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Introduction

The Dog That Did Not Bark

In a well-known Sherlock Holmes story, the great detective deduces the identity of a murderer from the failure of a dog to bark. Holmes reasons that the perpetrator had to have walked past the dog in order to carry out the crime. But this dog always barked at strangers. Therefore, that the dog did not bark indicated that the perpetrator was known to the dog. Hence the crime was committed by an insider. This observation narrowed the list of suspects considerably, for had the dog barked, the murderer could have been almost anyone. In a sense, therefore, the fact that the dog did not bark conveyed more information than if it had barked.

The history of the Multilateral Agreement on Investment (MAI), an international treaty that sought to bind the member countries of the Organization for Economic Cooperation and Development (OECD) to certain rules pertaining to international investment, in some ways resembles the story of the dog that did not bark. Negotiation of the agreement ended in failure—the MAI itself, as it were, failed to bark—in late 1998. Also, why the negotiations failed is something of a mystery, with both insiders and outsiders as suspects. Who really killed the MAI? Did it fall under the weight of its own internal problems? (Was the agreement also a "dog" in that sense?) Or was it pushed, by opponents outside the proceedings? And, arguably, the talks' failure will turn out to be in some ways more informative than would have been their success. This book explores the various reasons why this may be so.

Negotiations to create the MAI were formally launched at a meeting of trade ministers of the OECD member countries in May 1995, at the OECD headquarters in Paris. Largely at the instigation of the United States, the OECD countries agreed to begin these negotiations the following autumn. The new rules to be established under the agreement were intended to limit the powers of governments to pursue interventionist policies aimed at affecting international flows of investment and the commercial operations of investments under the control of foreign investors. For the most part, the new rules were meant to be liberalizing, that is, to remove existing governmental barriers and controls on foreign investment. And although the rules were meant to cover all types of international investment, including portfolio investment, they were mostly aimed at long-term foreign direct investment (FDI), about which more below.

The new rules would have been quite complex (chapter 3 delves into some of their details) but, broadly speaking, would have done four things. First, they would have established the principle of national treatment in the investment domain. Under this principle, governments would obligate themselves to treat foreign investors and their investments "no less favorably" than they would treat domestic investors and their investments under like circumstances. In something of a departure from current practice, this principle was meant to cover preestablishment as well as postestablishment investment.[1] That is, had it been fully implemented, the agreement would have forbidden OECD governments from unfairly raising barriers to foreign investors seeking to establish subsidiary operations in their countries, and from discriminating against those investors and their investments once established. Second, the MAI would have created certain standards for investor protection, by specifying under what conditions a government could expropriate a foreign investment and what obligations to the investor the government must then fulfill. For example, investors would be entitled to compensation for the value of any investments thus seized. Third, the MAI would have prevented governments from requiring foreign investors to meet certain onerous conditions before allowing them to enter or remain in the country. Such conditions might include the use of local suppliers, the achievement of a minimum level of employment, or the export of a minimum percentage of output, or the investor might have been required to set up the investment as a joint venture with domestic investors. Arguably, such performance requirements would have been ruled out anyway, as violations of national treatment, but the MAI would have removed any ambiguity by banning these and certain other such requirements specifically. Fourth, the MAI would have set up a dispute settlement procedure to which both governments and affected private investors could seek recourse if any OECD government acted so as to violate its obligations under the MAI.[2]

1. The North American Free Trade Agreement (NAFTA) also covered preestablishment investment, so the MAI would not have set an entirely new precedent.

2. As chapter 3 details, a number of provisions in the draft MAI do not really fall into any of these categories, but these four include the most important provisions.

Had they been implemented and enforced unconditionally, these provisions would generally have acted to reduce the ability of governments to intervene to affect foreign investment flows or to modify the behavior of international investors or their investments. The MAI would thus arguably have generated significant economic benefits by reducing or eliminating government actions that have the potential to reduce the economic benefits created by international investment.[3]

The MAI, however, would not have addressed all such government actions. One major gap in its provisions, for instance, was a failure to address investment incentives, that is, subsidies and subsidy-like concessions that governments offer to foreign investors to induce them to invest in areas under the government's jurisdiction. As chapter 3 discusses in some detail, such measures can also have adverse effects on economic welfare. Chapter 3 discusses why, in spite of the likely negative impact of investment incentives, the MAI negotiations did not address the issue. Nor did the MAI address tax policies, which can also create distortions in FDI flows. Taxation can affect the rate of return on an investment, and these rates are an important variable to which international investment responds.

