

GLOBAL CAPITALISM AND THE INTERNATIONALIZATION OF THE STATE: SOME LESSONS FROM THE DEFEAT OF THE MULTILATERAL AGREEMENT ON INVESTMENT

DANIEL EGAN¹

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¹ Department of Sociology, University of Massachusetts-Lowell, 850 Broadway Street, Lowell, Massachusetts 01854, USA. Daniel.Egan@uml.edu.

1. In recent years there has developed within Marxism a transnational historical materialism that seeks to understand contemporary developments in global capitalism (Augelli and Murphy 1988; Cox 1981, 1987, 1993; Gill 1990, 1993, 1995; Murphy 1994; Robinson 1996a, 1996b, 1998, 2001; Rupert 1995; van der Pijl 1984, 1989, 1998). While transnational historical materialists acknowledge that capitalism has always been a global system, they argue that globally integrated production, the increasing internationalization of services, and the hypermobility of capital have transformed a system historically based on competing national capitals into one characterized by an increasingly transnational capitalist class. This, it is argued, has in turn led to a dramatic transformation in the nature of the state. While the origins of capitalism and its long history of geographic and social expansion were a function of the nation-state's production and reproduction of the forces necessary for capital accumulation (such as providing the legal and coercive tools necessary for the exploitation of labor power and reducing capital's cost of reproducing labor power), contemporary global capitalism is said to be characterized by a transnational state that serves the interest of the dominant transnational capitalist class.

2. Transnational historical materialism is grounded in the Gramscian theory of hegemony (Gramsci 1971). Gramsci argued that the dominance of the ruling class is not simply based on economic power or political-military coercion, but also is a function of its ability to provide cultural and moral leadership. In this context, a class is hegemonic to the extent that it offers an integrated system of values and beliefs that is supportive of the established social order and which project a particular set of class interests as the general interest. Hegemonic power is not imposed on subordinates, but instead is a negotiated process. Both within the dominant coalition of

capital, state managers, and organic intellectuals – what Gramsci refers to as the historical bloc – and in its relations with subordinate social forces, dominant groups must negotiate (within historically specific conditions) with subordinate groups in order to secure the latter's consent to their rule. This process of negotiation can make some accommodation to the economic interests of subordinate groups and may even appropriate their symbols and discourse, but it will not question fundamental social relations. Although hegemony seeks to incorporate subordinate groups within the existing social order, however, the negotiated nature of hegemony means that this incorporation is never complete or absolute. In moments of crisis, subordinate groups may question the dominance of the historical bloc. The result of such a hegemonic crisis will depend on the balance of social forces. If the subordinate classes are organizationally underdeveloped, they will be unable to challenge the historical bloc in its efforts to restore hegemony. While the restoration of hegemony may require social and economic change, this takes the form of a 'passive revolution' in which opposition forces are co-opted by the historical bloc; Gramsci refers to this process as *trasformismo* (see Gramsci 1971: 58). Hegemonic crises do, however, provide opportunities for more thorough social change from below through a 'war of position,' in which subordinate classes create new social institutions and cultural practices in an attempt to replace those of the historical bloc. Rather than a full, frontal assault on the centers of power, the war of position is a coordinated, strategic process of mobilization and development within civil society that seeks to construct a counter-hegemony.

3. The internationalization of production and finance, according to the neo-Gramscians, reflects the emergence of a transnational historical bloc of capitalists, state managers, and intellectuals seeking to construct a new,

transnational hegemonic order. Such a historical bloc represents a major movement away from the nationally based historical blocs characteristic of earlier periods of capitalism. This coalition transcends any one class and is bound together through common identities and interests by material and ideological structures. The transnational historical bloc seeks the institutionalization of what Gill (1995) calls “new constitutionalism.” Gill identifies three components of new constitutionalism: disciplinary neo-liberalism, which refers to the development of policy rules that reinforce government credibility and investor confidence; panopticism, which refers to the development of more powerful forms of market-oriented surveillance; and market civilization, which refers to creation of a material culture in which increasing marketization and commodification become normalized. This strategy requires a fundamental reorientation of the nation-state toward supporting global rather than national capital accumulation, a process that Cox (1987) refers to as the internationalization of the state.

