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This is a follow-up to my article on the Multilateral Agreement on Investment (MAI) in the May issue. That went to press a few weeks before the April 27 target date for signing of the MAI by the OECD countries. At the time, it was fairly clear that agreement would not be reached, and it was not—an important event, worth considering carefully. In part the failure resulted from internal disputes—for example, European objections to the U.S. federal system and the extraterritorial reach of U.S. laws, concerns about maintaining some degree of cultural autonomy, and so on. But a much more significant problem was looming. It was becoming increasingly difficult to ensure that the rules of global order would continue to be “written by the lawyers and businessmen who plan to benefit” and “by governments taking

advice and guidance from these lawyers and businessmen,” while “invariably, the thing missing is the public voice”—the *Chicago Tribune’s* accurate description of the negotiations for the MAI, as well as ongoing efforts to “craft rules” for “global activity” in other domains without public interference. It was, in short, becoming more difficult to restrict awareness and engagement to sectors identified by the Clinton administration, with unusual and unintended clarity, as its “domestic constituencies”: the U.S. Council for International Business, which “advances the global interests of American business both at home and abroad,” and concentrations of private power generally—but crucially not Congress (which had not been informed, in violation of Constitutional requirements) and the general public, its voice stilled by a “veil of secrecy” that was maintained with impressive discipline during three years of intensive negotiations.

The problem had been pointed out a month earlier by the London *Economist*. Information was leaking through public interest groups and grassroots organizations, and it was becoming harder to ignore those who “want high standards written in for how foreign investors treat workers and protect the environment,” issues that “barely featured” as long as deliberations were restricted to the “domestic constituencies” of the democratic states.

As expected, the OECD countries did not reach agreement on April 27, and we move to the next phase. One useful consequence was that the national press departed from its (virtual) silence. In the business pages of the *New York Times*, economic affairs correspondent Louis Uchitelle reported that the target

date for the MAI had been delayed six months, under popular pressure. Treaties concerning trade and investment usually “draw little public attention” (why?); and while “labor and the environment are not excluded,” the director of international trade at the National Association of Manufacturers explained, “they are not at the center” of the concerns of trade diplomats and the World Trade Organization. But “these outsiders are clamoring to make their views known in the negotiations for a treaty that is to be called the Multilateral Agreement on Investment,” Uchitelle commented (with intended irony, I presume), and the clamor sufficed to compel the delay.

The Clinton administration, “acknowledging the pressure,” strove to present the matter in the proper light. Its representative at the MAI negotiations said: “There is strong support for measures in the treaty that would advance this country’s environmental goals and our agenda on international labor standards.” So the clamoring outsiders are pushing an open door: Washington has been the most passionate advocate of their cause, they should be relieved to discover.

The *Washington Post* also reported the delay, in its financial section, blaming primarily “the French intelligentsia,” who had “seized on the idea” that the rules of the MAI “posed a threat to French culture,” joined by Canadians as well. “And the Clinton administration showed little interest in fighting for the accord, especially given fervent opposition from many of the same American environmental and labor groups that battled against [NAFTA],” and that somehow fail to comprehend that their battle is misdirected since it is the Clinton administration that has been insisting upon “environmental goals” and “international labor standards” all along—not an outright falsehood, since the goals and standards are left suitably vague.

That labor “battled against NAFTA” is the characteristic way of presenting the fact that the labor movement called for a version of NAFTA that would serve the interests of the people of the three countries, not just investors; and that their detailed

critique and proposals were barred from the media (as were the similar analyses and proposals of Congress's Office of Technology Assessment).

Time reported that the deadline was missed "in no small part because of the kind of activism on display in San Jose," California, referring to a demonstration by environmentalists and others. "The charge that the MAI would eviscerate national environmental protections has turned a technical economic agreement into a *cause celebre*." The observation was amplified in the Canadian press, which alone in the Western world began to cover the topic seriously after only two years of silence (under intense pressure by popular organizations and activists). The *Toronto Globe and Mail* observed that the OECD governments "were no match...for a global band of grassroots organizations, which, with little more than computers and access to the Internet, helped derail a deal."

The same theme was voiced with a note of despair, if not terror, by the world's leading business daily, the *Financial Times* of London. In an article headlined "Network guerrillas," it reported that "fear and bewilderment have seized governments of industrialised countries" as, "to their consternation," their efforts to impose the MAI in secret "have been ambushed by a horde of vigilantes whose motives and methods are only dimly understood in most national capitals"—naturally enough; they are not among the "domestic constituencies," so how can governments be expected to understand them? "This week the horde claimed its first success" by blocking the agreement on the MAI, the journal continued, "and some think it could fundamentally alter the way international economic agreements are negotiated."

The hordes are a terrifying sight: "they included trade unions, environmental and human rights lobbyists and pressure groups opposed to globalisation"—meaning, globalization in the particular form demanded by the domestic constituen-

popular efforts to use democratic forms for the public interest: threat of capital flight, transfer of production, and other means. But the defensive victories are real. One should attend carefully to the fear and desperation of the powerful. They understand very well the potential reach of the "ultimate weapon," and only hope that those who seek a more free and just world will not gain the same understanding, and put it effectively to use.

efforts of the “special interests” to organize and enter the political arena. Their vulgar antics disrupted the civilized arrangements before the “crisis of democracy” erupted, when “Truman had been able to govern the country with the cooperation of a relatively small number of Wall Street lawyers and bankers” as explained by Harvard’s Samuel Huntington, soon to become professor of the Science of Government. And now they are intruding in even more sacred chambers.

