouse neoliberal policies is a reflection of an ongoing struggle over contested conceptions of the future. These contests take place at the ideational level in terms of what IR constructivists refer to as causal beliefs and principled beliefs. As such, the constructivist conceptual framework provides the tools with which to understand this struggle as one that may come to affect norms in the domain of international economic relations.

The debates generated by the social movement networks against economic globalization through their dramatic protests are different from attempts at direct policy influence. They seek more profound transformations both at the transnational and various domestic societal levels. As such, the social movement networks that oppose (corporate) economic globalization are not liberal pluralist groups whose ideas are vulnerable to co-optation. Neither should they be understood as representing the long awaited social forces of socialist transformation. Rather, they should be understood as societal actors involved in a construction of reality that espouse ideas, values and cultural expressions that seek to prevent the creation of a world order based upon a hyper-liberal state. To the extent that the ongoing process of economic globalization is understood as one that reflects particular power structures and ideas that foster a hegemonic order based upon the power of MNCs and some states, the social movement networks that oppose that process are counter-hegemonic. While it is difficult to predict what type of state or world order will result from the ongoing contest over the future(s), the various challenges that the opponents to economic globalization present to the current treaty-making processes

should not be underestimated.

Analyses of movements that have emerged in the 1960s have revealed that, over time, movements reflect radical and moderate elements. This outcome has been referred to as the “radical flank effect[s]” in order to illustrate the consequences of this duality (McAdam, McCarthy and Zald, 1996: 14). While extremist groups may strengthen the bargaining hand of moderate NGOs, they also can sway the moderates to adopt more radical positions themselves. The latter dynamic was clearly illustrated in the case of the anti-MAI campaign when reformist NGOs joined the more radical antiglobalization opponents of the MAI. In any event, these authors point out that most often the duality results in “policy changes once deemed far too radical by both moderates and the state alike.” As we saw in the case of the MAI, negotiations were abandoned while officials acknowledged that such negotiations would never again take place as “business as usual.” In hindsight, this prediction was insightful. The MAI negotiations did represent a threshold event in international economic relations.

If the MAI experience led to insightful predictions, officials’ responses to the growing opposition expressed on the occasion of similar campaigns have as yet been less so. The strongest incentive for continued militancy against economic globalization resides in deeply entrenched and polarized world views. The world view espoused by the opponents to economic globalization contests an equally strongly held vision of the future where all will benefit from the ongoing trend in international economic treaty-making. In that sense, the developments that we have witnessed in the media on the occasion of various protests against international economic fora indicate that we are facing an impasse.

Little has been undertaken to accommodate reformists' claims while radicals have been repressed—at times violently. We are at a crossroads. Moreover, the future(s) envisaged by globophiles and globophobes are not just about economics. They are also and more importantly about democracy. The way chosen out of the impasse will be decisive for democracy. As Cox (1996: 533) wisely pointed out “[p]eople, collectively, may be confronted with opportunity, but whether or not they take it is up to them.” The evolution of the dynamics between opponents and proponents of economic globalization will be a good indicator of the way in which we collectively choose our future(s).

ANNEX A

THE MAI STRUCTURE¹

I. GENERAL PROVISIONS

Preamble

II. SCOPE AND APPLICATION

Definition

Geographical Scope of Application

Application to Overseas Territories

III. TREATMENT OF INVESTORS AND INVESTMENTS

National Treatment and Most Favoured Nation Treatment

Transparency

Temporary entry, stay and work of Investors and Key Personnel

Nationality Requirements for Executives, Managers and Members of Boards of Directors

Employment Requirements

Performance Requirements

Privatisation

Monopolies/State Enterprises/Concessions

Entities with Delegated Governmental Authority

Investment Incentives

Recognition Arrangements

Authorisation Procedures

Membership of Self-Regulatory Bodies

Intellectual Property

Public Debt

Corporate Practices

Technology R&D

Not Lowering Standards

Additional Clause on Labour and Environment

IV. INVESTMENT PROTECTION

General Treatment

Expropriation and Compensation

Protection from Strife

Transfers

Information Transfer and Data Processing

Subrogation

Protecting Existing Investments

¹ Based on MAI draft text of April 24, 1998 as posted on the OECD website.