4. Cox identifies three components of the internationalization of the state. First, he argues, “there is a process of interstate consensus formation regarding the needs or requirements of the world economy that takes place within a common ideological framework.... *Second*, participation in this consensus formation is hierarchically structured. *Third*, the internal structures of states are adjusted so that each can best transform the global consensus into national policy and practice”(1987: 254). Elsewhere, Cox states that the internationalization of the state is defined by the conversion of the state “into an agency for adjusting national economic practices and policies to the perceived exigencies of the global economy. The state becomes a transmission belt from the global to the national economy, where heretofore it had acted as the bulwark defending domestic welfare from external disturbances” (1996: 302). Robinson

likewise argues that the internationalization of the state converts nation-states “into transmission belts and filtering devices for the imposition of the transnational agenda”(Robinson 1996a: 19; see also Robinson 1996b: 368); “[t]he function of the nation-state is shifting from the formulation of national policies to the administration of policies formulated by the transnational elite acting through supranational institutions”(Robinson 1996b: 373; see also Robinson 2001:166). The nation-state now serves to facilitate global capital accumulation as well as insulate new supranational economic institutions from democratic accountability from below.

5. In its role as a transmission belt for global capital, the nation-state contributes to global capital accumulation in a number of ways. It adopts the fiscal and monetary policy necessary to maintain economic stability, creates the basic infrastructure for global economic activity, and provides social control and stability (Robinson 1996a, 2001). It also helps to secure a generalized acceptance of globalization as a common sense description of an uncontrollable, inevitable, and ultimately desirable process. Since hegemony is a negotiated process in which the consent of subordinate social forces is essential, the ideology of globalization plays an important role in the internationalized state’s efforts to win the consent of its population to neo-liberal policies. The ideological construction of globalization makes it appear reasonable for nation-states to emphasize policies that support ‘competitiveness,’ and this is used to justify weaker or lax enforcement of labor laws and regulations on environmental protection as well as the elimination of restrictions on trade and capital movements.

6. Transnational historical materialism has been subjected to serious criticism by other Marxists. While it acknowledges the contested nature of internationalization (see, for example, Augelli and Murphy 1988, Cox 1993, and Gill and Law

1993), the possibility that internationalization may be an uneven and contradictory process remains underdeveloped. Germain and Kenny (1998) are critical of transnational historical materialism for its tendency to “see this hegemony largely as a one-dimensional power relationship; hegemony is fashioned by this elite transnational class on its own terms and then forced or imposed on subaltern classes. These subaltern classes in turn either resist such frontal assaults as best they can or capitulate” (18). This criticism is reinforced by Drainville’s (1994) conclusion that transnational historical materialism has “an exaggerated view of the coherence of neo-liberalism” that comes from its emphasis on “an organic unity of global elites, and the political cogency of transnational concepts of control”(111). Likewise, as Panitch (1996) argues, understanding the internationalization of the state as a process in which the state becomes a transmission belt for global capital is “too ‘top-down’ in its expression of contemporary power relations”(93). Moran (1998) makes a similar criticism, stating that the neo-Gramscians “adopt an idealized model of the state” and conceptualize globalization “as a one-sided process centered on transnational elites in the state”(58). These critiques suggest that transnational historical materialism has inadequately addressed the methodological core of a “*Gramscian* materialism,” which asks us to see social reality as dynamic, multifaceted, and contradictory (Sassoon 1987: xvii). The dialectical relationship between the material and ideological found in Gramsci’s concept of hegemony suggests structural possibilities for conflict that can undermine the power of the hegemonic bloc, as well as the likelihood of uneven development: “[b]ecause one is acting essentially on economic forces, reorganizing and developing the apparatus of economic production, creating a new structure, the conclusion must not be drawn that superstructural factors should be left to

themselves, to develop spontaneously, to a haphazard and sporadic germination”(Gramsci 1971: 247). In turn, the resolution of particular hegemonic conflicts changes the terrain of conflict itself, as each hegemonic compromise serves as the foundation for the next round of conflict: “what is this effective reality? Is it something static and immobile, or is it not rather a relation of forces in continuous motion and shift of equilibrium? (Gramsci 1971: 172). To the extent that transnational historical materialism posits a correspondence between the internationalization of capital and the internationalization of the state, it assumes a highly deterministic understanding of hegemony, thereby undermining one of the great strengths of Gramsci’s work, which is its “non-deterministic yet structurally grounded explanation of change”(Germain and Kenny 1998: 5). This tension between the substance and method of transnational historical materialism is noted by Panitch (1996), who states that Cox’s conceptualization of the internationalized state as a transmission belt is “against the spirit of Cox’s approach”(93). 7. Rather than seeing the nation-state becoming a transmission belt for global capital, therefore, Marxists must recognize that internationalization is a highly contested process in which nation-states, capital, and popular forces negotiate and struggle over the form and content of the new internationalized state. To illustrate this argument, I now turn to an analysis of the defeated Multilateral Agreement on Investment.