Besides these broad omissions, the MAI would have allowed each of the signatory countries to stipulate numerous specific exceptions to the obligations it created. Indeed, so many exceptions had been lodged by the time the negotiations were terminated that, arguably, the agreement would have changed nothing. Furthermore, those reservations that were lodged applied only to national governments. State, provincial, and local governments had yet to weigh in with their reservations at the time the proceedings adjourned. Thus what the OECD countries were about to agree to do in principle, they apparently were unwilling to do in practice, at least in those cases where their current practices conflicted with the agreement's obligations. In addition, as chapter 2 details, certain issues arose in the course of the negotiations that might even have resulted in a *de*liberalization of policy toward international investment. This would have been an unfortunate step backward.

FDI and Its Benefits

To the extent the draft MAI failed to push the envelope of international investment liberalization, it can justifiably be called the dog that would not

3. To the author's knowledge, however, no one, not even the analytically oriented Secretariat of the OECD, has made a rigorous attempt to estimate the magnitude of the benefits that the MAI might have created. Such a task, admittedly, would be daunting, but the results would have been of great value to the negotiators and other participants in the debate over the agreement.

hunt. But that does not mean the negotiators were not after big game. Foreign direct investment is at the heart of the activity of those conspicuously investing organizations called "multinational corporations" (more or less equivalent terms include "multinational enterprises," "transnational corporations," and "global corporations"). Most FDI consists of equity investment by a firm in one country in a subsidiary firm in another country, with the intent of controlling that subsidiary; indeed it is the totality of a parent firm and its brood of foreign subsidiaries that constitutes a multinational corporation. And by any measure, multinational firms and the activities they control today account for a large share of economic activity worldwide.

According to estimates published by the United Nations, the book value of the worldwide stock of FDI at the end of 1995, when the MAI negotiations were launched, was over $2.8 trillion. As of this writing, the most recent estimate is for the end of 1998, at which time this stock had grown to more than $4.1 trillion, an increase of almost 45 percent in just three years. Impressive as those figures might sound, they are really only the tip of a much larger iceberg. Because FDI represents only the equity of investors in their investment, not their total assets, and because the investors in this instance are mostly large corporations whose foreign "investments" are affiliated firms, the combined asset values of these investments are vastly greater. Indeed, the United Nations estimates that the total asset value of these investments at the end of 1998 was more than $14.6 trillion, or more than one-and-a-half times US GDP. And even this figure does not include the asset value of the investor firms themselves. The United Nations does not estimate this figure, but it undoubtedly far exceeds the combined asset value of the overseas affiliates.[4]

FDI has indeed been increasing at a rapid rate in recent years. In 1985 the total stock of FDI worldwide, again as estimated by the United Nations, was only $685 billion. This stock therefore increased more than sixfold between 1985 and 1998, for a compound growth rate of almost 14 percent per year. By contrast, nominal world income (as measured by gross world product) and the total nominal value of world exports grew over the same period at compound rates of 6.8 percent and 8.1 percent, respectively. Changes in the stock of FDI correlate well with changes in the nominal value of output generated by foreign-controlled enterprises

4. Graham (1995) arrives at a crude estimate of the total asset value of foreign direct investors plus their investments of $25 trillion. Applying the same methodology to 1998 data yields an estimate of about $36.5 trillion, or more than total world GDP (about $30 trillion in 1997). Of course, asset value and GDP are quite different concepts—one is a stock, the other a single year's flow—but it is commonplace in other economic domains (e.g., analysis of international indebtedness) to measure stocks of various kinds against GDP. It would, however, be a gross error to infer from the above figures that multinational firms account for 100 percent of world GDP. A very rough guess is that about 15 percent of world GDP originates in these firms.

(i.e., when the former doubles, so, approximately, does the latter).[5] Thus, it is safe to conclude that the output of these enterprises has grown at a much faster rate over the past decade and a half than either world output or world trade.

Multinational firms are not without their detractors, however. Indeed, the antiglobal activists whose campaign against the MAI contributed to its downfall (as narrated in chapter 2) consistently depicted the multinational corporation as one of the chief "villains" in the MAI melodrama. Among the accusations they leveled against these firms were that they indiscriminately move activities from one country to another in pursuit of the cheapest possible labor, that in doing so they impoverish local citizens and damage the environment, and that they bring no offsetting benefit.