These are important developments. The OECD powers and their domestic constituencies are, of course, not going to accept defeat. They will undertake more efficient public relations to explain to the hordes that they are better off keeping to their private pursuits while the business of the world is conducted in secret, and they will seek ways to implement the MAI in the OECD or some other framework. Efforts are already underway to change the IMF Charter to impose MAI-style provisions as conditions on credits, thus enforcing the rules for the weak, ultimately others. The really powerful will follow their own rules, as when the Clinton administration recently demonstrated its devotion to free trade by slapping prohibitive tariffs on Japanese supercomputers that were undercutting U.S. manufacturers (called “private,” despite their massive dependency on public subsidy and protection), or a year earlier, by effectively banning Mexican tomatoes because they were preferred by American consumers, as frankly conceded.

Though power and privilege surely will not rest, nonetheless the popular victories should be heartening. They teach lessons about what can be achieved even when opposing forces are so outlandishly unbalanced as in the MAI confrontation. It is true that recent victories are defensive. They prevent, or at least delay, steps to undermine democracy even further, and to transfer even more power into the hands of the rapidly concentrating private tyrannies that seek to administer markets and to constitute a “virtual Senate” that has many ways to block

cies. The rampaging horde overwhelmed the pathetic and helpless power structures of the rich industrial societies. They are led by “fringe movements that espouse extreme positions” and have “good organisation and strong finances” that enable them “to wield much influence with the media and members of national parliaments.” In the United States, the “much influence” with the media was effectively zero, and in Britain, which hardly differed, it reached such heights that Home Secretary Jack Straw of the Labor government conceded over BBC that he had never heard of the MAI. But it must be understood that even the slightest breach in conformity is a terrible danger.

The journal goes on to urge that it will be necessary “to drum up business support” so as to beat back the hordes. Until now, business hasn’t recognized the severity of the threat. And it is severe indeed. “Veteran trade diplomats” warn that with “growing demands for greater openness and accountability,” it is becoming “harder for negotiators to do deals behind closed doors and submit them for rubber-stamping by parliaments.” “Instead, they face pressure to gain wider popular legitimacy for their actions by explaining and defending them in public,” no easy task when the hordes are concerned about “social and economic security,” and when the impact of trade agreements “on ordinary people’s lives...risks stirring up popular resentment” and “sensitivities over issues such as environmental and food safety standards.” It might even become impossible “to resist demands for direct participation by lobby groups in WTO decisions, which would violate one of the body’s central principles”: “‘This is the place where governments collude in private against their domestic pressure groups,’ says a former WTO official.” If the walls are breached, the WTO and similar secret organizations of the rich and powerful might be turned into “a happy hunting ground for special interests”: workers, farmers, people concerned about social and economic security and food safety and the fate of future generations, and other extremist

fringe elements who do not understand that resources are efficiently used when they are directed to short-term profit for private power, served by the governments that “collude in private” to protect and enhance their power.

It is superfluous to add that the lobbies and pressure groups that are causing such fear and consternation are not the U.S. Council for International Business, the “lawyers and businessmen” who are “writing the rules of global order,” and the like, but the “public voice” that is “invariably missing.”

The “collusion in private” goes well beyond trade agreements, of course. The responsibility of the public to assume cost and risk is, or should be, well known to observers of what its acolytes like to call the “free enterprise capitalist economy.” In the same article, Uchitelle reports that Caterpillar, which recently relied on excess production capacity abroad to break a major strike, has moved 25 percent of its production abroad and aims to increase sales from abroad by 50 percent by 2010, with the assistance of U.S. taxpayers: “the Export-Import Bank plays a significant role in [Caterpillar’s] strategy,” with “low-interest credits” to facilitate the operation. Ex-Im credits already provide close to 2 percent of Caterpillar’s \$19 billion annual revenue and will rise with new projects planned in China. That is standard operating procedure: multinational corporations typically rely on the home state for crucial services. “In really tough, high-risk, high-opportunity markets,” a Caterpillar executive explains, “you really have to have someone in your corner,” and governments—especially powerful ones—“will always have greater leverage” than banks and greater willingness to offer low-interest loans, thanks to the largesse of the unwitting taxpayer.

Management is to remain in the U.S., so the people who count will be close to the protector in their corner and will enjoy a proper lifestyle, with the landscape improved as well: the hovels of the foreign workforce will not mar the view. Profits aside, the operation provides a useful weapon against workers

who dare to raise their heads (as the recent strike illustrates), and who help out by paying for the loss of their jobs and for the improved weapons of class war.

In the conflict over the MAI, the lines could not have been more starkly drawn. On one side are the industrial democracies and their “domestic constituencies.” On the other, the “hordes of vigilantes,” “special interests,” and “fringe extremists” who call for openness and accountability and are displeased when parliaments simply rubber-stamp the secret deals of the state-private power nexus. The hordes were confronting the major concentration of power in the world, arguably in world history: the governments of the rich and powerful states, the International Financial Institutions, and the concentrated financial and manufacturing sectors, including the corporate media. And popular elements won—despite resources so minuscule and organization so limited that only the paranoia of those who demand absolute power could perceive the outcome in the terms just reviewed. That is a remarkable achievement.

It’s not the only such victory in recent months. Another was achieved last fall, when the Administration was compelled to withdraw its proposed “Fast Track” legislation. Recall that the issue was not “free trade,” as commonly alleged, but democracy: the demand of the hordes “for greater openness and accountability.” The Clinton administration had argued, correctly, that it was asking for nothing new: just the same authority its predecessors had enjoyed to conduct “deals behind closed doors” that are submitted “for rubber-stamping by parliaments.” But times are changing. As the business press recognized when “Fast Track” faced an unexpected public challenge, opponents of the old regime had an “ultimate weapon,” the general population, which was no longer satisfied to keep to the spectator role as their betters do the important work. The complaints of the business press echo those of the liberal internationalists of the Trilateral Commission 25 years ago, lamenting the