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CULTURAL CARVE-OUT VERSUS CULTURAL COHESION:

THE CANADIAN EXEMPTION FOR CULTURE IN

THE MULTILATERAL AGREEMENT ON INVESTMENT (MAI)

by

MARILYN L. SMITH, Hons. B.A.

A thesis submitted to
the Faculty of Graduate Studies
in partial fulfillment of
the requirements for the degree of
Master of Arts
in Canadian Studies

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ABSTRACT

This thesis examines a controversial and impending international agreement on foreign investment, the Multilateral Agreement on Investment (MAI), in the context of its implications for Canadian culture and cultural sovereignty. The MAI raises Canadian apprehensions because it tests the autonomy of Canadian domestic and international cultural policies. My analysis contextualizes specific responses to the MAI which are informed by economic, legal, artistic and cultural perspectives; and reviews current literature in Canadian and cultural studies from which I situate the MAI and its potential impact on Canadian culture within the increasingly homogenizing influences of globalization. My research suggests that current approaches to cultural policy in Canada fail to reconcile and resolve Canada's legitimate assertion of cultural sovereignty with the equally legitimate, if hegemonic, reality of multilateral trade and investment agendas and practices. Nor do they reflect changing world strategies toward achieving equilibrium and cohesion between cultural and economic development.

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My greatest joy is my son, Reid, who was born at the commencement of my graduate residency in Ottawa, and who is the source and the inspiration for this and all my journeys.

TABLE OF CONTENTS

INTRODUCTION

This thesis investigates perspectives on the priority of culture and cultural products in negotiations of international trade and investment agreements, and explores the rationale behind the existing Canadian cultural policy infrastructure, a framework which is being challenged persistently and aggressively under international trade rules. Canada's trade negotiations are informed by its history as a nation-state and by the shared experiences, conflicts, achievements, values, and aspirations of its citizens. Together, these construct a meta-narrative which imparts a particular, recognizable, national cultural identity which Canada seeks to sustain and project, through its assertions of cultural sovereignty, by requiring exemptions for culture in its bilateral and multilateral trade agreements.

The conflict between preserving cultural values and promoting economic agendas has again become prominent in Canada's negotiations of a Multilateral Agreement on Investment ("MAI"), of which Canada remains a strong proponent, at the Organization for Economic Co-operation and Development ("OECD") in Paris.[1] In its function as an international

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[1]

The "Paris-based organization of industrialized countries responsible for study of and cooperation on broad range of economic, trade, scientific and educational issues" (Hart, 1992, 131-132). The OECD's membership includes participants from twenty-nine of the world's wealthiest nations, including Canada, the U.S. and Mexico, the European Community, Pacific Rim nations, and the Middle East, but largely excludes developing countries.

agreement among many nations that liberalises foreign direct investment, the MAI has broad implications for global, and more particularly, for Canadian cultural sovereignty.

Until recently, Canadian cultural products, that is, the goods and services created by cultural industries--broadcasting, film and video production, sound recording, magazine and book publishing[2]--were accorded particular exemptions in trade agreements such as the 1988 Free Trade Agreement ("FTA"), and the 1992 North America Free Trade Agreement ("NAFTA"). In those agreements, the exemptions were rendered less secure by the inclusion of retaliatory provisions. In the ensuing years since the FTA and NAFTA, the United States has challenged Canada's cultural policies with respect to its cultural industries on a number of occasions, the most recent of which, in 1997, resulted in the World Trade Organization ("WTO") striking down Canada's legislation which imposed taxes on foreign split-run periodicals.

One of the most serious unresolved controversies of the MAI is the non-retaliatory exemption for culture which is being sought by Canada and

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[2]

Statistics Canada breaks down cultural industries in the following categories: Publishing industries; Combined publishing and printing industries; Telecommunication and broadcasting industries; Telecommunication carriers industries; Book and stationery stores; Advertising services; Library services; Museums and archives; Motion picture audio and video production and distribution; Motion picture exhibition; Theatre and other staged entertainment services; and Photographers (Canada's Culture, Heritage and Identity: A Statistical Perspective, 1995, pp. 28-29).

France. Until recently, both countries have been unsuccessful in securing support on this issue from other nations, Greece, Britain, Austria, for example. The United States opposes a broad exemption. In February, 1997, U.S. Trade Representatives expressed concern about "ambiguous and non-transparent carve-outs [and] [i]n particular...about proposals for general exceptions [including] culture...."[3] For Canada, retaining domestic cultural sovereignty or autonomy is critical in the context of international trade and investment. Even as the federal government continued to endorse and prioritize the economic value of such agreements, Heritage Minister Sheila Copps sought international support at a UNESCO conference on cultural policies in Stockholm in March, 1998, for government protection of cultural industries through precisely-defined rules at the WTO (Scoffield, G&M,[4] Mar 23/98, B3). In June, 1998, she organized a meeting of Ministers of culture to strengthen international commitment toward the importance of cultural sovereignty in assuring cultural diversity.

The MAI has raised apprehensions among members of Canada's cultural community that failure by the Canadian participants to negotiate a

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[3]

U.S. Undersecretary of State Stuart Eizenstat and Deputy U.S. Trade Representative Jeffrey Lang, "Statement", February 17, 1998.

[4]

References to The Globe and Mail, The Ottawa Citizen, and the National Post will be abbreviated in the text respectively as G&M, OC and NP.

complete exemption for culture will have far-reaching, detrimental implications for Canadian cultural life. Of critical concern is the erosion of Canada's cultural industries and the potential threat to national cultural institutions, which would have a severe impact upon the opportunities and abilities of Canadian creators and artists to contribute to Canada's cultural wealth. Also at risk are the historical foundations and infrastructures for the support of Canadian creativity and the continuing efforts of participants in the cultural community to develop innovative policies and solutions for the future. Undoubtedly, the proposed MAI will come to fruition in some format, either through the OECD or possibly the WTO as has been recently urged by France's Prime Minister Lionel Jospin after he announced France's withdrawal from renewed MAI negotiations. Jospin claims the current agreement is "unworkable" and that "it does not seem wise to allow private interests to chew away at the sovereignty of states" (Scoffield, G&M, Oct 15/98, B1). Whether negotiations continue in either venue, the MAI has exposed potential vulnerabilities within Canada's existing cultural policy framework and has rendered suspect the status quo.

The arguments for or against securing a cultural exemption in the MAI illustrate how culture continues to be positioned subordinately and de-valued against global economic concerns. At an April, 1997 symposium of the OECD on the MAI, Korea's Deputy Prime Minister commented on the

increasing importance of international investment in the world economy. Its ultimate purposes, he observed, are to promote economic growth and to stimulate employment and technological development through more liberalised foreign direct investment ("FDI") (OECD, 1D, 4-5).

The marginalisation of culture in international trading agreements, through exemptions which are weakened by retaliatory provisions, thus prioritizes and reinforces the power of global economic development at the expense of developing cultural resources and diversity. As a result, culture and cultural values continue to be defined in terms of value in economic growth, as "purely instrumental, not something valuable in itself, but a means to the ends of promoting and sustaining economic progress" (UNESCO, 1996, 14). Canadian actor R. H. Thompson has suggested that "to place human vitalities such as culture in the perpetual 'exemption' categories is to entrench them as secondary concerns in the new world order."[5] UNESCO's World Commission on Cultural Development affirmed this position in its 1996 Report:

> The cultural dimensions of human life are possibly more
> essential than growth. Most people would value goods and
> services because of what they contribute to our freedom to live
> the way we value. What we have reason to value must itself be
> a matter of culture. Education, for example, promotes

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[5]

R. H. Thompson, March 4, 1998 letter to The Canadian Conference of the Arts, with respect to Phase II of the Working Group on Cultural Policy for the 21st Century.

economic growth and is therefore of instrumental value, and at the same time is an essential part of cultural development, with intrinsic value. *Hence we cannot reduce culture to a subsidiary position as a mere promoter of economic growth* (emphasis mine) (UNESCO, 1996, 14).

Part of the process of investigating the viability of the MAI was a series of parliamentary hearings conducted by the Standing Committee on Foreign Affairs and International Trade, at which numerous witnesses gave testimony concerning the potential impact of the MAI on various areas of Canadian life, including labour, health, the environment, and culture. Arguments against the inclusion of culture in the MAI were presented in oral and written submissions made in November, 1997 to the Sub-Committee on International Trade and Foreign Investment. Preliminary and Final Reports of the Working Group on Cultural Policy for the 21st Century, prepared in 1998 by the Canadian Conference of the Arts ("CCA"), a national advocacy group working on behalf of thousands of members--individuals and organizations--who participate in the arts and cultural industries, support that position. The OECD Working Papers from an April, 1997 Symposium on the MAI, and the submissions of participants at a 1997 Symposium held by the Centre for Trade Policy and Law on "The Culture/Trade Quandry: Canada's Policy Options", comprise additional primary materials from which my research was conducted. A commissioned study for the CCA (Garry Neil) considers the potential effect of the MAI upon Canadian culture and cultural

industries. The C.D. Howe Institute (Daniel Schwanen) analyses the objectives of Canada's cultural policy from an economic standpoint. The Council of Canadians' Report (Barry Appleton) provides a legal opinion on the MAI's impact for Canada's interests. The Writers' Union of Canada outlines its members' views as artists and creators.

The MAI has provoked inevitable debate among Canadian citizens, particularly among members of Canada's cultural industries who have argued strenuously that a broad cultural exemption which is self-judging and non-retaliatory must be included in the final document. As the prospect looms that our sovereign powers to determine domestic cultural policies may be undermined by the MAI's stringent terms concerning foreign direct investment, the MAI has become a catalyst in the ongoing polemic on how Canadian culture ought to be defined, preserved, defended, and promoted, particularly in terms of its creation and distribution. This position has, in turn, created an imperative for the Department of Canadian Heritage ("DCH"), through its Standing Committee on Cultural Policy, to examine the framework of Canada's domestic cultural policy.

In co-operation with DCH, the CCA recently considered the treatment of cultural sovereignty in existing and potential international trade and investment agreements, which included the General Agreement on Tariffs

and Trade ("GATT"), the FTA, and NAFTA.[6] The CCA found that "the disciplines of these agreements are inconsistent with the preservation of the unfettered right of Canadians to chart their own course in the promotion and development of domestic cultural policies" (CCA 1A, 1998, ii). The CCA has undertaken to make recommendations to DCH for revisions to existing policies; specifically, to reinforce those instruments and institutions that contribute to the creation and distribution of Canadian cultural products; to expose policy vulnerabilities that could be targeted by future foreign direct investment under the terms of an executed MAI; and to articulate appropriate federal policy language that is both inclusive and contemplates, to the extent possible, future requirements and challenges. In supporting the creation of a federal domestic cultural policy, however, the CCA urges a new, "creator/creation centred approach...to preserve distinctive cultural expression", because "[t]he value of cultural and artistic expression rests with the creator...[or] artist...and the intellectual property inherent in their work" (CCA 1A, i).