Later chapters of this book examine each of these accusations in detail. For now, suffice it to note that, according to most careful economic analysis, FDI does bring numerous benefits to those countries that welcome it. Developing countries in particular need savings from abroad to finance domestic capital formation, because their own domestic saving is typically insufficient. FDI is a channel by which those external savings can enter.

But beyond this immediate financial benefit, FDI typically brings with it a host of other benefits. One of the most important is technology transfer. Multinational firms, as has long been recognized, tend to be concentrated in sectors that are technologically intensive, and they perform a large proportion of the world's research and development. Through FDI, technologies created by these firms are transferred to their subsidiaries in countries around the world, giving rise to a number of tangible and intangible benefits.

The most direct benefit of FDI, however, is the following. The local subsidiary of a technologically sophisticated multinational produces, in the host country, goods that embody the latest and best technologies, in a facility that uses state-of-the-art production methods. The result can be lower prices and higher quality goods and services for consumers in these countries. But, perhaps more importantly (and it is documented in chapter 4), this technology transfer enables the foreign-controlled firm often to pay higher wages to its workers than do competing local firms. Another benefit, albeit an indirect one, is that the local subsidiary creates competition for domestically owned rivals. In many cases this competition inspires these rivals to improve their own products and processes. Generally, a less efficient producer is being replaced by a more efficient one,

5. This correlation deteriorates over long periods, however, because the FDI stock is measured on a historical cost basis (so that noncurrent portions of the total stock are not corrected for price inflation), whereas nominal output value is measured in current prices. However, over the 13 years from 1985 to 1998, world inflation was fairly low, and hence this error is not great. Also, the error tends to understate rather than overstate the growth in FDI and the imputed growth of output of foreign-controlled enterprises.

with positive benefits all around. Thus, for example, the case is strong that, during the 1980s, the entry by the three Japanese automakers into North America through direct investment induced the Big Three US automakers to upgrade their own operations. Substantial benefits flowed to Americans in the form of cars that were better and less costly than they might have been had Japanese direct investment in this sector never come on the scene.[6]

Another result of technology transfer is that, at the margin, the value of output per worker is enhanced. For reasons that chapter 4 develops in detail, this increased productivity should allow workers to be paid more than would otherwise be the case. And, indeed, empirical evidence (also reviewed in chapter 4) shows that a "wage premium" is associated with FDI. This finding contrasts quite sharply with the claim of many anticorporate activists that multinationals pay *lower* wages than their workers would receive in other employment. Looking at the broader picture, technological progress, furthered by both the creation of new technology and its diffusion into the world economy, is statistically associated with economic growth. That is, some large component of economic growth seems to be caused by technological progress. Thus, given that FDI is associated with technology transfer, which is a means of technology diffusion, it might be expected that FDI acts to increase economic growth in the countries that host it. And again statistical studies tend to bear this out (see chapter 4).

Most of the story relating technological advance to FDI suggests that the direction of causality is from the former to the latter: firms that create and apply new technologies achieve advantages over rivals that they then realize through FDI. But some theory and evidence also suggest that a firm with a multinational network of subsidiaries might be led to do more research and development than another firm whose operations are limited to one country. Thus causality may run in the other direction as well, from FDI to technological advance.[7]

One problem with all of this line of argument is that the benefits of FDI that theory predicts and research documents are difficult to quantify precisely. There are two reasons why this is so. The first is that it is simply intrinsically difficult from a statistical point of view to measure the benefits created by the advance and diffusion of technology. The second is that international data pertaining to FDI, and the activities of multinational corporations generally, leave much to be desired; the data needed to perform rigorous statistical testing are often sketchy, or missing altogether. One practical consequence for the MAI was that, even after the negotiations

6. The classic work showing benefits of this sort is Dunning (1958). For the North American experience, see Graham and Krugman (1995) and Emmott (1992).

7. The simple theory of why this is so is laid out in Graham (1985). For evidence, see Cantwell (1991a, 1991b).

had been going on for several years, the negotiators had little tangible evidence of how great the eventual benefits of an agreement might be. And without a good estimate of the benefits, it was difficult for negotiators to convince the political leaders to whom they reported to make those concessions that might have been needed to strike a final bargain to conclude the MAI. We return to the issue of the potential benefits from an MAI in chapter 7.