I. THE DRAFT TREATY

8. In 1995 the Organization for Economic Cooperation and Development (OECD) called for a strong, comprehensive investment agreement that would remove restrictions on the global movement of capital. Such an agreement “would provide a benchmark against which potential investors would assess the

openness and legal security offered by countries as investment locations” and “would be an important step on the road to a truly universal investment regime”(OECD 1995). The OECD argued that MAI would complement existing international bodies on trade (World Trade Organization) and finance (International Monetary Fund), thereby further developing a global infrastructure for capital (OECD 1997c). Because the OECD consists of 29 of the world’s wealthiest countries, the narrow membership base of the OECD provided considerable opportunities for these countries to define the nature of internationalization with regard to investment. However, the process did not work as smoothly as OECD members might have anticipated. Negotiations began in September 1995 and were scheduled to be completed by May 1997, but this deadline was subsequently moved back to May 1998 and then to October 1998. At the October 1998 OECD Ministers’ meeting negotiations were suspended indefinitely.

9. The draft MAI prohibited discrimination against foreign investors through the use of national treatment and most favored nation treatment (now known as permanent normal trade relations) standards. National treatment standards ensure that foreign investors are treated no less favorably by member states than they treat national investors, while most favored nation treatment standards ensure that member states treat foreign investors no less favorably than are investors of any other state. If one standard were to provide more benefits to investors than the other, member states would be required to grant that level of treatment. Indeed, the standard of ‘no less favorable’ treatment would have left room open for states to provide foreign investors with treatment that was *better* than that provided to domestic investors. To ensure that member states upheld these standards, the draft Agreement committed member states to uphold the principle of transparency, in which laws, regulations,

procedures, administrative rulings, and judicial decisions that may affect foreign investors would be made publicly accessible. This would provide foreign investors with the resources for them to judge whether they were being treated in a discriminatory manner.

10. In addition to these treatment standards, the draft Agreement extended a number of protections to foreign investors. Member states were to provide “fair and equitable treatment and full and constant protection and security”(OECD 1998a: 57) to foreign investors, and in the event of losses suffered by foreign investors due to war or other forms of violent conflict restitution or compensation was to be no less favorable than that granted to domestic investors. Member states were prohibited from expropriating or nationalizing foreign investments unless it was done “on a non-discriminatory basis” and with the provision of compensation at fair market value (OECD 1998a: 57). They were required to grant temporary entry, stay, and authorization to work to foreign investors, as well as to executives, managers, or specialists deemed essential to the enterprise. In addition, member states could not prohibit foreign nationals from serving on corporate boards of directors. The draft Agreement also prohibited member states from imposing requirements on foreign investors that mandated performance-related criteria for the establishment of an investment, such as domestic content requirements and requirements mandating levels of local employment or the use of locally provided goods and services. Because this section of the draft Agreement was not specifically covered by the national treatment standard, states were prohibited from imposing universal performance requirements applying to both national and foreign investors. As a result, while the draft Agreement prohibited the application of performance requirements to foreign investors, member states would be free to impose them on national capital.

11. The draft MAI was intended to apply to all sectors except those explicitly excluded in the text. Exceptions were provided for essential state functions, although the definition of these functions was particularly narrow: “essential security interests,” including those taken in time of war or armed conflict, those relating to the implementation of agreements restricting weapons of mass destruction, and those associated with a state’s “obligations under the United Nations Charter for the maintenance of international peace and security”(OECD 1998a: 77). Temporary exceptions were allowed in the event of serious balance-of-payments and or other financial crises, but these exceptions were required to be proportionate to the problem and consistent with the Articles of Agreement of the International Monetary Fund. Finally, member states were allowed to lodge country-specific exceptions to MAI, but these exceptions were subject to the principles of standstill and rollback. ‘Standstill’ would prohibit new exceptions after the member state ratified MAI, and those that were made prior to ratification would have to be specific and precise. ‘Rollback’ would reduce and eventually eliminate those exceptions with which member states entered MAI. The combination of standstill and rollback was intended to produce a “ratchet effect,’ where any new liberalization measures would be ‘locked in’ so they could not be rescinded or nullified over time”(OECD 1998b: 60). Should a member state seek to withdraw from MAI, such withdrawal could occur only after MAI was in effect for five years, and even then former member states would be required to subject investments made after the ratification of MAI to its terms for another fifteen years.

12. Finally, the draft Agreement called for the creation of two sets of dispute resolution procedures, one for disputes between member states and one for those between investors and member states. Member states could seek consultation with other members concerning

disputes about the interpretation or application of MAI and could seek multilateral consultations with the Parties Group, which was to consist of all MAI signatory states. If the dispute required arbitration, a three-member tribunal would be jointly selected by the disputing parties from a roster of “highly qualified individuals”(OECD 1998a: 65) maintained by the Parties Group. The tribunal could, either at the request of a disputing party or on its own initiative, call for a report from a scientific or technical review board “on any factual issue concerning environmental, health, safety or other scientific or technical matters raised by a disputing Contracting Party in a proceeding”(OECD 1998a: 66). The provisions for investor-state dispute settlement were similar to the state-state mechanisms. Their significance lies in their elevation of investors to a legal status equal to that of member states with standing to enforce MAI as well as the unidirectional nature of the investor-state mechanisms. Investors from one member state were eligible to submit to arbitration a dispute with another member state in which an action by the latter in violation of MAI caused loss or damage to the investor. Likewise, only investors could receive awards, including restitution or monetary compensation, in arbitration.