My research explores an emerging perspective, referred to in this text as "cultural cohesion", as an approach which could be useful for Canada in

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[6] The CCA's <u>Preliminary Findings of the Working Group on Cultural Policy for the 21st Century</u>, released in January, 1998, examines the issues of "preserving and developing...Canadian cultural expression" amidst the pressures of "globalization ...international trade and investment agreements, new technologies, and the realignment of political powers and priorities among Canadian governments" (CCA, 1A, 1998, ii).

the current and future development of Canadian culture and cultural policy. Cultural cohesion is found in the strategies being generated by European arts and cultural organizations to preserve cultural heritage and affirm cultural diversity. The Council of Europe's 1997 report, In from the margins ("CU Report"), is a primary source for my research. A comprehensive study of European culture and development, the CU Report offers substantial insight and guidance for the public and private sectors in effecting change in policy to achieve greater cohesion and equity between cultural values and economic concerns. Motivations for these strategies can be traced to the increasingly hegemonic encroachment of American popular culture and the concomitant trends toward global monoculture.

The logic of the CU approach is reinforced in the Australian Commonwealth's 1994 text on cultural policy, Creative Nation, the first such comprehensive cultural policy statement in Australia's history. Its recommendations consider all aspects of cultural creation and development, but a dominant theme is the critical role of government in enabling Australian culture to flourish both nationally and internationally. To that end, it argues that cultural policy must not only extend to all areas of government but that a Ministry of Culture must be established for that purpose and that it be recognized at the Cabinet level (Creative Nation, 1994, 1-2).

Economist Peter Karl Kresl (1989, 1996) offers an alternative concept for cultural policy analysis which he bases on mainstream economic theory. He argues that "if it can be demonstrated that cultural goods do have special characteristics, then they must be treated as a special category of international trade (Kresl, 1996, 224-225). For countries such as Canada and France, part of "the cultural output of the economy...are the cultural goods that involve articulation and expression of the national culture...." (Kresl, 1996, 226). The author is persuasive in asserting Canada's right to protect those cultural goods, and their creators and producers, from being "'crowded out' by imports of cultural goods expressing foreign national values", as well as the right of Canadians to have unimpeded access to "domestically created and produced cultural goods" (Kresl, 1996, 227). His position supports Canada's claim that cultural sovereignty is fundamental to the development and preservation of its domestic and international policies that pertain specifically to issues of creation, production, distribution, and access to cultural goods and services.

In Chapter One, I review the current environment of the Canadian cultural infrastructure and elaborate recent challenges to it.

In Chapter Two, I present an analysis of the MAI and its implications for Canadian culture and cultural sovereignty. The reality of globalization, in the expansion of global trade and investment policies and practices, provides

a context for my review of the nature and purpose of the MAI. I examine the response of participants in Canada's cultural community who perceive the MAI as a threat to Canadian culture. Alternative views are presented on how cultural products may be defined in economic terms (as "public" or "social goods") which enable cultural policies to be supported in the same context as are other public policies.

In Chapter Three, I consider recent theory in Canadian and cultural studies pertaining to nationalism, culture, and identity, from modern, post-modern, and post-colonial perspectives. These views are utilized to position Canada's present and potential approaches in the reconstruction of its cultural policy framework.

In Chapter Four, I review emerging world strategies for cultural cohesion which have been proposed by the Council of Europe and the Commonwealth of Australia. These strategies are juxtaposed with the viewpoints of Kresl, Bernier, and Acheson and Maule, who propose a revision of how cultural goods can be perceived as necessary in terms of cultural sovereignty. Their theories support the relaxation of cultural policies and a greater reliance on the open market.

My research suggests that the rationale of cultural nationalism defeats the purpose of, or at least functions against the intent of cultural cohesion-- which is to engender support for principles of cultural autonomy by elevating

the profile of culture and cultural values as intrinsic to economic

development rather than being subsumed by them. More precisely, the

defence of cultural nationalism operates as a political and economic barrier

to the practice of cultural cohesion.

This thesis will contribute to the discourse on the location of culture in

Canadian cultural policy; first, by analyzing the recent positions taken with

respect to the cultural exemption in the MAI within the contexts of relevant

areas of cultural studies; and second, by illustrating that the problems that

are specific to the Canadian experience of asserting cultural nationalism may

find resolution in emerging strategies of cultural cohesion.

CHAPTER ONE

The Role of Government in Cultural Preservation and Development

Although the Department of Canadian Heritage, established in 1995,

gives the Minister jurisdiction over matters "relating to Canadian identity and

values, cultural development, heritage and areas of natural or historical

significance to the nation"[7], the promotion of cultural sovereignty and the

protection of the products of Canada's cultural industries have formed a part

of government policy for the majority of the twentieth century. Cultural

historians agree that the motivations for such policies are largely in response

to the ever-increasing intrusion of American mass media products into the

Canadian milieu. Our reception of American cultural products has been

facilitated by virtue of geographic proximity and common language, and

similar ideological and political heritages and values, (Thompson, 1992, 189;

Leyton-Brown, 1993, 209). Kresl argues that these factors, as well as "size

differentials [with respect to population]" and the "existing degree of

economic interaction" contribute to Canadians' perceptions about ourselves

and to the view that our ability to articulate and express our "unique national

culture needs to be attended with constant vigil" (Kresl, 1989, 162-3). Thus

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[7]

Department of Canadian Heritage Act (1995), R.S., c.11, s.4 (1).

Canadians have sought to retain and to nurture, through the assertion of cultural sovereignty, a distinctive cultural environment and identity that is not referenced by American attitudes but which emerges from the creative energies of Canadian cultural workers and producers.

Historically, Canadian cultural industries have been supported, as well as protected, through various measures found in our cultural infrastructure. These include, (a) legislation that establishes regulatory or tariff barriers; (b) subsidies made by government or public institutions, for example, the Canada Council, to individual artists or organizations; and (c) the creation of public corporations such as the Canadian Broadcasting Corporation ("CBC") (Thompson, 1992, 190). The Liberal Party's 1992 position paper on cultural policy affirmed the government's role in "maintaining national unity and cultural sovereignty as the goal for federal cultural institutions and policy...[and as a] fundamental policy principle" (Zemans, 1995, 139).

A distinction must be noted, however, between "Canadian cultural industries" and "national" or "federal" "cultural institutions". "Cultural industries" may be privately owned enterprises or publicly funded institutions whose products and services may be subject to international trade agreements. In fact, Kresl describes the term "culture industries" as an oxymoron:

> 'Culture' refers to creation, inspiration, and great works;
> 'industry' brings to mind machinery, production lines, and
> seemingly endless reproduction of some utilitarian
> object....[W]hile culture does involve creativity, which for many
> is the end in itself, rather than detached reproduction of some
> material object for the marketplace, we cannot ignore the facts
> that artists do have to live and that once the process of creation
> has taken place the cultur[al] good[s] must somehow be
> produced and distributed to consumers (Kresl, 1989, 159).

Kresl presents a limited definition of culture as a creative idea that is

translated by the artist into an object, which then becomes a commodity for

the purpose of exchange in the marketplace. A more expansive concept is

articulated by UNESCO (United Nations Educational, Scientific and Cultural

Organization), which recognizes the "dual role of culture...not only in the

context of the promotion of economic growth, but also in relation to other

objectives, such as sustaining the physical environment, preserving family

values, protecting civil institutions in a society, and so on....[Culture is] not...a

servant of ends, but...the social basis of the ends themselves" (UNESCO, 14-

15).

"National cultural institutions" such as the National Gallery, the

Canadian Museum of Civilization, the CBC, the National Film Board, the

CRTC and the Canada Council are conceived differently. As non-profit,

federally funded institutions, their mandates are directed primarily, as the

1951 Massey Commission had envisioned especially with the creation of the

Canada Council, toward engendering the promotion and production of Canadian cultural expression and values, partly as a response to the intrusion of American popular culture (Litt, 1991, 375-6). At the time of the Massey Commission, concerns were raised about the nature and motives of "state-sponsored cultural nationalism" (Litt, 1991, 379). Now, in "an environment of diminished government support and an increasing emphasis on economic as opposed to artistic and cultural bottom lines, each institution faces critical challenges from government, the public, and its own constituency, as it struggles to restructure" (Zemans, 1989, 151). Moreover, should free trade agreements restrict new strategies to sustain cultural development, the government's ability to support culture remains viable through existing institutions (Zemans, 1995, 158), thus reinforcing their importance. Yet as we will see in Chapter 2, the activities of existing institutions are not without risk if they are seen to encroach on the provisions set in multilateral agreements.

Joyce Zemans also raises the problems that have emerged with the decision to remove communications from the Department of Canadian Heritage culture portfolio, which, she states, "reflects the fact that a clear vision and strategy for cultural policy has not been identified. There is a critical need to reassess the strategy of separating culture and technology and of isolating issues of content and carrier....there is little evidence of a

coherent approach in the sector or understanding of the domino effect of decisions" (Zemans, 1995, 158). The CCA has argued this position at least since 1980, in its review of cultural policy, <u>A Strategy for Culture</u>. In that text, the CCA concludes that a central weakness in federal cultural policy exists because of the lack of continuity of objectives between the policies and practices of other departments which as a result can undermine or eliminate the benefits and support provided by established cultural agencies. These concerns parallel those addressed in Australia's <u>Creative Nation</u>, where the authors point out that "key disseminators of culture--education, broadcasting, tourism, international affairs--fall outside the portfolio of the Minister for the Arts" (which they recommend be re-named the Ministry of Culture, responsible for the Arts and Broadcasting) (<u>Creative Nation</u>, 2).

The CCA found that Canada's domestic cultural policy initiatives focus on two central themes -- facilitating Canadian content and creation, and supporting access to Canadian culture by our citizens through the development of a Canadian cultural infrastructure (CCA IA, 1998, i). The extent of this infrastructure is examined in Statistics Canada's 1995 survey on Canadian culture, <u>Canada's Culture, Heritage and Identity: A Statistical Perspective</u> ("CCHISP"). The survey pointed to the importance of a "national culture" in defining the nation's character and reflecting "lives, histories, and identities of Canadians, and the integral role of the government in protecting

and promoting Canadian culture through investment and regulation (CCHISP, 1995, 32). Their report describes two major policy areas in which government operates: (1) the protection and promotion of national culture, particularly aspects of Canadian culture that distinguish it from non-Canadian cultures and which require information on the content of cultural products; and (2) the development of cultural vitality by providing financial support to individual artists/creators, cultural institutions and industries, and by controlling foreign investment in cultural industries. (CCHISP, 32-33).

Policies which have been established to enact these functions include regulation of broadcasting to encourage programming that has reference to Canadian perspectives, and Canadian content regulations for radio (which "require that songs meet two of four requirements to be considered Canadian: music, artist, performance and lyrics"). The 1995 survey reflected concerns about the difficulties of regulating Canadian content on the Internet, and "[r]ather than attempting to restrict the amount of non-Canadian programming, it may become even more important to encourage and nurture Canadian cultural products" in the new media (CCHISP, 32-33).