The MAI Negotiations Falter

Two years after the 1995 OECD ministerial meeting, the initial deadline for completion of the MAI came and went with no agreement in sight. The negotiators were granted a one-year extension, but at the end of that year the negotiations were still unfinished. A draft MAI had been written, but it was tentative and incomplete. Major substantive differences had developed among the negotiating parties, and their resolution was proving elusive. Yet ironically, thanks to the myriad exceptions that countries were lodging, this draft that was proving so contentious was becoming little more than a codification of existing law, policy, and practice among the negotiating countries. Moreover, some of the deepest disagreements were over provisions that had the potential not to liberalize investment policy but to move it in the opposite direction (these are discussed in chapter 2). Sadly, what had emerged after almost three years of MAI negotiations was a document that, despite its 200 pages, would have done little or nothing to change government policies that threatened to distort the flows and end uses of foreign investment.

Even more ironically, although the draft agreement thus did little more than codify the status quo, the MAI talks had become the focus of intense and emotional opposition outside the negotiating room. In particular, the MAI had become the *bête noire* of numerous nongovernmental organizations (NGOs) from around the world. Some of these groups were deeply worried about the agreement's potential impact on human rights, while others saw it as a profound threat to environmental protection and preservation. By late 1997, the OECD's Paris headquarters had become the site of frequent demonstrations and picketing by these groups.

Organized NGO opposition to the MAI began in Canada, when some of these groups became involved in a dispute with the government of Canada raised by the Ethyl Corporation, a US firm. The dispute was actually over a provision of NAFTA, not the MAI, but these NGOs soon concluded that the MAI posed a similar, and perhaps greater, menace. (The history and implications of this episode are discussed in chapter 2.) From that point opposition spread rapidly to the United States and Europe. During 1998, various NGOs created Web sites on the Internet to argue the case against the MAI. Anti-MAI rallies and demonstrations were organized in numerous locales. The movement grew to include at least 300 separate organizations. In late 1998, the largest grouping of US labor unions, the AFL-CIO, joined in opposing the MAI. Also in 1998, in what should have been seen as a foreshadowing of events to come, the city council of Seattle—host to the 1999 World Trade Organization (WTO) ministerial meeting—declared the city an "MAI-free zone."

The city council's action was more than a little ironic. For the NGOs' opposition to the MAI and the tactics they employed can be seen as a prologue to the activism these same groups displayed at the Seattle WTO ministerial. Their disruptive behavior ultimately proved embarrassing to the city, as the demonstrations flared out of control and the Seattle police used heavy-handed tactics to restore order.

It was largely through these demonstrations, combined with the natural affinity of the press for sensationalism, that the world at large was introduced to the cause of antiglobalism and the issue of international investment liberalization. But the Seattle protests were not the first of their kind. One year earlier in Paris and elsewhere, large numbers of activists had marched in the streets, shouting slogans and beating drums, in opposition to the MAI.

The phenomenon of large-scale, street-fighting opposition to a multilateral commercial agreement was something that the world had never seen before the anti-MAI demonstrations, and it poses an enigma. If, as argued above, the MAI was largely a status quo agreement that would have changed little if anything, why all the fuss? The short answer (the longer version deferred to chapters 3 and 5) is that, despite the fact that the MAI dog lacked teeth, some of the NGOs' grievances were legitimate. These included some of the issues they raised over the Ethyl Corporation case in Canada. But not all the NGOs' objections to the MAI were so well grounded: two in particular prove largely to be chimerical, as is argued in depth in chapters 2, 4, and 5.

One of these was the assertion that the MAI would intensify what some activists saw as a mass exodus of jobs from the industrial countries to the developing countries. This, of course, was a theme that Ross Perot had sounded in his 1992 run for the US presidency. The villain then was NAFTA, that great bunghole whose drainage of US jobs into Mexico would result in a "great sucking sound," in Perot's memorable phrase. Opponents of the MAI could not help but notice that the draft MAI incorporated many provisions similar to that of NAFTA's chapter 11, on investment. Thus, one rallying cry against the MAI was that the work in progress was a kind of "NAFTA on steroids."