II. MAI AND THE INTERNATIONALIZATION OF THE STATE

13. The draft MAI reflects a legal and political strategy by the major capitalist states to separate capital from the constraints of political accountability, as limited as they might be, available to popular forces at the level of the nation-state. As such, it reflects an effort to institutionalize neo-liberalism. While MAI negotiators emphasized the contributions of foreign direct investment on economic growth and productivity in justifying the need for an

investment agreement, the draft MAI defined investment in very broad terms: “[e]very kind of asset owned or controlled, directly or indirectly, by an investor”(OECD 1998a: 11). This definition of investment went well beyond foreign direct investment in enterprises to include portfolio investment, rights under contract, claims to money or performance, intellectual property rights, concessions, licenses, leases, and mortgages. Thus, while the draft Agreement indiscriminately extended protections to all forms of capital, including more speculative and unproductive forms, it framed the liberalization of investment as essential for development and economic prosperity rather than an opportunity for private gain. This strategic decision regarding how best to demonstrate the necessity and legitimacy of MAI was an essential part of the OECD’s hegemonic project.

14. In order for this project to succeed, MAI required a reconsideration of the nation-state. Referring to the significance that capital places on bringing key personnel to manage investments as a sign of a “liberal business climate,” Michael Grau from the German Permanent Delegation to the OECD stated at the April 1997 meeting on the MAI in Seoul that the problem of the key personnel provision resides mainly in the political weight of labor market policies under the pressure of persistent mass unemployment in some OECD countries and of migration. *Labor ministries are closely monitored by Parliaments which often tend to restrictive short term measures against unemployment. The political support for a generous treatment of foreigners as a way to improve growth potential in a longer perspective is not always assured* (OECD 1997e: 25; emphasis added).

15. The assumption here is that the ‘long-term’ perspective open to the needs of global capital is more likely to be found in a new international regime such as MAI than in the nation-state (as well as in a shift in economic policy making

toward less accountable units of the state such as central banks and finance ministries), where the interests of popular forces such as labor, environmental, and other social movements can be more directly expressed. Likewise, OECD Deputy Secretary General Joanna Shelton’s comment at the October 1997 symposium on the MAI in Cairo that the purpose of the investor-state dispute resolution procedures “is to avoid that disputes end up in the political arena”(OECD 1997h) is an implicit recognition that the OECD intended MAI to be free from pressures for democratic accountability from below. Internationalization is framed as a purely objective, legal-technical process, requiring expert rather than popular participation. MAI’s provisions for transparency of national laws and regulations did not apply to capital, and so there were no obligations for capital to provide information necessary for citizens to judge the desirability of specific investments. There was no provision for public comment or participation in the mechanisms for dispute resolution, and although the final decisions and awards of tribunals were to be made public, any party could classify information presented in the proceedings as confidential or proprietary. More specifically, since there were no binding obligations for investors in the draft MAI, the investor-state dispute resolution mechanisms were not available to member states, much less civil society, for redressing conflicts with capital. The principles of standstill and rollback and the complicated process for withdrawal from the Agreement would effectively constrain future member state governments that might be more critical of liberalization from challenging MAI. In addition to these proposed limits on state power to regulate capital, the draft MAI sought to create a new, transnational form of economic citizenship that applied only to global economic actors. Apart from member states, capital was the only other global actor recognized as possessing legal standing to seek

relief for breaches of MAI. Finally, the draft Agreement's narrow definition of essential state functions emphasized both the state's responsibilities for protecting private property and the neo-liberal challenge to the state's social welfare functions that developed in response to popular struggles. Thus, instead of capital 'escaping' the national state, an analysis of the draft MAI suggests that capital is more correctly being 'liberated' by nation-states through their participation in the creation of multilateral economic institutions. Rather than a process determined by the rise of a transnational capitalist class, the internationalization of the state is a product of the agency of state managers and their corporate and professional allies.