Federal government funding, as well as loans, and tax incentives enable the creation of a cultural infrastructure which includes public institutions, organizations, and venues that provide for the conservation of Canadian heritage and support Canadian artistic development (CCHISP, 33).

"Such grants fund Canadian cultural exhibits at international fairs and conferences and help support exporters of Canadian culture. *All this is done not only to protect and create Canadian jobs and nurture the economy's cultural sector, but also because there is an awareness of the importance of the contribution of culture to Canadian society*" (emphasis mine) (CCHISP, 33).

An element of the Canadian cultural infrastructure which supports the creative efforts of individual artists is public recognition through prestigious awards such as The Governor-General's Literary Awards ("GG's") which are administered through the federally-funded Canada Council. There is a danger, however, in developing elitist attitudes about culture. Journalist Rex Murphy argued recently that the GG's and the Canada Council appear to be guided by the philosophy that "the more artists there are per square acre, then the more enlightened and civil the country they inhabit". The "GG's" are "not about writing....[but] about patriotism....[and reflect] a confusion of what art is and what artists do, the function of writers and the value of reading". These fundamental assumptions, he observes, predicate the awards: "that artists exercise a benign social influence"; "the idea of art as spiritual manna, and artists as singular dispensers of it"; "[that] art has a sacred function, invisible effects, transcendent value"; "that nurturing *Canadian* writers is a socially beneficent goal....[that] will magnificently encourage more Canadians

to read more Canadians" (Murphy, G&M, 1998, D3). It is apparent that Murphy views the GG's as being hindered by their overtones of nationalism. Undoubtedly, he would reject the views of Eugene Benson on the role of the artist in imagining the nation. Benson states: "It is an axiom that the artist has always played a significant role in shaping a nation's identity and its attendant myths and symbols (Benson, 1985, 89). Benson asserts that the artist's instinct and responsibility is to "identify with and foster national identity" (1985, 89).

The CCA has argued consistently that federal support of arts and culture is essential for several reasons; for the benefit of those artists, creators and cultural workers who are employed directly or indirectly within the cultural industries; to satisfy the demand for Canadian content as the economic opportunities presented by the "Information Highway" emerge, by utilizing the skills and creative ideas of Canadians; and to ensure choice, and access, by Canadian audiences to Canadian cultural materials (CCA 1E, 1994, 16). A 1994 Brief by the CCA to the Standing Committee on Finance considers the economic impact of the arts and cultural industries within Canada. The CCA is critical of a reduction in federal support, pointing out that "federal government expenditures on arts and culture in 1992/93 totalled $2.879 billion....[a decrease of] $331 million since 1989/90" (CCA 1E, 1994, 5). The end result of such a decrease is ultimately borne by the Canadian

audiences of artists and cultural workers.

The Canadian market is dominated by foreign, mostly American, television programs, films, books, videos and sound recordings (Fry, 1989, 54). In the book publishing industry, for example, "foreign firms control almost 80% of the Canadian book market. In 1985, the twenty largest foreign-owned publishing subsidiaries in Canada also controlled 64% of the market for [elementary and high school] textbooks, 72 percent of the post-secondary market, and 80 percent of the scholarly market" (Fry, 1989, 54). In 1993-94, Statistics Canada reported that "foreign-controlled publishers reported nearly half [50%] of sales and foreign-controlled exclusive agencies accounted for three-quarters [75%] of total sales". It also noted that "[o]ver the past several years, the activity of foreign controlled firms has decreased" (CCHISP, 1995, 47). Yet as Keith Kelly, former National Director of the CCA, pointed out at the MAI Sub-Committee hearings in November, 1997, in response to concerns raised about the retaliation by other nations which Canada might suffer for protecting its cultural industries: "when 85% of the titles on Canadian news-stands are foreign, when 70% of English-language television is foreign, when 80% of records sales are foreign, if we are protectionist we are the most inept protectionists on earth" (Sub-Committee Evidence, Nov 20/97, 15). In comparison, about 20 percent of the films shown in Great Britain and France, and about 33 percent of the records and

videos sold there are foreign (Fry, 1989, 70-71).

With respect to foreign direct investment, however, U.S. companies have complained that while Canadian firms have open access to the American marketplace, Americans are subject to Canadian restrictions which are intended to protect our cultural infrastructure, such as:

(1)   domestic purchasing preferences at the provincial level, particularly for educational textbooks;

(2)   requirements that cable operators substitute local television signals (including commercials) for U.S. border station signals if programming on both stations is identical;

(3)   Bill C-58, the federal law prohibiting tax deductions for Canadian firms advertising on U.S. border stations;

(4)   statutes requiring pay-TV organizations to spend 45 percent of their revenues on Canadian material;

(5)   direct government expenditures on film production, an action viewed as displacing U.S. film exports;

(6)   Canadian-content requirements on radio and television; and

(7)   strict limits on foreign ownership of broadcasting and cable companies (Fry, 1989, 53-54).

It should be noted that the U.S. has similar restrictions on ownership of broadcasting and cable companies.

John Herd Thompson distinguishes between what Americans consider to be "high culture", and the "popular", or "mass" culture that "Canadians consume as the product of their subsidized cultural industries" (Thompson, 1992, 189). He defines cultural sovereignty as "the power of a sovereign government to control the operation of cultural industries" (Thompson, 1992, 189). One problem in asserting cultural sovereignty arises because American

cultural products, designed for large markets, are "commercially attractive to Canadians because of the high production values...or because of the lowest common denominator quality of the mass tastes to which it appeals" (Leyton-Brown, 1993, 209). But as Leyton-Brown also states, Canada is "threatened by the fact that the preference of Canadians for much of this U.S. cultural product endangers the economic viability of Canadian radio and television broadcasters, or magazine and book publishers, who are required unlike their U.S. counterparts to carry specified minimum percentages of Canadian content" (Leyton-Brown, 1993, 209). Further, the Canadian government's subsidies and other measures which support our cultural industries are seen by the U.S. "not as promotion of culture, but as barriers to trade in entertainment services" (Leyton-Brown, 1993, 209-210).

That perspective has consistently guided the U.S. in its challenges of Canada's policies across the breadth of the cultural industry sector. Economists Keith Acheson and Christopher Maule (1996) elaborate the basis for the disputes between Canada and the U.S. as being "driven by a combination of changing technology, conflicting national policies and divergent views on the complex interaction of the social and economic role of the cultural industries - *art versus entertainment, culture versus business* (emphasis mine)" (Acheson and Maule, 1996, 6-7). They examine six recent challenges to Canadian cultural policy measures, in these cases:

- the removal of an American country music channel from a list of eligible signals for carriage on Canadian cable systems, when a similar Canadian country music channel was licensed;
- the tax on split-run magazines; (I review the decision in this case in the following pages)
- Canadian policy towards direct broadcasting satellites;
- Canadian policy restricting distribution of film rights for pay-per-view distribution systems to Canadian distributors;
- attempts of American booksellers to expand their Canadian presence;
- dubbing requirements on distributors of films in the Quebec market (Acheson and Maule, 1996, 5-6).

Acheson and Maule also refer to these pending issues: "the introduction of a neighbouring rights regime for the recording industry, a blank tape levy, the coordination of policies with respect to violence on television and whether activities on the Internet and world wide web are covered...[or exempted] by the telecommunications sections of recent agreements" (Acheson and Maule, 1996, 6). They conclude, in part, that Canada's domestic policy requires reorientation toward more openness and a greater reliance both on competition and on the abilities and choices of Canadians to determine content (Acheson and Maule, 1996, 44). In international relations, Acheson and Maule recommend that Canada ought to support the "integration of cultural policy into a well conceived international system" defined by "transparent rules governing the subsidy of cultural industries and an appropriate set of competition policy guidelines tailored to the idiosyncrasies of the industry" (Acheson and Maule, 1996, 45).

The June 30, 1997 decision of the WTO Appellate Body ("WTO

Report") to disallow Canadian subsidies for split-run magazines was based on

the issue of unfair trade practices under the General Agreement on Trade

and Tariffs ("GATT") (CCA 1A, 1998, 29). Split-run magazines, are defined by

the Excise Tax Act (1995), R.S. c.46, s.35(1), as:

> an issue of a periodical
> (a) that is distributed in Canada,
> (b) in which more than 20% of the editorial
>   material is the same or substantially the
>   same as editorial material that appears in
>   one or more excluded editions of one or
>   more issues of one or more periodicals, and
> (c) that contains an advertisement that does not
>   appear in identical form in all those excluded
>   editions[8];

or in other words, "Canadian editions of foreign publications that carry little

Canadian content but lots of Canadian advertising sold at low rates"

(Scoffield, G&M, Dec 1/98, B3).

Under Canada's Excise Tax Act, an excise tax was imposed on foreign

publishers "at the rate of 80% of the value of all the advertisements contained

in a split-run edition". The U.S. objected to the legislation as "a violation of

national treatment rules for 'substitutable goods'" under GATT rules (CCA

1A, 1998, 29). In its argument before the WTO Panel, Canada attempted to

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The Act defines "excluded edition" as "an edition of the issue the circulation of which in Canada, if any, is less than its circulation outside Canada".

distinguish between the magazine as a "good" but the advertising within it as

a "service" that is "often delivered by means of a good" (WTO Report, 1997,

4). In concurring with the U.S.' argument, the WTO Panel considered two

questions:

> (a) whether imported and domestic products are like products;
> and (b) whether the imported products are taxed in excess of
> the domestic products. If the answers to both questions are
> affirmative, there is a violation of [GATT] Article III:2, first
> sentence [which refers to non-discrimination of like products].
> If the answer to one question is negative, there is a need to
> examine further whether the measure is consistent with Article
> III:2, second sentence (WTO Report, 1997, 22-23).

Canada argued that "[t]he chief, and for all practical purposes, the only

distinguishing characteristic of a magazine is its content". Canada defined

content for the Canadian market as

> Canadian events, topics, people and perspectives. The content
> may not be exclusively Canadian, but the balance will be
> recognizably and even dramatically different from that which is
> found in foreign publications which merely reproduce editorial
> content developed for and aimed at a non-Canadian market
> (Bernier, 1997, 6).

It further argued that "the Panel evaded a determination of whether split-run

periodicals containing foreign content are substantially identical to

magazines developed specifically for a Canadian readership", and that

content developed for that purpose "will include Canadian events, topics,

people and perspectives" (WTO Report, 1997, 6).

The U.S. asserted that "[t]he Panel correctly determined that the application of the [Excise] tax turned on factors other than the characteristics of the product sold in Canada and that, as a result, imported split-run periodicals and domestic non-split-run periodicals could be practically identical products" (WTO Report, 1997, 11). The U.S. pointed to what could be considered the flaw in the Excise Tax Act, that it

> does not draw any distinctions based on type of editorial content and, consequently, under the Excise Tax Act a split-run periodical could theoretically be entirely Canadian-oriented. By the same token, a non-split-run periodical need not have any articles of a particular Canadian focus. Thus, according to the U.S., Canada's attempt to demonstrate that TIME Canada and Maclean's reflect a different editorial orientation is simply irrelevant because the application of the Excise Tax Act is not based on any such difference" (WTO Report, 1997, 11-12).