Perot's focus, of course, was on the feared effects of NAFTA on US workers. But many of the anti-MAI activists were more concerned that the MAI, if it came into force, might hurt the interests of workers in developing countries as FDI flows to these countries increased. (This issue is examined in depth in chapter 4.) A frequently expressed concern was that multinational corporations would move to areas where labor standards were lax and where workers would be exploited. A parallel theme was that the MAI would enable large multinationals to transfer their particularly "dirty" operations to certain pollution havens—developing countries that lacked, or failed to adequately enforce, laws to protect the environment.

These criticisms of the MAI, unlike those surrounding the Ethyl case, can be dismissed with relative ease. The MAI was to have been, as noted at the outset, an agreement within the OECD, whose members are mostly industrial, not developing, countries.[8] It would not have been binding on nonmembers. It therefore would have done little or nothing to foster the transfer of jobs or of polluting activities by foreign investors to most developing countries. Concerns about net job loss in the industrial countries as a group, or about exploitation of workers in most developing countries, are therefore essentially a nonissue as far as the MAI was concerned.

Ironically in this light, the industrial countries seeking an MAI chose the OECD as the negotiating venue precisely in order to exclude the developing countries from the negotiating exercise. Why did they choose the OECD rather than, say, the World Trade Organization (WTO), where the developing countries would have had a role? Part of the reason was that OECD member countries alone account for by far the greater part of global stocks and flows of FDI, as well as of world GDP. However, a large and growing share of FDI flows in recent years has gone to developing countries that are not OECD members, mostly to a few large countries such as Brazil, China, and India. And FDI has been playing an increasingly significant role in these countries' development. Arguably, the greatest economic impact from liberalization of FDI policy would have come from exactly these countries.

In fact, the main reason for keeping these countries out of the MAI negotiations was the presumption that the OECD countries were "like-minded" on the subject of investment policy and already had in place relatively liberal investment policy regimes (see Lang 1998). It was thought that these countries, because they shared similar views on investment policy and similar policies, could quickly conclude a "high standards" agreement—that is, one in which relatively stringent rules would apply. In a negotiating forum such as the WTO, on the other hand, with its wider country representation, consensus would have been much more difficult to achieve, and any consensus would likely have been at a lower standard. In particular, the US and other OECD governments believed that a bloc of developing countries within the WTO would have prevented any high-standards agreement from ever coming into force.[9]

8. These less developed countries include Mexico, the Czech Republic, South Korea, and Turkey.

9. This perception may have been in error, however—a question taken up in chapter 6.

To be sure, had the MAI come into force, some developing countries might have joined it. Indeed, the draft agreement made provisions for non-OECD countries to accede to the agreement, and some had expressed an interest in doing so. Would the MAI's opponents' fears of massive job loss and rampant transfer of polluting activities to the developing world then have been realized? Probably not. The fact is that the agreement contained no provisions that would have significantly enhanced the ability of multinational firms to invest in developing countries. However, some developing nations might have been willing to sign on to the MAI and accept the obligations of doing so. Countries that indicated some interest in doing so did include Brazil (but only tentatively), Argentina and Chile (somewhat more strongly), Singapore (definitely, but Singapore has a higher per capita GNP than most OECD nations), and Hong Kong, if arrangements could have been made.

A second factor uniting opponents of the MAI was a perception that the agreement represented a major giveaway to big international business interests, at the expense of some of the opponents' own constituencies (such as organized labor). But if that is so, it is curious that the international business community did not trouble itself greatly to show its support of the MAI negotiations. The "corporate fat cats," as the antiglobalists called them, turned out to be another dog that did not bark.

The support of business interests has, in fact, been vital to the success of the multilateral trading system as a whole in the postwar era. In the mid-1990s, for example, business groups and associations worked hard to help bring the Uruguay Round of negotiations to a successful conclusion. They were also instrumental, in the United States, in securing the passage of NAFTA. These same business interests in the United States and other OECD member countries were, to be sure, generally supportive of the MAI negotiations. But rather than back the MAI wholeheartedly as they had the Uruguay Round and NAFTA, the business community tended to show indifference to the exercise once its limited scope became apparent. One international business executive told this author that the potential value of the MAI to his firm was positive, but too small to warrant much attention, precisely because it was largely a status quo agreement. But then the question becomes, Why did business groups not press harder for more aggressive provisions that would actually liberalize investment policy? This question is examined in chapter 2.