16. The nature of the internationalized state is likewise a function of this specific balance of forces. In response to growing opposition from labor and social movements (see below), the OECD acknowledged the necessity for 'responsible' behavior by investors regarding the consequences of investments for labor and the environment, but this was clearly of secondary concern in the draft MAI. Since 1976 the OECD has had a set of voluntary standards for the behavior of multinationals in host countries (OECD 1997f). The most significant of these guidelines, at least in the context of MAI, are the sections on employment and industrial relations and environmental protection, which were added to the Guidelines in 1991. The OECD's Guidelines on Multinational Enterprises encourage corporations to respect workers' rights to organize trade unions, engage in collective bargaining, and avoid discrimination in their employment policies, as well as to take environmental and environmentally related health consequences into account in their decision making. The May 1997 report by the MAI Negotiating Group (OECD 1997d) indicated that the OECD Guidelines on Multinational Enterprises could be incorporated

into MAI without changing their legal status as non-binding recommendations. The preamble of the draft MAI pointed to the Guidelines as a model for corporate social responsibility, but despite language that MAI be implemented "in a manner consistent with sustainable development" and that member states commit to the "observance of internationally recognized core labor standards" (OECD 1998a: 8,9), it is clear from the text that these points had little substantive authority. At the time negotiations were suspended, there was no agreement as to whether corporate social responsibility referred to respect for universal or domestic labor and environmental standards, although "[m]ost delegations preferred 'domestic' which was recognized as wider in scope" (OECD 1998b: 54, Note 124). This perspective is also the one most closely aligned with the OECD Guidelines on Multinational Enterprises, which state, "they should help to ensure that the operations of these enterprises are in harmony with *national* policies of the countries where they operate" (OECD 1997f: 43; emphasis added).

17. The contrast between this language and the rest of the draft Agreement is striking. There were no enforcement mechanisms included for any of these guidelines. Not only would they not be subject to the MAI's dispute resolution mechanisms, but member states were prohibited in the draft Agreement from enacting policies that targeted investors in other countries for violations of social, environmental, or labor standards; such policies, as a form of discriminatory treatment, would themselves be a violation of the Agreement for which investors could seek compensation. Thus, unlike the strong and enforceable provisions in the draft Agreement for liberalizing global movements of capital, the degree of social regulation permitted by the Agreement was to remain voluntary, unenforceable, and *national*. As a result, the inclusion of language referring to labor and environmental standards in the draft Agreement was not only an ultimately

unsuccessful effort to win legitimacy for the OECD's efforts, it also had the more latent function of outlining the proper role for the nation-state in a neo-liberal global capitalism. Not only is the nation-state essential for protecting private property in its geographically specific forms and for maintaining public order, which have been longstanding responsibilities of capitalist states (Barrow 1993; Carnoy 1984), but in a global capitalism the nation-state maintains a weak and fragmented system of social regulation that reinforces the power of capital relative to other social forces. By keeping the social regulation of capital national within the context of the broader internationalization of capital, the OECD sought, through MAI, to institutionalize the market discipline that would ensure that state policy is constrained along neo-liberal lines. The OECD's stated respect for national labor and environmental standards provides a degree of ideological cover suggesting that economic growth and environmental protection and respect for workers' rights are not incompatible (see Cavanagh 1997, Levy 1997). It also, however, at the same time provides a structural foundation for the power of international capital, ensuring that there are no strong, enforceable international regulatory standards to place limits on its operations.

III. HEGEMONIC CONFLICT AND THE DERAILING OF MAI

18. To this point, the proposed MAI appears to be a model of transnational historical materialism's concept of the internationalized state. It reflected a consensus among the advanced capitalist states for increased liberalization of investment, and it sought a dramatic shift in nation-state functions toward the protection and expansion of global capital. However, the failure to create a new supranational investment regime suggests that internationalization is not an inevitable process.

The derailing of MAI was the result of hegemonic conflicts both within the historical bloc and between the historical bloc and subordinate social forces.

19. Conflicts over the MAI emerged at the very beginning in choosing the appropriate forum for an agreement. European Union countries, many of which face the political constraints of established left parties with representation in both national parliaments and the European Parliament, initially argued for MAI to be negotiated in the WTO, which has a much broader membership than the OECD. While the WTO would have provided greater legitimacy (within accepted neo-liberal boundaries) for an agreement, it would also, however, have provided opportunities for poorer countries to express opposition to increased liberalization, or at least for their interests to be taken into account in the final agreement. The United States, which does not face the same institutionalized level of political opposition to liberalization, argued forcefully and successfully for using the OECD as the proper forum for MAI. Following the failure of MAI negotiations within the OECD, in part because of France's withdrawal from negotiations prior to the October 1998 OECD meeting, there were calls from European negotiators to try again in the WTO (European Commission 1998). This proposal was met coolly by US negotiators, who instead have paid increased attention to changing the International Monetary Fund's Articles of Agreement to create a *de facto* MAI (see Fischer 1997). With voting power in the IMF based on monetary contributions, the United States has an effective veto and would thus have sufficient power to ensure an Agreement in line with its commitment to maximum liberalization. The fact that, with the suspension of negotiations within the OECD, this conflict remains unresolved reflects the continued significance of nation-states and national balances of political forces in

constructing global capitalism and an internationalized state.