The WTO Panel chose not to distinguish between domestic, non-split-run (Canadian) magazines and imported split-run, American-published magazines on the basis of content, concluding that they were "like", or equivalent products. Their conclusion was based on

(i)   the product's end uses in a given market;
(ii)   consumers' tastes and habits; and
(iii)   the product's properties, nature and quality (WTO Report, 1997, 21).

The decision, ironically, was made in error from what was judged to be an incorrect example -- two editions of a Canadian-owned magazine, Harrowsmith Country Life -- "both imported products, which could not have

been in the Canadian market at the same time" (WTO Report, 1997, 21).[9]

The WTO Appellate Body had to consider as Canada's exhibits, copies of TIME, TIME Canada and Maclean's magazines, and as the U.S.' exhibits, Pulp & Paper and Pulp & Paper Canada. It pointed out that

> among these examples, only TIME Canada is a split-run periodical, and that it is not imported but is produced in Canada....The competitive relationship of imported split-run periodicals destined for the Canadian market is even closer to domestic non-split-run periodicals than the competitive relationship between imported non-split-run periodicals and domestic non-split-run periodicals. Imported split-run periodicals contain advertisements targeted specifically at the Canadian market, while imported non-split-run periodicals do not carry such advertisements (WTO Report, 1997, 28-29).

The Appellate Body noted that the Excise Tax Act had its origins in the Report of the Task Force on the Canadian Magazine Industry and that it was designed and structured "to prevent the establishment of split-run periodicals in Canada, thereby ensuring that Canadian advertising revenues flow to Canadian magazines" (WTO Report, 1997, 30). It further identified the Government of Canada's stated policy objectives

> to protect the economic foundations of the Canadian periodical industry, which is a vital element of Canadian cultural expression....[and] to use policy instruments that encourage the flow of advertising revenues to Canadian magazines and discourage the establishment of split-run or 'Canadian' regional editions with advertising aimed at the Canadian market. We are

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It was noted in the Report that both the U.S. and Canada had agreed that the example of Harrowsmith Country Life was incorrect (WTO Report, 1997, 21).

committed to ensuring that Canadians have access to Canadian ideas and information through genuinely Canadian magazines, while not restricting the sale of foreign magazines in Canada....[A] viable Canadian periodical industry must have a secure financial base. (WTO Report, 1997, 31).

The Appellate Body also noted Canada's admission that

the objective and structure of the [Excise] tax is to insulate Canadian magazines from competition in the advertising sector, thus leaving significant Canadian market revenues for the production of editorial material created for the Canadian market....[I]t has resulted in one split-run magazine, Sports Illustrated, to move its production for the Canadian market out of Canada and back to the U.S (WTO Report, 1997, 31).

In striking down the Excise tax, the Appellate Body utilized

"precedents set in rulings on disputes in other trading commodities"[10] (CCA

1A, 1998, 29) and concluded that the legislation "provided less favourable

treatment for substitutable goods in the Canadian market" (WTO Report,

1997; CCA 1A, 1998, 29).

In the meantime, the issue of Sports Illustrated has resurfaced, and

with it, Canada's current policy proposal, matters which are again receiving

prominent media attention. The National Post ("NP") reports that "[t]he U.S.

plans to target Canadian communications and financial services in the U.S. in

retaliation for Ottawa's second attempt to keep a Canadian Sports Illustrated

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The Appellate Body considered, with respect to "like Products", the WTO's Appellate Body Reports in Japan - Taxes on Alcoholic Beverages ("Japan - Alcoholic Beverages") (1996), and with respect to the payment of subsidies, European Economic Community - Payments and Subsidies Paid to Processors and Producers of Oilseeds and Related Animal-Feed Proteins ("EEC-Oilseeds") (1990) (WTO Report, 1997).

out of the country" (Morton, <u>NP</u>, Dec 11/98, A1). The legislation to which this article refers is the proposed Bill C-55, the <u>Foreign Publishers Advertising Services Act</u> by Minister of Heritage Sheila Copps, which seeks to prohibit Canadian advertising in split-run magazines by imposing fines of up to $250,000 (Fife, <u>NP</u>, Nov 28/98, A1).

Bill C-55 "will ensure that Canadian magazine publishers have access to Canadian advertising revenues" in order to "produce original Canadian stories--stories that reflect our communities, our ideas, our experiences and our views of the world" (Copps, <u>Ottawa Citizen</u> ("<u>OC</u>"), Nov 16/98, A10). The Minister has offered in defence of this legislation a somewhat reductive description of Canadian culture: "[It] is not like so many nuts and bolts, just another marketplace commodity to be traded. Culture is our inheritance from the past, our joy in the present and our gift to the future. Our culture defines who we are as Canadians" (Copps, <u>OC</u>, Nov 16/98, A10). This position has failed to impress the United States' Trade Representative, Charlene Barchefsky, who argues that "Canada is simply replacing one form of protectionism with another. 'It is simply untenable...for Canada to re-create another protectionist magazine regime that perpetuates Canada's long-standing anti-competitive policies, channelling magazine advertising revenues to Canadian-owned publishing companies'" (Cobb, <u>OC</u>, Nov 2/98, A4). Barchefsky has indicated further that the U.S. "will either challenge the

legislation at the WTO or move to retaliate against Canadian exports to the U.S., either under domestic laws that allow such retaliation or through NAFTA" (Scoffield, G&M, Dec 1/98, B3).

A primary issue for Ottawa has been that "its sovereignty was being compromised by the huge influx of foreign investment from south of the border....[that the Canadian] economy was being transformed into a branch-plant appendage of corporate America" (Fry, 1989, 37). Political scientist Earl Fry describes what Canadians still perceive to be "sensitive issues linked to Canadian economic sovereignty, specifically foreign domination of certain key economic sectors in Canada, continentalism versus economic nationalism, and the asymmetrical investment relationship between a middle power and a superpower" (Fry, 1989, 37). The differences in Canadian and American perspectives on the issue of state intervention were captured by then Prime Minister Brian Mulroney in his "Chicago Speech" of 1985: "'In the United States, you cast the net of national security over more areas then we; in Canada, we cast the net of cultural sovereignty more widely than you'" (Fry, 1989, 53; Kresl, 1989, 167-8). Kresl argues that "[w]hat has always been lacking in such assertions [of cultural sovereignty] is a grounding in economic theory that would convince the unconvinced" (Kresl, 1989, 168).

While Canada has had cultural policies in place for most of this century, it has never articulated a broad, over-arching federal cultural policy

which guides Ministers of various portfolios. An example of such a policy is the Commonwealth of Australia's <u>Creative Nation</u>, the first national cultural policy in its history, which came into existence "to ensure that what used to be called a cultural desert does not become a sea of globalised and homogenised mediocrity" (<u>Creative Nation</u>, 1994, 6).[11] The text is premised on a definition of culture as

> aris[ing] from the community, even when the community may not be fully aware of it. It encompasses our entire mode of life, our ethics, our institutions, our manners and our routines, not only in interpreting our world but shaping it. The most highly developed and imaginative aspects of our culture are the arts and sciences which are fed back to the community by the most talented individuals (<u>Creative Nation</u>, 1).

<u>Creative Nation</u> also relates culture and identity:

> Culture...concerns identity -- the identity of the nation, communities and individuals....[O]ur culture...is fundamental to our understanding of who we are....Culture, therefore, also concerns self-expression and creativity. Not only do we seek to preserve our heritage and tradition, we cultivate them....[T]he ownership of a heritage and identity, and the means of self-expression and creativity, are essential human needs and essential to the health of society (<u>Creative Nation</u>, 5).

An important distinction made in <u>Creative Nation</u> is that the cultural policy is also stated to be an economic policy. "Culture creates wealth ....Culture employs....Culture adds value....It is a valuable export in itself and an essential accompaniment to the export of other commodities....It is

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[11]

Creative Nation was not adopted by the government which took power in the next election.

essential to our economic success" (Creative Nation, 7). Further, the role of

government is seen to be fundamental in the preservation and development

of culture when the authors note that the Australian Commonwealth holds a

responsibility to "maintain and develop Australian culture" by ensuring "on a

national level" that creativity and self-expression are encouraged, that

Australian heritage is preserved and developed, and that the nation's citizens

are the participants in and recipients of the national life and its products

(Creative Nation, 6-7).

Thompson refers to Pierre Berton's illustration of how Canadians and

Americans see culture differently, (where Berton "lectures Sam, his fictitious

American correspondent"):

> As for culture we [Canadians and Americans] don't even speak
> the same language. You [Americans] think of culture in terms
> of opera, ballet, and classical music. To us [Canadians] it covers
> everything from Stompin' Tom Connors to "Hockey Night in
> Canada." What is merely "industry" to you is culture to us.
> Books, magazines, movies, radio, television--all culture. Anne
> Murray is culture....Maclean's Magazine is culture. The
> government subsidizes them all, in one way or another, because
> all are genuine Canadian artifacts, distinct and unique,
> something that nobody else has--the ingredients of our national
> mucilage"[12] (Thompson, 1992, 188).

Thompson does not use culture in its "'anthropological' sense--as an

independent and abstract noun meaning 'a given people's particular set of

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   Thompson is quoting from Pierre Berton's Why We Act Like Canadians: A personal exploration of
our national character, 1987, Markham: Penguin.

preferences, predispositions, attitudes, goals, its particular way of perceiving, feeling, thinking, and reacting to objective reality'". Rather, he argues that both Berton and he are employing Raymond Williams' concept of culture as "the independent and abstract noun which describes the works and practices of intellectual and especially artistic activity". Thompson also points out that he (and Berton) are referring to "mass" or "popular" culture, rather than what Americans consider as "high" culture, or those activities represented by the arts (Thompson, 1992, 188).

The 1996 UNESCO Report, Our Creative Diversity, ("UNESCO") notes that

> as [t]he cultural industries assume enormous economic
> importance there is an inevitable tension between primarily
> cultural goals and the logic of the marketplace, between
> commercial interests and the desire for content that reflects
> diversity. Yet globalization has limited the role government can
> play in the provision of cultural products both at home and
> abroad. Government intervention has to be less direct,...more
> facilitating...and also correct some of the distorting effects of free
> market mechanisms (UNESCO, 41).

Government intervention continues to prevail, however. The Liberal government of Canada has stated, as its "third pillar" of foreign policy, the projection of Canadian values and culture. As the Multilateral Agreement on Investment (MAI) gathers momentum, the viability of this policy statement becomes more tenuous, specifically with reference to the autonomy of Canadian cultural policy in both domestic and international arenas of

government. It is evident that the tensions between cultural and economic

interests and objectives remain unresolved.