The Negotiations Fail

In the fall of 1998, faced with apparently irreconcilable disagreements among the negotiating parties and intense external opposition, the MAI negotiations came to an ignominious end. The momentum that was building for its speedy demise was perhaps best evidenced at a large rally held just outside the headquarters of the United Nations Conference on Trade and Development (UNCTAD) in Geneva in late September of that year. At the rally, in the presence of prominent rock bands and celebrity speakers, NGOs and other MAI opponents depicted the agreement as a monster that would impoverish workers in the developed and developing worlds alike. Their denunciations went largely unanswered.

Shortly thereafter, in mid-October, the government of France announced that it would no longer participate in the negotiations. Announcing the decision before the French National Assembly, Prime Minister Lionel Jospin cited irreconcilable differences between the French government and other negotiating parties (meaning mostly the United States) over a number of issues, most notably treatment of cultural industries.[10] However, the real reason for Jospin's decision seems to have been opposition to the whole idea of an MAI from within his rather fragile Socialist-Communist coalition government. This opposition came mainly from the far left and "green" factions of the coalition, with the strong backing of environmentally oriented NGOs and certain other constituencies.[11] The leftists and the greens (which in France, as elsewhere, overlap to a large degree) held common cause with NGOs worldwide that the MAI had the potential to do great harm to the environment, and that the agreement would make the interests of "international capital" sacrosanct.

The French pullout came at a time when the negotiations were already effectively in limbo. The talks were supposed to have been completed in time for the OECD ministers to sign the agreement at the OECD ministerial meeting scheduled for late May 1998. But the negotiations were still unfinished by the time of the meeting, forcing the OECD to announce, with some egg on its face, that the talks would necessarily have to continue into the fall. A six-month period of "reflection" was declared, during which time the negotiations were suspended, at the behest of the French government, to be restarted in October.

In fact, the negotiations had already suffered delays well before "la frappe de Jospin." They were originally due to be completed by the middle of 1997, at which time the OECD member countries would have had to decide individually whether to ratify the agreement.[12] However, this

10. A detailed explanation of French objections to the MAI is provided in Lalumière and Landau (1998).

11. One of these was the French copyright collective, which opposed the agreement on technical grounds, as explored in chapter 2.

12. Ratification procedures differ from country to country. In the United States, for example, the MAI might have been handled as a treaty or as an international trade agreement. In the first case, the president needed only the advice and consent of the Senate to make the agreement binding. An international trade agreement, on the other hand, would have required implementing legislation passed by the whole Congress. Obviously the US administration would have preferred the first option. But if the obligations of the agreement required changes in US law, the second option would have become a necessity.

deadline was not met, and at the OECD ministerial meeting held in May 1997 the negotiations were extended for another year. The reasons given for the delay were that, although there was consensus on the main provisions of the agreement, a considerable amount of detail remained to be worked out.[13]

When, a year later, the still unfinished negotiations were suspended until the last week of October, there was no repetition of the reassuring words about an imminent completion. Rather, by then it was clear to all that major unresolved differences separated the negotiating parties.

Less than two months after the French pullout, on 11 December 1998, an OECD deputy secretary general announced that, in effect, the negotiations would be terminated with no agreement in place or even in sight. It was stated that the problems encountered during the course of the negotiations had proved too numerous and intractable to allow a consensus to be reached.[14] Upon the announcement, representatives of NGOs camped out behind the OECD headquarters beat on drums.

An Economic Autopsy of the MAI

The remainder of this book is largely an autopsy of the failure of the MAI negotiations. The point of any autopsy is to determine why the victim died, and that is the subject of chapter 2. The question is framed as follows: Did the MAI die from internal causes (the inability of the negotiating parties to reach a consensus) or external ones (the opposition of NGOs and other constituencies)? In fact this question may have an easy answer: the dog died from both ailments, either one of which alone might have struck the fatal blow. But beyond this possible answer are some tough questions about the future of international policymaking in the investment arena. Therefore it is worth examining the details of this negotiation's failure, to inform future debate over what remains an important issue, namely, whether or not there should be multilateral rules on foreign investment.

Chapter 3 therefore goes on to examine the MAI itself in some detail. What is revealed is that the MAI contained some provisions that almost surely should be retained in any future agreement. In fact, the main failing of the MAI as drafted was not in what it would have done, but rather in what it would have failed to do.

