



The EC and the Multilateral Agreement on Investment: Shameless Corporate Bias

If one has any doubts about the European Commission's deep and abiding devotion to corporate interests, consider the Multilateral Agreement on Investment (MAI). The now notorious MAI, in a state of deep freeze for the foreseeable future, was an attempt by big business and powerful governments to create a profoundly corporate-biased international investment agreement. Had they succeeded, transnational corporations would have been massively strengthened by the MAI's capacity to radically promote their rights over the rights of the countries and communities they invest in. The quest for a neoliberal investment agreement, meanwhile, has shifted to another forum, the World Trade Organisation (WTO).

MAI negotiations began in 1995 inside the Organisation for Economic Cooperation and Development (OECD), essentially the 'rich nations' club. Three years later, the talks collapsed after France and other key OECD governments withdrew, to a large extent because of the upswelling of civil society protest. Campaigners had successfully revealed the agreement's hidden hazards: sweeping deregulation of foreign investment controls and excessive legal rights for multinationals that would undermine sustainable development, cultural diversity, and democratic economic control.¹

The European Commission was a leading MAI protagonist. Although all EU member states participated, the Commission acted as a de facto thirtieth party to negotiations, promoting the agreement heavily through bilateral meetings and coordinating EU member states' positions.² This was under the leadership of then EU Trade Commissioner Leon Brittan, a Thatcherite conservative who openly and forcefully argued for the development of an aggressively neoliberal agreement. The Commission under his leadership was bubbling over with enthusiasm: while pushing for the MAI inside the OECD, it simultaneously proposed pursuing a similar investment agreement inside the World Trade Organization (WTO). The sky was the limit and the MAI would be an important step towards a global investment regime, both in its own right and as a catalyst for the WTO project.³

Then came the leaked MAI draft posted on the internet. Civil society groups were stunned and decided the world didn't, after all, have to take it. They spread the word. Powerful corporate lobbies mobilised in defence of the agreement. OECD governments tried to distract attention from the MAI's fundamental flaws with proposals to insert labour and environmental language into the agreement. Meanwhile, ever the dauntless defender of corporate interests, the Commission continued to take the hard line, rejecting binding language on labour and environmental standards. It argued that such language would dampen business support and reduce the chances of sucking non-OECD countries into the agreement at a later date. The Commission even refused to conduct an impact assessment of the MAI on EU policy until after negotiations were completed.⁴ Even when MAI's future looked bleak in early 1998, the Commission and EU member states pushed for completion. If the MAI collapsed, so might the Commission's precious WTO investment project.⁵

The MAI did go down, but not the idea behind it. The Commission covertly began recruiting European corporate support to help its WTO campaign. Further, internal Commission documents leaked in early 1999 demonstrated the Commission's ambition to gradually build an MAI-esque agreement inside the WTO using a more strategic, step-by-step approach. Optimists expected better when French Socialist Party member Pascal Lamy succeeded Brittan in 1999, but the Commission's neoliberal ambitions have proven undiminished. At the upcoming WTO ministerial in Cancun, Lamy remains determined to build an MAI-style agreement inside the WTO, using the stealth approach.⁶ [see "The EC's push for a WTO investment agreement"]. If civil society lets down its guard, the Commission's dream of a global investment regime might soon be real.

Notes:

- 1 See for instance the chapter "MAIgalomania" in: Balanya, Doherty, Hoedeman, Ma'anit and Wesselius, *Europe Inc.*, Pluto Press, 2000.
For a good summary of the MAI's flaws, and the significance of the campaign against the MAI, see also *Rights and Responsibilities: Lessons from the Multilateral Agreement on Investment (MAI)*, World Development Movement, December 1998, and "MAI (Multilateral Agreement on Investment)", Oxfam GB Briefing Paper, December 1998.
- 2 "The European Union and the MAI", in *Maigalomania*, Corporate Europe Observatory, 25 February 1998.
- 3 Although far less global in its membership than the WTO, the plan with the MAI would be to expand the finished agreement to developing countries on a "take it or leave it" basis.
- 4 "The Brussels Dialogue Meeting on the MAI - Another Nail in the MAI's Coffin", report by Olivier Hoedeman. The dialogue meeting was on September 22, 1998.
- 5 Internal European Commission minutes and official speaking notes on labour and environment, from the OECD High-Level Meeting on the MAI, February 16-17, 1998 (on file at CEO).
- 6 In a paper prepared by DG Trade for discussion at the Article 133 Committee, dated December 15, 1998, the European Commission set out a list of MAI-esque features it wanted and commented: "...even if a perfect result is not achieved in a first agreement, the main point is to get investment rules firmly implanted in the WTO. Further improvements of these rules and additional liberalisation can be part of future agendas, once we have basis from which to work." Paper on file at CEO.

For links to the referred documents, see: <<http://www.wtocancun.com/mai.html>>

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