CHAPTER TWO

The MAI: Cultural and Economic Challenges and Implications

Overview

Thomas Brewer and Stephen Young identify two economic rationales for multilateral investment agreements: the creation of an open economic system for more efficient allocation of scarce resources than would be obtained if national economic barriers were in place; and the creation of a more stable and transparent legal and institutional environment which would reassure investors' and governments' uncertainties (Brewer and Young, 1995, 78-79). Potential political outcomes such as global peace and stability through economic cooperation, and the rule of international law as a controlling mechanism of less predictable nation states, add further support to multilateral investment agreements. Moreover, multilateral investment agreements establish more uniformity across countries than do bilateral investment agreements, thus creating a less complex and uncertain environment for investors (Brewer and Young, 1995, 79).

According to trade analyst Michael Hart, the current environment in which trade and investment are evolving faces "three overwhelming factors: globalization, competition and innovation" (Hart, 1992, 39). He states:

The world is being replaced by an open business environment governed by worldwide forces and institutions with the richest rewards going to those societies that are best able to innovate and adapt. What was once regarded as the jealous preserve of sovereignty is now becoming a proper subject of international concern, scrutiny, and even direction....The traditional model of a world sharply compartmentalized into sovereign states no longer applies. To proclaim, as some have done, the imminent demise of the nation-state as such is naive. But there is no escaping that governments are being steadily shorn of the power to set the economic rules within their borders without reference to the rest of the world (Hart, 1992, 39).

Daniel Drezner (1997) explores the phenomenon of globalization

particularly with respect to its erosion of national autonomy. He quotes

Benjamin Barber's (1995) description of globalization in Jihad vs. McWorld--

"McWorld being Barber's definition of the global marketplace":

that future in shimmering pastels, a busy portrait of onrushing economic, technological, and ecological forces that demand integration and uniformity and that mesmerize peoples everywhere with fast music, fast computers and fast food--MTV, Macintosh, and McDonalds--pressing nations into one homogeneous global theme park (Drezner, 1997, 213).

"Jihad", which Barber considers a "transient phenomenon" refers to a

"rejection of modernization and cosmopolitanism" caused by the uncertainty

and inevitable backlash within each culture to the disruptive effects imposed

by McWorld. Barber predicts that McWorld will endure because of the "long-

term capacity of global information and global cultures to overpower

parochialism and to integrate or obliterate partial identities" (Drezner, 1997,

213, 215).

Drezner notes that Huntington (1996), Ohmae (1995), Barber, Kaplan

(1996) and Fukuyama (1992) all agree

> that globalization is eroding the autonomy of the nation-state;
> any disagreement is over the precise mechanism through which
> this occurs. Ohmae, Barber, and Fukuyama stress the ability of
> global capitalism to reduce the nation-state's economic role and
> to create a genuine cosmopolitanism that erodes its political
> role. Huntington and Kaplan believe it is in the negative
> reaction to this cosmopolitanism that identities change
> (Drezner, 1998, 215).

The erosion of national autonomy, then, is considered almost a natural

consequence of economic integration. Participants in a 1997 globalization

and trade symposium concluded that as a result, "it has become more

difficult to conduct 'domestic' policies as if they were unrelated to what was

going on in other countries. Regulatory and competition policies, which

were once relatively 'domestic' and...independent...can no longer be treated

so cavalierly. This contributes to the sense of diminished policy sovereignty

and declining policy effectiveness" (Arndt, 1997, 698).

As Brewer and Young noted, one desirable outcome of globalization is

the stability achieved through economic cooperation. Drezner adds that

while the coordination of regulatory policies may lead to reduced state

powers, it can also lead to an enhanced state role (Drezner, 1997, 220). He

concurs with Hart that the nation-state is in no danger of decline, but points

out that while it has faced constraints, "it does not imply an erosion of the

nation-state's authority, but rather a redefinition of its role in the international

system" (Drezner, 1997, 223).

Brewer and Young point out that governments may have other, less

overt motivations for engaging in such negotiations. They note that

> like trade agreements, multilateral investment agreements can
> serve an important domestic political function for governments.
> *Such agreements strengthen governments' political positions vis-*
> *a-vis politically active domestic interest groups seeking*
> *protection from foreign competition* (emphasis mine). In fact, it
> is often observed that international economic agreements are
> instruments of domestic politics as well as international
> economics (Brewer and Young, 1995, 79).

Origin of Multilateral Trade Agreements

The origin of multilateral instruments is the General Agreement on

Tariffs and Trade ("GATT"), headquartered in Geneva, Switzerland. GATT

was negotiated among 23 founding members, of which Canada was one, in

1948.

Hart notes that the GATT system "provides a framework for the

progressive liberalization of trade and the further negotiation of mutually

beneficial rules". The GATT was premised on "two major principles

fundamental to the conduct of international economic relations: the most-

favoured nation clause [Article I] and national treatment [Article III]." Its

aims, from the beginning, have been non-discrimination among nations.

Hart observes, however, that the growth of international trade and more

integrated markets have created "problems associated with trade in services,

investment and intellectual property protection...[which] were not covered

by GATT rules and thus were immune to its discipline" (Hart, 1993, 63-65).

Since the inception of GATT, periodic negotiations have expanded the

rules for international trade which govern its participants. The latest was the

Uruguay Round which commenced in 1986. These negotiations were the

result of what Hart describes as "increasing protectionism, strains in the

GATT system and growing divergence between the reality of international

business and GATT's rules" (Hart, 1993, 65). Following seven years of

negotiations, the Uruguay Round culminated in the creation of the World

Trade Organization ("WTO") in 1994, and in establishing important new

multilateral agreements governing trade and investment. Based in Geneva,

the WTO has 138 member nations and is responsible for the administration

of the GATT and related agreements.

A briefing paper by the Department of Foreign Affairs and International

Trade ("DEFAIT") cites particular terms of WTO and GATT agreements

which affect foreign investment practices:

> The WTO Agreement on Trade-Related Investment Measures
> (TRIMs) prohibits members from imposing or maintaining
> certain investment-related measures that adversely affect trade

in goods. Examples of such measures are requirements on local content, trade balancing, import substitution, foreign exchange and export limitation.

The General Agreement on Trade in Services (GATS) also contains provisions affecting investment. Providing services in a foreign country often requires the establishment of a commercial presence (branch, subsidiary, representative office, etc.) and the making of an investment. Subject to certain exemptions (such as those for telecommunications, transportation and financial services), the GATS eliminates discrimination between foreign and domestic service providers (DEFAIT, 1997, 2).

Culture is mentioned very briefly, in only two general provisions, in GATT and in the General Agreement on Trade in Services ("GATS") (which was negotiated at the 1984 Uruguay Round). The 1947 GATT includes a General Exemption, still in effect, "which permits states to undertake measures to protect national treasures" (CCA 1A, 1998, 29). One other provision "allows signatory states to impose quantitative quotas on the exhibition of foreign films" (CCA 1A, 1998, 29). Yet the lack of articles in GATT and GATS which address issues relating specifically to culture does not preclude action being taken "if new policies or measures violate the national treatment and most favoured nation provisions with both agreements" (CCA 1A, 1998, 29).

I will review briefly the important elements, for purposes of this thesis, of the trade agreements currently in place in North America. The 1988 FTA between Canada and the U.S., and the 1992 NAFTA, which includes Canada,

the U.S., and Mexico, contain provisions that have had, and continue to create, significant problems for Canadian culture and cultural industries.

The FTA defines cultural industries as:

> includ[ing] those enterprises engaged in any of the following activities: publishing, including electronic publishing; film and video; music and sound recording; and radio and TV broadcasting, including cable television, satellite programming and other broadcasting network services. The production, distribution, sale or exhibition of cultural goods or services relating to these industries is included in the exemption. The printing industry is not included as part of the cultural industries and is not exempt (External Affairs Canada, 1989, 29).

Article 2005 of the FTA states, with respect to cultural industries:

> 1.   Cultural industries are exempt from the provisions of this Agreement, except as specifically provided in Article 401 (Tariff Elimination), paragraph 4 of Article 1607 (divestiture of an indirect acquisition) and Articles 2006 and 2007 of this Chapter.[13]

> 2.   Notwithstanding any other provision of this Agreement, a Party may take measures of equivalent commercial effect in response to actions that would have been inconsistent with this Agreement but for paragraph 1 (External Affairs Canada, 296-297).

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[13]

The four specific exceptions are:
- the elimination of tariffs on any inputs to, and products of, the cultural industries, such as musical instruments, cassettes, film, recording tape, records and cameras (Article 401);
- any requirement to sell a foreign-owned enterprise engaged in a cultural activity acquired indirectly through the purchase of its parent will be balanced by an offer to purchase the enterprise at fair open market value (paragraph 4 of Article 1607);
- both parties will provide copyright protection to owners of programs broadcast by distant stations and retransmitted by cable companies; this undertaking will be on a non-discriminatory basis; after Canadian legislation is implemented there will be an opportunity for further review of outstanding issues in both countries (Article 2006);
- the requirement that a magazine or newspaper must be typeset and printed in Canada in order for advertisers to be able to deduct their expenses for advertising space in that magazine will be eliminated (Article 2007)(External Affairs Canada, 1989, 292-293).

Several significant provisions to NAFTA (1992) are noted in its Exceptions

which, in part, "ensure that the Agreement does not constrain a country's

ability to protect its national interests" (Dept. of International Trade, 1992,

18-19). Among them are the following:

> on National Security:

> Nothing in the Agreement will affect a NAFTA country's ability
> to take measures it considers necessary for the protection of its
> essential security interests (Dept. of International Trade, 1992,
> 19);

and, on Cultural Industries:

> The rights of Canada and the United States with respect to
> cultural industries will be governed by the Canada-U.S. FTA.
> Each country reserves the right to take measures of equivalent
> commercial effect in response to any action regarding cultural
> industries that would have been a violation of the Canada-U.S.
> FTA but for the cultural industries provisions. Such
> compensatory measures will not be limited by the obligations
> imposed by the NAFTA. The rights and obligations between
> Canada and Mexico regarding cultural industries will be
> identical to those applying between Canada and the United
> States (Dept. of International Trade, 1992, 19).

In his (1996) analysis of the impact of the FTA on Canada/U.S trade

policies, economist Peter Morici comments on its apparent economic

advantages to Canada, particularly the "improvement in Canadian market

shares in the United States and a more favourable pattern of Canadian

specialization across industries, especially in manufacturing" (Morici, 1996,

493). He points out that neither Canadian nor U.S. cultural industries,

notably publishing, recording and broadcasting, are bound by the FTA provisions (Morici, 1996, 497). On the basis of the challenges that have already occurred, however, (some of which I referred to in the previous chapter), I would argue that Morici's position is incomplete because it fails to consider the retaliatory clause in the FTA.