- V. DISPUTE SETTLEMENT**
 - State-State Procedures
 - Investor-States Procedures

- VI. EXCEPTIONS AND SAFEGUARDS**
 - General Exceptions
 - Transactions in Pursuit of Monetary and Exchange Rate Policies
 - Temporary Safeguards

- VII. FINANCIAL SERVICES**
 - Prudential Measures
 - Recognition Arrangements
 - Authorisation Procedures
 - Transparency
 - Information Transfer and Data Processing
 - Membership of Self-regulatory Bodies and Associations
 - Payments and Clearing Systems/Lender of Last Resort
 - Dispute Settlement
 - Definition of Financial Services

- VIII. TAXATION**

- IX. COUNTRY SPECIFIC EXCEPTIONS**
 - Lodging of Country Specific Exceptions

- X. RELATIONSHIP TO OTHER INTERNATIONAL AGREEMENTS**
 - Obligations under the articles of Agreement of the International Monetary Fund
 - The OECD Guidelines for Multinational Enterprises

- XI. IMPLEMENTATION AND OPERATION**
 - The Preparatory Group
 - The Parties Group

- XII. FINAL PROVISIONS**
 - Signature
 - Acceptance and Entry Into Force
 - Accession
 - Non-Applicability
 - Review
 - Amendment
 - Revisions to the OECD Guidelines for Multinational Enterprises
 - Withdrawal
 - Depositary
 - Status of Annexes, Authentic Texts, Denial of Benefits

ANNEX B

NUMBER OF ORGANIZATIONS SUPPORTING THE OCTOBER 1997 NGO STATEMENT²

Argentina (1), Australia (17), Austria (15), Bangladesh (2), Belarussia (1), Belgium (3), Bosnia Herzegovina (1), Brazil (11), Bulgaria (3), Canada (90), Chile (2), Costa Rica (1), Croatia (2), Czech Republic (2), Curacao (1), Denmark (1), El Salvador (1), Egypt (1), Estonia (1), Europe (5), Finland (2), France (3), Germany (10), Greece (1), Grenada (1), Haiti (1), Hungary (4), India (8), Indonesia (1), International (17), Ireland (2), Israel (2), Italy (15), Japan (12), Jordan (1), Kenya (4), Latvia (2), Lithuania (2), Luxembourg (1), Macedonia (2), Malaysia (1), Mauratania (2), Mexico (74), Moldova (1), Nepal (3), Netherlands (18), New Zealand (3), Nicaragua (4), Nigeria (1), Norway (2), Palestine (1), Pakistan (1), Philippines (6), Poland (2), Romania (2), Russia (9), Slovakia (2), Slovenia (4), South Africa (1), South Korea (1), Sri Lanka (1), Sweden (4), Switerland (4), Thailand (1), United Kingdom (14), United States (150), Ukraine (4), Uruguay (1), Yugoslavia (1).

² This tabulation of organizations per country is based upon the list published in the book *Dismantling Democracy* co-published by the The Canadian Centre for Policy Alternatives, and James & Lorimer & Company Ltd., 1998, pp. 324-337.

ANNEX C

LIST OF INTERVIEWEES³

Country/organization	Officials	Civil Society
Belgium	1	1
Britain		2
Canada	10	3
European Commission	1	
European Parliament	1	
France	1	5
The Netherlands	1	2
OECD	6	
United States		1

PARTICIPANT OBSERVATION ACTIVITIES

Council of Canadians, Citizens' MAI Inquiry, Halifax, Fall, 1998

Government of Canada Hearings on WTO, Halifax, Spring 1999

Council of Canadians, Citizens' Water Summit, Ottawa, Fall 1999

CCOMC, Anti-WTO/Corporate demonstrations, Paris, Fall 1999

FTAA opposition, Meetings held on Parliament Hill, Ottawa, Canada, April 2001

FTAA opposition, Demonstration at DFAIT, Ottawa, Canada, April 2001

³ Open interview technique was adopted to interview the following individuals. Since confidentiality forms were signed no individual can be directly identified. The following represents the countries, organizations and status (officials such as negotiators or Member of Parliament and MAI opponents) of interviewees.

ANNEX D

CHRONOLOGY OF NEGOTIATIONS AND ANTI-MAI CAMPAIGNS

<u>MAIN DATES</u>	<u>NEGOTIATIONS</u>	<u>CAMPAIGNS</u>
PERIOD ONE		
May '95-April '97	First Period of Negotiations	
June '96		Reformists Obtain Draft MAI and begin their campaign
October '96		Reformists Meet Officials - Geneva
December '96		Reformists Meet NG Chairs
March '97		Radicals Obtain Draft MAI
PERIOD TWO		
April '97-April '98	Second Period of Negotiations	
April '97		Radicals Release MAI Draft Text and Critique on Internet - Begin Campaign
October '97		Transnational Coalition Meets NG
February '98		Media Campaign Kicks Off in France CCAMI Formed
April 28,'98	OECD Ministerial Announces Six-Month Pause	Transnation Protest Against MAI in Paris Outside OECD Offices
PERIOD THREE		
April 98-Oct. '98		
Oct. 14 '98	French Withdrawal from MAI Negotiations	
Oct. 22 '98	MAI NG Meets in Paris EC Announces Europe's Withdrawal	
Dec. '98	Last MAI Meeting - Negotiations Abandoned	

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