Chapter 4 examines one set of arguments made by opponents of the MAI, namely, those pertaining to the effects of international investment on labor. As was noted earlier in this chapter, the MAI would not have applied to most developing countries. Yet most of the debate over the effects

13. See the OECD press release from the May 1997 meeting (OECD 1997).

14. Details are provided in chapter 4.

of FDI on labor has to do with developing countries. For this reason, and given that any future negotiation on investment will likely encompass these countries, the focus of chapter 4 is on the effects of direct investment on workers in developing and developed countries alike, when investment flows from the latter to the former.

Chapter 5 explores why a number of environmental groups also opposed the MAI. Environmentalists have raised some serious and important issues regarding globalization and world development. But they have often presented these issues in simplistic terms that ignore other compelling issues. Many of the world's people are desperately poor, and only economic growth can alleviate their misery. And in this international investment can play a positive and significant role. But, admittedly, growth puts additional stress on the natural environment. The "solution" proposed by many environmentalists to this problem comes down to advocacy of zero growth, but zero growth would leave much of the world in poverty. How then to trade off the need for poverty-alleviating growth with the need to prevent that growth from inflicting serious and irreparable environmental harm? This trade-off is, under the best of circumstances, highly difficult to resolve, but before it can be resolved it must be recognized. Many environmentalists, unfortunately, act as though no such trade-off exists.

Chapter 6 examines the interests of the developing countries themselves in multilateral rules on investment. What emerges from this analysis is that these countries themselves have not reached a consensus either as to whether such rules are in their interest, or, if they are, what those rules should actually be. However, it is clear that at least some developing countries would favor such rules, especially if they had the effect of drawing more direct investment into their economies.

Finally, chapter 7 looks at what might be the future of the trade and investment agenda at the WTO in light of the failure of the MAI and, more recently, the "battle in Seattle." Although the MAI itself is dead, this agenda is still alive, if not necessarily well. Where, if anywhere, it goes from here is still an open issue. This volume's main conclusion is that, given the current political opposition to a comprehensive agreement on investment, there is little hope that such an agreement can be struck at this time. Under these circumstances it might be better for negotiators in the investment area to focus their energy on, in effect, finishing the business that was left unfinished at the conclusion of the Uruguay Round. This outstanding business, which became part of the "built-in agenda" of the WTO, encompasses some of the same issues that the MAI would have covered, especially with respect to the General Agreement on Trade in Services (GATS).

In the meantime, as we have seen, FDI has burgeoned even in the absence of an investment agreement. This fact alone might seem to call into question the supposed benefits of a multilateral investment agreement in the OECD, the WTO, or elsewhere. To the extent that these benefits derive merely from the increase in investment flows, an investment agreement might be unnecessary, given that flows are expanding even without an agreement. But to the extent that realizing these benefits requires correcting the distortions that government policies create in investors' behavior, the case for an agreement may well remain valid. Either way, what seems to be called for is an effort to quantify the magnitudes and the distribution of the benefits (and the costs) associated with increased flows of FDI and the activities that accompany it. Without this analysis, the debate over whether multilateral investment rules are needed and, if so, what priorities they should address, is greatly hampered. The first order of business, therefore, should be to do the preparatory analytical work—work that in fact should have preceded the MAI negotiations themselves.

Indeed, only once this task of identifying the benefits of a multilateral investment agreement is complete should nations attempt to decide whether there now should be such an agreement. One of the very real problems that beset the MAI negotiations was that the negotiators had very little idea of what were the gains that might come from the exercise and, of the many subissues addressed by the negotiations, which of these, if addressed, had the potential to bring about the greatest gains. And, when opposition to the agreement materialized, the negotiators had no answer to allegations that the agreement had the potential to bring about harm. As will be demonstrated in the chapters that follow, many—but not all—of these allegations were in fact without much merit. But the negotiators were unable to present facts and analysis that might have allayed the fears of the opponents or, barring this, at least to demonstrate that the opponents were in fact on thin ice and that the potential benefits of an agreement outweighed the likely costs. In the future, negotiators can (and, indeed, will simply have to) do much better than they did in this exercise. This is a matter to which we return in the final chapter but, first, in the next five chapters, we examine the facts such as they can be established.