Morici concludes that "*the agreement has provided an effective shelter for Canadian efforts to protect its media, and Canada's foreign policy has hardly been affected*" (emphasis mine) (Morici, 1996, 495, 497). On the former point, Morici states: "With the possible exception of the broad application of the cultural exclusion by Canada, the agreement has locked in a favourable environment for U.S. investors" (Morici, 1996, 495). But the FTA can only be an "effective shelter" for Canada's cultural industries if other sectors are not subject to attack when U.S. investors encounter resistance to particular efforts to penetrate the cultural infrastructure. Morici's latter point, (that Canada's foreign policy remains unimpaired), refers to Canada's refusal to submit to American foreign policy with respect to Cuba, particularly the Helms-Burton legislation, "even in the fact of U.S. threats of retaliation against Canadian firms doing business there" (Morici, 1996, 495). Yet Canada's foreign policy also includes its cultural policy as the Third Pillar of the Liberal Government's position. That assertion of cultural sovereignty-- through the promotion and projection of Canadian culture internationally--

has clearly been problematic for the U.S. in the context of the FTA's retaliatory provision. As Bernard Ostry has commented: "[W]hat is billed as a conflict between trade and culture is in fact a conflict between two cultures, that of U.S. business and that of the rest of the world" (Ostry, 1997, 5).

Morici modestly assesses the FTA as a "qualified success" for the U.S. as "Canadian imports from the U.S. expanded nearly twice as rapidly as imports from other countries" (Morici, 1996, 495). So although the U.S. has benefitted, and while the FTA is moving Canada "towards specialization in higher-value-added manufacturing and service activities....this change in focus has not resulted in substantial improvement in Canadian productivity vis-a-vis the United States" (Morici, 1996, 495).

In both the FTA and NAFTA, the retaliatory provision effectively puts at risk all measures and policies which Canada currently has or may put in place to protect its cultural industries, despite Morici's position to the contrary. Yet a statement by the Department of External Affairs with respect to the FTA makes no mention of this potential threat, and, in fact, appears to promote a sense of reassurance about the security of the cultural infrastructure: "the Agreement does nothing to prevent Canada from adopting policies to protect and promote Canadian culture and the cultural industries that support it" (External Affairs Canada, 1989, 29). The imperative for Canada, therefore, is to implement policies that are immune to

American retaliation or can withstand challenges at the WTO, or to secure,

as in the proposed MAI, a cultural exemption which carries no retaliatory

measures, and as a "top-down" agreement, would supersede the provisions of

the FTA and NAFTA.

Origin and Purpose of the MAI

Having considered the present environment of Canada-U.S. trade

relations with respect to culture, I turn now to the specific agreement which

continues to provoke controversy. The Multilateral Agreement on

Investment ("MAI") is a proposed international agreement which seeks to

establish clear and comprehensive rules for the treatment of foreign direct

investment ("FDI"). Negotiations for the MAI commenced at the

Organization for Economic Cooperation and Development ("OECD"), in Paris,

France, in September, 1995.[14] (The OECD membership, as I noted earlier, is

drawn primarily from 29 of the world's wealthiest nations. On the other

hand, the World Trade Organization has 138 member nations including

developing countries).

The U.S. began the initiative for investment negotiations because its

administration "wanted clear rules to cover the $350-billion (U.S.) that is

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[14]

The current participants are noted at the conclusion of the OECD Working Papers, Vol. V, No. 51.

invested annually by companies in OECD countries. [In 1997],

[a]ccumulated [FDI] in Canada reached $188-billion...with total accumulated

Canadian direct investment abroad reaching $194-billion" (Drohan, G&M,

Apr 29/98, B6). As the world's major industrial economies, OECD members

account for more than 80 percent of foreign direct investment, one reason

why it became the venue for negotiations. Further, "it was believed it would

be easier to reach a deal among the smaller group" than among the 138

member WTO nations (Drohan, G&M, Apr 29/98, B6).[15] Completion dates

had been targeted for April of 1997, then May of 1998, however, the

negotiating parties failed to bring the agreement to a conclusion. Further

negotiations were postponed as it became apparent that signing deadlines

would not be met and that numerous areas required more detailed

evaluation.

At an OECD symposium on the MAI in April, 1997, Korea's Deputy

Prime Minister commented on the increasing importance of international

investment in the world economy. Its ultimate purposes, he observed, are to

promote economic growth and to stimulate employment and technological

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A letter to the editor of The Globe and Mail pointed out that "proposals for a MAI began with the WTO, during the Uruguay Round...when the United States pushed unsuccessfully for a broad WTO agreement on investment....The attempt was thwarted in part by developing countries, led by India and Brazil, which opposed the expansive brand of investor protection pursued by capital-exporting countries. And so, the U.S. and other capital exporters shifted to the OECD...a forum from which almost all developing countries are conveniently excluded" (Van Harten, G&M, Nov 12/98, B2).

development through more liberalised FDI (OECD 1D, 1997, 4-5).

The agenda of the MAI, then, is to advance investment among nations by creating an environment of non-discrimination and liberalisation. In the words of Frans Engering, Chairman of the Negotiating Group on the MAI, "[W]hat we have been striving to achieve is a comprehensive agreement with a broad definition, strong obligations of governments and an effective dispute settlement system" (OECD 1D, 1997, 8). Referring to non-discrimination, Engering states:

> A country that signs up to the MAI will, of course, remain totally responsible for its policies. If it has a policy, for example, with high environmental standards, it can maintain these policies. The only requirement is that these be applied on a non-discrimination basis, i.e., the same rules should apply to both domestic and foreign companies (OECD 1D, 1997, 7).

Referring to investment liberalisation, Engering states:

> We ask countries that sign up to the MAI that they open up, in principal, their markets; if domestic investors are allowed to invest in a sector, foreign investors should also be allowed to invest in that sector (OECD 1D, 1997, 7).

The scope of the MAI is described in a 1995 Report to OECD Ministers, which states:

> Options have been identified which go well beyond the provisions of OECD instruments or provisions in other international agreements where higher standards already apply. This would result in strong obligations and commitments on national treatment, non-discrimination/MFN [most favoured nation treatment], transparency, standstill, roll-back and in various procedures to implement these principles. The 'top-

down' approach means that the only exceptions to the obligations permitted are those listed when adhering to the agreement and which are subject to progressive liberalisation (OECD 1D, 1997, 20-21).

In many respects the MAI will mirror the trading agreements currently in effect between Canada, the United States, and Mexico, that is, the Free Trade Agreement (FTA), signed in 1988 between Canada and the U.S., and the North America Free Trade Agreement (NAFTA), signed in 1992, among Canada, the U.S., and Mexico. As a "top-down" agreement, however, the MAI will contain more stringent provisions for international trade and investment than currently exist in the FTA/NAFTA or OECD instruments. The MAI contains broad definitions concerning:

Investors	includes both individuals and businesses, whether or not incorporated and whether or not they are operated for profit (Neil, 1997, 2);
Investment	covers 'every kind of asset owned or controlled, directly or indirectly, by an investor'...[including] intellectual property rights (Neil, 1997, 2);
National Treatment	[f]oreign investors may not be treated less favourably than domestic investors (OECD, 1D, 1997, 21). This applies to laws, rules, regulations and practices and prohibits the adoption of discriminatory policies whether or not such discrimination is intentional (Neil, 1997, 2).

Most Favoured Nation	all foreign countries must be treated the same. This prevents the imposition of laws which require companies to cease conducting business in countries which have a poor human rights record....[and] prohibits a country from providing treatment to a non-signatory nation which is more favourable than it provides to MAI signatories (Neil, 1997, 2).

Moreover, the MAI would govern all other multilateral agreements currently in effect, including the FTA and NAFTA. "The purpose of the MAI is to promote non-discrimination; it is not intended to harmonise individual countries' investment policies" (OECD 1D, 1997, 20-21). The Western Governors' Association ("WGA"), a Denver-based organization, notes the problems in arriving at a consensus in negotiating such a sweeping agreement: "MAI negotiators have tentatively agreed on only three general exceptions to MAI investor protection: national security, public order, and international peace and security" (WGA, 1997, 6).

In October, 1998, with negotiations set to continue at the OECD, France elected to withdraw. Its Prime Minister, Lionel Jospin stating "that given the recent upheaval, the sudden and sometimes irrational movements of [financial] markets, it does not seem wise to allow private interests to chew away at the sovereignty of states" (Scoffield, G&M, Oct 15/98, B1). Jospin recommended that negotiations start "completely fresh" through the WTO rather than resume at the OECD. France's Minister of Culture,

Catherine Trautmann stated that "the MAI process is beyond repair....We can find a better approach...one that foresees a progressive liberalization of trade and investment" (Scoffield, G&M, Oct 15/98, B1). France has since announced that it would support Minister Copps' initiative from June, 1998 to build a consensus among ministers of culture from 22 countries-- including Poland, South Africa, and Britain--on culture and trade (National Post, Nov 11/98, A19).[16]

Implications of the MAI for Canada

One of the most significant and unresolved controversies surrounding the MAI negotiations is the issue of an exemption for culture which is being sought by Canada and France, who until recently have been unsuccessful in swaying the ambivalence of some smaller countries to support their efforts as well as in convincing the U.S. negotiators that a broad carve-out for culture is necessary rather than annexing a list of country-specific reservations to the agreement. The issue has provoked considerable debate and concern among

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[16]   In a December 17, 1998 meeting in Ottawa, the French Prime Minister Jospin expressed a new understanding of "Canada's struggle to protect its culture from the excesses of world-trade liberalization, and in particular recognize[d] the challenges confronting English-speaking Canadians as they face the invasion of U.S. cultural products." While affirming his support for free trade, Jospin stated that "it is essential to distinguish between pure trade matters and what represents the culture and identity of a country. 'I am for a market economy...but not for a market society'" (Freeman, G&M, Dec 18/97, A23). Jospin clarified his position on cultural diversity when his views were immediately targeted by Quebec nationalists as supporting Canadian multiculturalism policy and stated that they were meant as a warning against the globalization of U.S. culture (Seguin, G&M, Dec 19/97, A6).

various members of Canada's cultural industries, who have argued

strenuously for a broad cultural carve-out or exemption to be included in the

final document.

In a study commissioned for the CCA, international trade analyst Garry

Neil examines the broad implications of the MAI for the Canadian cultural

sector. He concludes that "[p]otentially, the MAI could affect in some way

virtually every cultural policy, agency and measure that Canada has

implemented" (Neil, 1997, 8) to support the development and production of

Canadian ideas and to encourage the dissemination, awareness, and

reflection of Canadian perspectives among all regions of the country. Neil

identifies specific areas that would affect the continuity of those practices:

1.   Restrictions on Foreign Ownership:

Currently, Canada "prohibits, limits or restricts foreign ownership in

most of the cultural industries" (Neil, 1997, 9). Policies that would be

vulnerable under the MAI include:

- ownership rules of Canadian broadcasters, cable, satellite and telecommunications distributors;
- ownership rules prohibiting the sale of Canadian book publishers to non-Canadian interests and prohibiting foreign companies from establishing a new business in Canada;
- domestic film distribution policy prohibits a foreign company from establishing a new business in Canada, except to distribute its own productions (currently being challenged by Polygram Filmed Entertainment through the European Economic Community (EEC));

- review of foreign ownership in sound recording by Investment Canada under the "net benefit" test;
- provincial policies requiring federal or provincial ownership as a condition for establishing a business in certain cultural fields (Neil, 1997, 9; CCA 1A, 1998, 30).