20. Conflicts between nation-states were not limited to the choice of forum for developing MAI. For an agreement that was supposed to remove national barriers to the global movement of capital, there was considerable effort to protect states from the core elements of MAI. For example, Australia (OECD 1997a) reserved the right to reject foreign takeovers of Australian businesses and the establishment of new businesses by foreign interests that were contrary to the national interest, to place limits on foreign ownership of media, and to maintain or adopt any performance requirement in any sector. Canada (OECD 1997b) likewise reserved the right to protect cultural industries and to place limits on the acquisition of Canadian businesses by non-Canadians. In addition to concerns over the protection of cultural industries, the constraints on nation-state sovereignty contained in the draft Agreement led to France's withdrawal from the MAI negotiations in October 1998. For its part, the United States sought to reserve the right to exempt subsidies given by US states and localities (Dougherty 1998), and also sought to maintain the Helms-Burton Act, which imposes sanctions against foreign companies investing in Cuba, in response to strong European opposition.² In all, over 400 specific exemptions were made, suggesting that the particular interests of nation-states interfered significantly with the conclusion of a strong,

² The Clinton Administration was also constrained by its 1997 defeat in Congress over the extension of 'fast track' negotiating authority for trade agreements. Although the US was among the strongest supporters of maximum liberalization, it also had to take this opposition into account; this, in part, helps to explain US negotiators' willingness to include language on labor and environmental issues in MAI. It was also constrained by the lack of consensus among those US government agencies most directly concerned with investment issues. The Agreement was supported by the State Department and opposed by the Office of the US Trade Representative. The Treasury Department took little interest in the negotiations (Dougherty 1998).

inclusive agreement. States' participation in internationalization is thus a function not only of historically specific levels of political organization and commitment to political-economic values, but also of nationally specific levels of organization and instrumental power among economic sectors. The resulting differences between states will place constraints on the degree of and institutional forms associated with internationalization.

21. In addition to conflicts between states, subordinate social forces played a major role in the fate of MAI. Although the OECD negotiations were conducted in secret and excluded any popular participation, and although the draft Agreement did not recognize popular forces as a legitimate global actor, negotiations stimulated considerable international opposition by labor and environmental groups, especially after the February 1997 draft treaty was leaked and posted on the Internet. National and international campaigns by non-governmental organizations such as Friends of the Earth, Public Citizen, and the Third World Network were of sufficient strength to compel the OECD to recognize them, at least informally. The inclusion of language in the Agreement, however weak and tentative, concerning labor and the environment was the OECD's attempt to grant concessions to subordinate social forces which did not challenge the core elements of the Agreement. This attempt to coopt MAI opponents ultimately failed. When MAI negotiators met with representatives of NGOs for an 'informal consultation' in Paris in October 1997, the NGO representatives called for an immediate suspension of MAI negotiations ("Joint NGO Statement on the Multilateral Agreement on Investment" 1997). More substantively, the NGOs rejected MAI's combination of strong, enforceable, supranational provisions for liberalizing global movements of capital and voluntary, unenforceable, national labor and

environmental regulations. Such a fragmented system of regulations, it was feared, would lead to a downward spiral in which states would relax standards so as to encourage inward investment. Instead, the NGOs called for binding supranational agreements on environmental, labor, health, safety and human rights standards, and the elimination of investor-state dispute resolution mechanisms and their replacement with “democratic and transparent mechanisms which ensure that civil society...gain new powers to hold investors to account.” In contrast to the OECD, NGOs appeared to prefer strong supranational regulatory regimes that ensure a harmonization of standards in the interest of labor and the environment.

22. Finally, MAI was sidetracked because those forces that would most directly benefit from its creation – global capital – began to question whether this particular agreement could deliver what they sought. The major corporate lobbying groups pushing for a MAI included the US Council for International Business, the Union of Industrial and Employers’ Confederation of Europe, the International Chamber of Commerce, and Keidanren (the Japan Federation of Economic Organizations). For example, the USCIB provided technical advice to US negotiators and briefings to state officials and business leaders in major US corporate centers to build support for the draft MAI. It was opposed to the inclusion of any language, even non-binding language, referring to labor or environmental standards. As OECD negotiators granted concessions on labor and the environment in the hopes of winning the consent of subordinate social forces, they progressively alienated the USCIB to the point where continued business support for the Clinton Administration’s efforts to continue the process was, as one business journal reported, “not even an inch deep – it’s skin deep” (“OECD Members Likely to Water Down Plans for Investment Pact” 1998).