2.	Funding Programs Limited to Canadian Individuals and Firms:

Funding programmes currently available within the cultural

infrastructure are aimed at the arts and cultural industries and are restricted

to Canadian individuals and organizations, even if non-Canadians are

producing Canadian content material, publishing Canadian writers, or

recording Canadian artists. Under the MAI's rules of National Treatment,

these programmes and policies would likely require amendment to include

other signatory states (Neil, 1997, 9; CCA, 1A, 1998, 31). National Treatment

"has the potential to affect all of the programs of the Canada Council,

provincial and local arts councils, the Museums Assistance Program, Cultural

Initiatives Program and the Arts Stabilization Projects, although the final

language both of the intellectual property rights provision and the exceptions

clause will be determinative" (Neil, 1997, 10). Specific programmes at risk

are:

- funding provided for film and television production through Telefilm Canada, the Canadian Television and Cable Production Fund, provincial agencies, and the Canada Council;
- CRTC-mandated private sector production and talent support programs in both television and sound recording industries by directing licensees to provide certain percentages of revenues for these purposes. These programs are generally not available

to foreign firms, even those having a Canadian subsidiary and producing Canadian content records, television programs, and movies;

- access to book and periodical publishing industry programs through federal resources as well as the Canada Council's;
- the Cultural Industries Development Fund, administered by the Federal Business Development Bank, which assists only Canadian firms (Neil, 1997, 9-10; CCA 1A, 1998, 31);

3. Canadian Content Requirements:

The current provision that "[f]or a television program to qualify as Canadian Content, the producer of the material must be Canadian" would be in violation of the National Treatment obligation under the MAI, which prohibits domestic content rules from being applied to foreign investors (Neil, 1997, 10; CCA 1A, 1998, 31). If limitations on non-Canadian ownership in the broadcasting sector are removed, "it would be difficult to maintain obligatory Cancon requirements on the new foreign owners of Canadian broadcasters, as these would be in the nature of prohibited performance requirements. In an MAI world", Neil observes, "the CRTC may be limited to voluntary commitments, extracted during the licensing process" (Neil, 1997, 11).

4. Other:

Other cultural policy instruments may be vulnerable under the MAI, including;

- film co-production treaties with other countries;

- if public cultural agencies such as TVOntario, the CBC, the National Film Board, the National Arts Centre were privatized, they could be eligible for acquisition by foreign investors;
- CRTC regulations which discriminate against foreign services, including cable substitution rules, eligible foreign programming services, and policies which are preferential for Canadian services (Neil, 1997, 11-12; CCA IA, 1998, 32).

It is apparent from Neil's analysis that in its function as an international agreement among many nations that liberalises foreign direct investment, the MAI has broad implications for cultural sovereignty. But Canada is not alone in raising reservations about its potentially sweeping authority. The Western Governors' Association examined the impact that the MAI may have on state sovereignty and explored actions available to governors to protect state interests. With respect to subnational enforcement, that is, against state and local government, the WGA pointed out that MAI negotiators "propose giving foreign investors access to domestic courts to enforce remedies against state laws. [They are also considering] several options for dealing with countries like Canada and Australia, which do not have federal supremacy to impose MAI mandates on their provinces. The U.S. federal government does have constitutional supremacy and is prepared to bind states if Congress adopts the MAI" but is reluctant to impose federal international trade obligations upon autonomous state authorities (WGA, 1997, 8)

The position taken by Canadian trade negotiators is that the benefits of an MAI will outweigh the potential risks to Canadian culture, particularly in

light of the fact that they will require the MAI to contain a full, non-retaliatory exemption for culture. While the Minister of International Trade, Sergio Marchi, and the Minister of Canadian Heritage, Sheila Copps, have indicated that culture will be exempted from the MAI, it is not certain that a full cultural exemption will be achieved, one that will carry no retaliatory provisions such as exist in the FTA and NAFTA. If culture is exempted, it will likely be defined in terms that specifically identify cultural industries such as book publishing, video, film, music production and recording. Minister Marchi has assured Canadians that Canada's negotiating position is based on the premise that culture must be exempted, however, members of the cultural community also insist that such an exemption must be self-defining by each signatory state, and that it not include retaliatory provisions such as those in the FTA/NAFTA agreements.

Despite such assurances, the February, 1997 draft text of Canada's Preliminary List of Specific Reservations contained no reference to culture (OECD 1A, 1997). Foreign Affairs and International Trade Minister Marchi's briefing materials from September, 1997, respond to criticisms concerning the MAI negotiations: "[Assertion:] The MAI would undermine Canada's culture. [Response] As we did in the NAFTA, Canada will negotiate an exception for cultural industries. *Canada's culture is not on the table*" (emphasis mine) (Canada, 1Ba, 1997, 1).

Culture was not referred to specifically in the more recent draft text of

the MAI dated October 1, 1997 but is, however, referenced as an Annex

under Country Specific Proposals for Draft Text, which was proposed by the

Government of France. It states:

Introduction of an Exception Clause
for Cultural Industries
(Contribution by One Delegation)

After in-depth analysis of the implications of the MAI, this
delegation has come to the conclusion that the basic principles
of this agreement raise application problems for cultural
industries (notably the printing, press and audio-visual sectors).
In fact, policies designed to preserve cultural and linguistic
diversity may not be entirely compatible with the disciplines of
the agreement and so could be endangered.

As regards direct restrictions on foreign investment, the
standstill commitment is likely to make existing limitations
ineffective, since sectors using new technologies would not be
subject to such limitations. This would be unacceptable for this
delegation and would undermine the results of the Uruguay
Round for the audio-visual sector. The other signatories -
including the European Union and its Member States - did not
agree to a standstill[17] commitment with respect to mode 3 of the
GATS ("establishment of a commercial presence") in this sector.

As regards indirect restrictions on investment, the type of
disciplines to be included in the MAI are not yet precisely
known. However, the audio-visual and press sectors are
governed by specific regulations in which linguistic and/or
nationality criteria play a central role. In this respect, it should

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"Standstill" would result from the prohibition of new or more restrictive exceptions to National
Treatment and Most Favoured Nation (OECD 1D, 1997, 152). "Rollback" is the liberalisation process
by which the reduction and eventual elimination of non-conforming measures to the MAI would take
place (OECD 1D, 1997, 154).

be clear in MAI that a State may treat two enterprises of these sectors differently, in particularly according to the linguistic content of the goods produced or the services supplied. The Most Favoured Nation clause and National Treatment principle would also be difficult to apply to these sectors. In fact, various international agreements, including coproduction agreements, make exceptions to the Most Favoured Nation clause and offer foreign enterprises of third countries preferential or even national treatment.

The MAI should allow the Signatories to implement policies designed to promote cultural and linguistic diversity and consequently, to protect and promote industries ensuring such diversity.

Only a cultural exception would make it possible to protect cultural industries from the disciplines covered by the agreement. This general exception could be drafted as follows:

> "Nothing in this agreement shall be construed to
> prevent any Contracting Party to take any measure
> to regulate investment of foreign companies and
> the conditions of activity of these companies, in the
> framework of policies designed to preserve and
> promote cultural and linguistic diversity" (OECD
> 1C, 1997, 167).

While this particular draft of a cultural exemption has merit, it lacks the specific inclusion of a nation's right of self-judging, that is, the right of a nation to define culture on its own terms and to decide whether its policies are deemed necessary to cultural preservation, as well as the inclusion of a non-retaliatory provision.

In an interview with CBC's Jason Moscovitz concerning the MAI, Mr. Marchi asserted again that culture is "off the table", and stressed that not only

Canada, but other participants in the MAI negotiations wanted an exemption for culture as well, although he did not indicate who those participants were.[18] Bill Dymond, Canada's chief negotiator of the MAI, commented in an interview on CBC Radio that the MAI was "about non-discrimination, not about access". He added that "we are trying to get the same rights [as in NAFTA] established on a broader basis." When it was pointed out that critics were saying the MAI constituted a significant erosion of Canadian sovereignty, Dymond responded that in fact it was an affirmation of sovereignty and equalized Canada's role in international trade. When asked whether countries should have to lower their own standards in order to attract trade, Dymond asserted that the agreement would maintain, not lower, standards of investment. He reiterated that Minister Marchi was "very clear", that "culture is not on the table" and that a "range of countries share our view", again, without elaborating on countries to which he referred. Dymond emphasized that the prosperity of our cultural industries would enhance our cultural identity. He also allowed that "we have to address the issue of how the states and provinces are impacted in this agreement."[19]

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Interview of Sergio Marchi by Jason Moscovitz, CBC, "The House This Week", October 12, 1997.

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CBC Radio. "This Morning". Interview with Bill Dymond, October 17, 1997.

The viability of the MAI was considered in a series of parliamentary hearings requested by the Minister of International Trade, the Honourable Sergio Marchi, and conducted during 1997 by the Standing Committee on Foreign Affairs and International Trade. At these hearings, more than 50 witnesses gave oral testimony and more than 100 briefs and submissions were received along with letters, faxes, and e-mail from individuals and organizations concerning the potential impact of the MAI on various aspects of Canadian life, including labour, health, the environment, culture, as well as its legal, economic and social ramifications.

Arguments against the inclusion of culture in the MAI were made in November, 1997 to the Sub-Committee on International Trade and Foreign Investment, in oral and written submissions which support an exemption for culture in the MAI. I summarize the most significant of these, as follows:

The absence of, and the need for a consistent, coherent, and broadly encompassing Canadian federal policy for culture has been a dominant theme in the work of the CCA at least since 1980. The lack of continuity of objectives between the policies and practices of federal departments can undermine or eliminate the benefits and support provided by established cultural agencies. The CCA argues that the lack of an over-arching federal cultural policy creates inconsistencies in negotiating an MAI because it is not automatically assumed that culture will be exempted.

The CCA remains unconvinced that a cultural exemption can be negotiated which will go beyond those exemptions provided for in the FTA and NAFTA, (both of which permit retaliation in other areas of trade). Even if such an exemption is secured, there is concern that it will pose no effective deterrent to the American entertainment juggernaut whose forces increasingly dominate not only the Canadian, but the global cultural landscape. As a result, Canadian culture could become more vulnerable as the political impetus for securing an MAI is exacerbated by American trade negotiators who relate concepts of culture primarily to the entertainment industry.

Further, as a "top-down" agreement, municipal and provincial governments would be subject to the MAI's provisions, which the CCA argues would jeopardize policies and programs developed at those levels and directed toward cultural industries and activities (CCA 1A, 1998, 27-32). The CCA's Working Group on Cultural Policy for the 21st Century concluded that while the state of Canadian culture is strong, it is nonetheless vulnerable to erosion, in particular by U.S. commercial interests through increasingly liberalised trade agreements such as the FTA, NAFTA, and potentially, the MAI. The CCA reminded the Standing Committee that the GATT is still supreme in the hierarchy of international agreements and as such was the venue of choice when the U.S. challenged Canada's domestic policy with

respect to magazines: "the U.S...sought a more receptive environment with the WTO where such beasts as the cultural exemption have no basis" (CCA, 1Ba, 1997, 3).