Likewise, Helmut Maucher, president of the International Chamber of Commerce, stated that he was “not that supportive of the MAI, because they added social wording in at the very last moment” (“Is Business Leaving a Sinking MAI?” 1998). At the same time, the volume of country-specific exemptions, from capital’s perspective, so restricted the applicability of MAI as to lead Herman van Karnebeek, Chairman of ICC Netherlands, to state, “What then, we are beginning to ask ourselves, is in the MAI for us?” (“Business States Its Views on OECD Investment Agreement” 1998). In reporting on a January 1998 meeting between a delegation of business representatives brought together by the OECD’s Business and Industry Advisory Committee and MAI negotiators, one business journal reported with considerable understatement that “[b]usiness expressed concern that negotiators’ attempts to respond to conflicting pressures by various interest groups would undermine prospects for a meaningful agreement” (“Business States Its Views on OECD Investment Agreement” 1998). For capital, the combination of significant country-specific exceptions and the inclusion of language on labor and the environment rendered MAI so problematic that no agreement was preferred to a watered-down agreement which did not deliver maximum liberalization.

23. These three sets of conflicts – between OECD member states, between the OECD and subordinate social forces, and ultimately between the OECD and important elements of multinational capital – reveal the contradictory nature of the transnational hegemonic bloc that is at the core of transnational historical materialism’s analysis of internationalization. The failure to reach agreement on the draft MAI suggests that rather than following an inexorable or monolithic path of development, the internationalization of the state is a dynamic, contradictory process shaped by conflict between capital, state, and subordinate

social forces. Despite their commitment to a neo-liberal global economic order, state managers from OECD states are still dependent upon national political and economic interests for legitimacy and material resources, and both capital and nation-states are not so all-powerful that they can ride roughshod over social forces opposed to liberalization. This contradiction between the nation-state's active role in liberating capital globally and its continued structural dependence on national political and economic forces places an important limit on internationalization. The backdrop of recent financial crises in Russia, Asia, and Latin America has made it even more difficult to construct a consensus for global liberalization of investment.

24. The failure of the draft MAI reveals the possibility for an alternative form for the internationalization of the state. MAI opponents offered a vision of a democratic, non-market oriented internationalized state that would strengthen an emerging global civil society (Lipschutz 1992; Shaw 1994) rather than global capital. While such an alternative is unlikely to become counter-hegemonic in the near future, it has made a mark that will have to be recognized in coming rounds of conflict over the nature of globalization. The role played by the defeat of MAI in stimulating the rise of an anti-capitalist movement that has increasingly challenged the operation of multilateral economic institutions cannot be underestimated; what were once quiet gatherings of technical experts and government officials have, since the 'battle for Seattle' during the November 1999 WTO meeting, become opportunities for mass protest and criticism of global capitalism. The defeat of the draft MAI has also contributed to a broader trend within multilateral economic institutions toward increased attention, if only at a relatively superficial level, to the relevance of democracy, sustainable development, environmental protection, and other non-market issues (O'Brien et al. 2000). The terrain for

future negotiations over liberalization has changed, and this could not have occurred without the earlier failure of the MAI negotiations, a failure that revealed, after the creation of the World Trade Organization and the approval of the North American Free Trade Agreement, the extent to which popular consent for global capitalism continues to be problematic.

IV. CONCLUSION

25. Sklair (1997) provides the pithy comment that "[c]apitalism does not just happen." Instead, it "is a social system that has to struggle to create and reproduce its hegemonic order globally" (Sklair 1997: 514). Although the historical bloc possesses great material and cultural power, it is simultaneously vulnerable to internal contradictions and to external opposition. This means that the internationalization of the state is not a determined process, but rather will be uneven and contradictory (Block 2001; McMichael 2001). The case of the Multilateral Agreement on Investment illustrates this. The OECD sought to construct a global political-economic structure permitting the liberalization of investment and institutionalizing consent to the power of global capital. This effort was ultimately unsuccessful, foundering on an accumulation of conflicts within the historical bloc and resistance from outside the bloc. More specifically, the effort by the OECD to construct a hegemonic coalition in favor of the MAI produced a kind of negative hegemonic feedback in which efforts (ultimately unsuccessful) to secure the consent of subordinate social forces by including language on labor and environmental issues had the unintended consequence of weakening the unity of the power bloc. As a result, the transnational historical materialist argument that the internationalization of the state is defined by the national state becoming a transmission belt for

global capital must be modified. Gramsci's anti-determinist Marxist methodology suggests that while an emerging transnational historical bloc may seek such a form of internationalization, the extent to which this will happen is an empirical question that is dependent upon a particular, historically specific balance of forces.

26. This critique of the transnational historical materialist argument concerning the internationalization of the state suggests the continued relevance of imperialism for a Marxist understanding of global capitalism. Panitch (Gowan, Panitch and Shaw 2001) argues that, in contrast to Lenin's (1939) economic understanding of imperialism, contemporary Marxism needs a theory of imperialism that sees it as "much more of a penetrative process; much more consensual" and that "leaves enough space to understand the very active role of states in globalization"(17). The work of Nicos Poulantzas (1975, 1978, 1980) has much to offer in this regard (Panitch 1996). For Poulantzas, internationalization is the most recent stage of imperialism. His study of internationalization emphasizes the significance of inter-imperialist contradictions:

27. A new dividing line is...being drawn within the metropolitan camp, between the United States on the one hand, and the other imperialist metropolises, in particular Europe, on the other. Relations between the imperialist metropolises themselves are now also being organized in terms of a structure of domination and dependence within the imperialist chain (1975: 47).

28. In contrast to earlier forms of imperialism, in which core states sought to control raw materials and markets, the contemporary internationalization of capital is "essentially a response to the need for imperialist monopoly capital to turn to its account every relative advantage in the direct exploitation of labor"(1975: 62). This takes place in the context of an internalization of the dominant

US form of capitalist state; in other words, within the core capitalist states the authority of the dominant imperialist power comes from its ability to shape hegemony. This is reflected in the collapse of European social democracy and its acceptance of a version of the 'Washington consensus' on neo-liberalism (see, for example, Panitch and Leys 1997 and Singer 1988). At the same time, however, this authority is inherently contradictory. The state organizes the long-term interests of the power bloc because it is relatively autonomous from particular class fractions, but this task is simultaneously made problematic because of the class contradictions that characterize the state. The state simultaneously produces the conditions necessary for a cohesive capitalist class and secures the consent of subordinate classes to capital's rule: "Thus, an institution destined to reproduce class divisions is not, and can never be, a monolithic bloc without cracks, whose policy is established, as it were, in spite of its own contradictions"(1978: 132). For example, as was the case with the draft MAI, efforts to secure the consent of popular forces (by including language on labor and environmental issues, no matter how minor) may undermine efforts to reproduce the conditions for capital accumulation. Despite the convergence among core capitalist states towards neo-liberalism, the contradictory nature of the state ensures the continuation (under new historical circumstances) of inter-imperialist rivalry rather than its displacement by a transnational capitalist class and internationalized state.

29. It is striking that despite the affinity between the work of Gramsci and Poulantzas, transnational historical materialists have all but ignored Poulantzas' examination of the internationalization of the state.³ The analysis of hegemony is central to the work of both

³ Interestingly, Robinson (2001) does make reference to Poulantzas' conception of the state as a condensation of class practices, but he ignores Poulantzas' direct statements on internationalization.

Gramsci and Poulantzas, and Poulantzas' understanding of the state as simultaneously a condensation of a relationship of forces representing and organizing the long-term political interests of the power bloc and a site of class struggle parallels Gramsci's analysis of civil society.⁴ Of particular importance here is Poulantzas' recognition of the contradictions of the state that flow from its relative autonomy from capital, a recognition that has its parallel in Gramsci's rejection of the base-superstructure metaphor. The inherent contradictions of the capitalist state have two important consequences for a Marxist understanding of global capitalism. First, the relative autonomy of the state from capital means that discussions of the internationalization of the state "cannot be reduced to a simple contradiction of a mechanistic kind between the base (internationalization of production) and a superstructural cover (national state) which no longer 'corresponds' to it"(Poulantzas 1975: 78). Nation-states, particularly the core capitalist states, should be seen as agents of globalization rather than its victims. However, because nation-states are characterized by uneven development, there are significant structural limits on the development of an internationalized state. Second, recognizing that the state "is not a monolithic bloc, but a strategic field"(Poulantzas 1978: 138) makes it easier to acknowledge how power can be shifted from one state apparatus to another in response to challenges to the power bloc from subordinate forces. To the extent, therefore, that supranational institutions are of interest to capital, this does not necessarily represent a fundamental change in the nation-state; in Goldfrank's (2001) words, "[a]ll that is

⁴ In his later work, "Poulantzas does for the State what Gramsci did for civil society: Poulantzas takes the Gramscian concept of dominant-class hegemony in all its complexity and pervasiveness and articulates it for the State"(Carnoy 1984: 124).

supranational is not thereby 'global'"(212). Not only does the power bloc make strategic choices as to which specific state institutions (including those of the nation-state) it can best act upon (and in which ways) to advance its interests,⁵ but the contradictory nature of these institutions can just as easily reinforce rivalries among the core capitalist states as produce a cohesive transnational capitalism. The internationalization of the state is thus best seen as a conflict over the particular combination of national and supranational institutions that are to characterize global capitalism, rather than a transition in the nature of the state from the dominance of the former to that of the latter.

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⁵ Contrast, for example, the attempt to create rigorous and enforceable investment rules with the draft MAI with the voluntary standards found in the International Labor Organization or the Kyoto accords on climate change.

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