In its submission to the Standing Committee, The Writers' Union of Canada, comprising more than 4,500 Canadian book writers, screenwriters, songwriters and artists, argued that culture "is neither a good nor a service; its value is not necessarily apparent in the bottom line". Merilyn Simonds, on behalf of the Union, pointed to the source of culture:

> A national culture cannot exist without the expression of it. That is why creators stand at the heart of culture: when we tell stories and paint pictures we do so from a uniquely Canadian point of view. When we express this point of view, we reflect the country's citizens to each other in a shared discourse, building a shared vision, a nation of shared values, a national culture with a diverse and unique range of artistic representations and voices that have struggled hard to be heard (Simonds, 1997, 3).

Simonds also noted that the Canadian cultural infrastructure "make[s] it possible, despite Canada's small population, for our cultural industries to buy Canadian creative content" (Simonds, 1997, 5). The substance of the Union's arguments aligns the creation and dissemination of Canadian culture with the preservation of national security. "This is what cultural sovereignty means: *the right of a nation to hear itself think*" (Simonds, 1997, 7-8).

The submission of SOCAN[20] expresses its members' concern that the MAI "does not adversely affect Canada's cultural sovereignty, particularly the right to use Canadian Content rules which promote the use of Canadian music in Canada". It supports a self-judging, non-retaliatory exemption for culture, which it claims is no less important and in Canada's best interests than those of "[t]he Americans and others [who] are insisting on self-judging clauses to exempt both essential security and public order" (SOCAN, 1997, 2). Without such an exemption, SOCAN argues, "[i]f the U.S. insists that it has the right to impose secondary boycotts and unilaterally apply its laws on an extraterritorial basis, then the MAI's rights and obligations will not be in Canada's national interest" (SOCAN, 1997, 17). SOCAN proposes wording which, in summary, states that a cultural exemption

- should be technology-neutral and cover current and future technological developments;
- unlike the clause contributed by France (which I noted above), should be sufficiently detailed to avoid interpretation disputes;
- like the National Security Exemption in GATT (1947), should be self-judging and non-retaliatory;
- must not be subject to Standstill or Rollback obligations;
- must not be confined to certain Articles or Chapters, but must override all obligations in the Agreement;

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The Society of Composers, Authors and Music Publishers of Canada, a not-for profit Canadian organization that represents composers, lyricists, songwriters and publishers of musical works, whose members depend almost entirely on the performing rights royalties they receive when their songs are performed in public or broadcast (SOCAN, 1997, 1).

- the negotiation of a broad, self-judging Cultural Exemption clause must be a 'dealbreaker' for the Government of Canada in the MAI negotiations (emphasis mine) (SOCAN, 1997, 14).

It urges that Canada propose such an exemption at the earliest opportunity, rather than "wait in the dark until the dying moments of the negotiations and hope for the best" (SOCAN, 1997, 17).

The substance of the submission of the Periodical Writers' Association of Canada[21] (PWAC) to the Standing Committee on Canadian Heritage was utilized by the CCA in its own submission at the MAI Sub-Committee hearings. PWAC focuses on the issue of copyright and the new media, and expresses concerns that their members and other creators will face as "more types of cultural product come to be distributed widely through electronic media" (PWAC, 1997, 1). PWAC urges the government to "create an environment in which creators can and do control copyright to their work and receive a fair share of the revenues that users pay to gain access to it" (PWAC, 4).

The legal opinion provided by Barry Appelton, of Appelton & Associates ("Appelton Report") to the Council of Canadians with respect to the making of reservations by the Government of Canada within the MAI,

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The Periodical Writers Association of Canada (PWAC) is a non-profit national arts service organization founded in 1976, which represents more than 400 professional independent self-employed writers across Canada who publish in Canadian magazines, newspapers and periodicals (PWAC, 1997, 1).

and specifically with respect to culture, states:

> In light of the decision of recent international trade tribunals,
> this is an important area for reservation and leaves Canada
> exposed to challenge from foreign governments and foreign
> investors (Appelton, 1997, 2).

Further,

> Government measures that attempted to maintain, develop or
> foster made-in-Canada culture would be inconsistent with the
> goals of the MAI. Any policy or program (other than tax
> incentives such as tax credits or accelerated depreciation) that
> advantaged Canadian culture or content directly or indirectly,
> would run afoul of the national treatment or performance
> requirements obligations (Appelton, 1997, 16).

The Appelton Report provides examples of policies that would conflict with

the MAI over a broad range of cultural industries that include domestic film

distribution, film and television production, print publication, Canadian

content in television, radio, or cinema, and telecommunications licensing

(Appelton, 1997, 16).

In summarizing the submissions received, the Report of the Standing

Committee notes that "[f]oremost among the concerns was the impact the

agreement would have on key areas of domestic policy" (Canada, IG, 1997,

4) and the ability of the government to protect critical areas as well as

policies of provincial and municipal governments (Canada, IG, 28). The

Report contains seventeen recommendations to the government with respect

to its negotiations, the first of which states: "Canada should become a

Contracting Party to the MAI subject to a final text which fully protects

Canadian culture, the environment, labour standards, health, education and

social services at the federal and subnational levels" (Canada, 1G, 7).

Recommendation No. 14 states:

> Canada must achieve an adequate and effective cultural
> exemption in order to sign the agreement. Therefore, Canada
> should remain part of the coalition of countries supporting the
> principle of the French approach to exempting culture from the
> agreement: incorporating a broad self-judging exception within
> the text of the MAI. Canada should aggressively pursue
> alliances with other OECD member countries in support of this
> position (Canada, 1G, 9).

It has been clearly established, then, that the MAI has implications that will

restrict Canada's autonomy with respect to its cultural policies.

Balancing Cultural Sovereignty and Cultural Development

I noted at the beginning of this chapter the economic and political

rationales outlined by Brewer and Young which support multilateral

agreements on investment. I also considered the trend toward globalization

that influences such rationales. Certainly, arguments for the stability of world

political and economic systems go far in supporting efforts toward broader

international participation in trade and investment agreements. But Canada

has more at stake, it may be argued, than the United States, with respect to

its economic and cultural autonomy and consequently is entitled to exercise

caution in multilateral negotiations. Theorists such as Brewer and Young, Hart, and Drezner do not offer substantial conclusions concerning the potential hazards such agreements pose in critical areas such as cultural enterprise and development.

In their agendas to establish greater uniformity across nations, multilateral trade or investment agreements erode national sovereignty when they create, or at least inject, uncertainty about the autonomy or the validity of the nation's most distinctive, and for Canada in particular, most vulnerable areas -- artistic creation and expression. In such agreements, economic agendas are considered primary and those relating to culture, secondary, as we saw in the 1997 decision of the World Trade Organization (WTO) to disallow Canadian subsidies for split-run magazines. Then, the WTO chose not to distinguish between Canadian and American-published magazines on the basis of content, concluding that they were equivalent products. In referring to that decision in her submission to the Standing Committee on Foreign Affairs and International Trade, Merilyn Simonds[22] stated:

> What the...judges failed to take into account...is that it is the
> content of a magazine that gives it value, and that value is not a
> matter of economics, but rather, a matter of spirit, of shared
> traditions and history and thought, a matter of *culture* (Simonds,
> 1997, 2).

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[22]

Simonds was speaking on behalf of The Writers' Union of Canada.

I would argue that international agreements that liberalise foreign direct investment and trade, and thus create level playing fields among nations of unequal economic strength, are both hegemonic and fundamentally flawed by their incapacity to accommodate the inherent right of sovereign nation states to self-judicial cultural autonomy. The problem for Canada is two-fold: the need to create a comprehensive and sustainable domestic cultural policy which is also viable in an MAI environment; and the need to deliver such a policy so that it serves Canadian interests as its first priority, so that the agenda of this, or any future MAI is extraneous to Canada's cultural sovereignty.

The issue of cultural sovereignty has long been part of Canadian discourse. The CCA reminded the Standing Committee that Canada has participated in free trade discussions as well as multilateral and regional trade agreements since Confederation (CCA, 1Ba, 1997, 2). Thompson observes that "Canada has been in quest of 'cultural sovereignty' almost as long as America has been exporting popular culture. Prodded by a nationalist intelligentsia concerned with creating a Canadian national identity, and by Canadian cultural industries seeking the same sheltered market enjoyed by other Canadian manufacturers, successive governments have groped for policies to cope with American mass culture" (Thompson, 1992, 189-90).

The MAI's architects seek to include culture by not excluding cultural industries within the boundaries of the agreements. They argue that under liberalised trade rules, cultural products are marketable in the same way as any other good or service and ought not to receive special distinction. But Kresl has pointed out that culture industries produce "culture goods [that] are essentially different from other goods and services" (Kresl, 1989, 160).

Two points of view inform the debate on cultural sovereignty and trade in cultural products. One approach is quantitative; that culture can be defined in economic terms, in industrial language, as products or goods that can be negotiated or made subject to certain restrictions in trade agreements, provided the objectives for so doing are clearly stated and the restrictions are uniformly applied. It reinforces the American position that "popular" or "mass culture", or the products of mass entertainment industries such as movies or sound recordings, are simply commodities that are negotiable on an open, international market. The cultural context, or content, of these commodities is not material to their trade in the international marketplace.

The other view has more qualitative connotations; that the content of products of the cultural industries cannot be segregated from their creative source--or cultural roots--and thus must be removed entirely from trade in goods, services, and investment. Its premise is that what is at stake is the

Canadian-owned public space which is available for the creation, production, and distribution of Canadian-created cultural products -- products whose content reflects Canadian perspectives. If this public space is limited or eroded through the infusion of foreign investor capital, the resulting production space for Canadian producers is reduced, limited, or even "tainted" by non-Canadian producers. Competition for public space will ultimately yield to the investor with the most capital; in many instances, that investor will be an American-owned enterprise. The result will be an erosion of Canadian creative production as more American cultural products cross our border, resulting in what Canadians now refer to as "cultural imperialism" (Thompson, 189), but what Thompson states is more appropriately referred to as "cultural diffusion" (Thompson, 189).

Support for a cultural carve-out within the MAI is not universal. Economist Daniel Schwanen, for example, suggests that Canadian culture is not threatened by the MAI; rather, that Canadian culture and cultural industries should be considered on different terms than those of ownership and content which currently exist (Schwanen, 1997). He argues for a reservation of "shelf space" for cultural materials and enterprises that reflect Canadian experience but that may not necessarily originate from Canadian creators. In that context, foreign-produced works would be eligible to be considered Canadian and thus to receive on equal terms the benefits

available to Canadian artists and creators. A broad cultural carve-out would serve protectionist interests rather than open the Canadian cultural marketplace to foreign direct investment with all its concomitant risks, or, as some would argue, its potential advantages, for the Canadian cultural industry or entrepreneur (Schwanen, 1997).

Kresl (1996) and Schwanen (1997) propose redefining cultural products, or in Kresl's terms, "the cultural output of the economy" in more appropriate terms that reflect their role in society. Kresl refers to "social goods" as "cultural goods that involve articulation and expression of the national culture." "The social good that is at risk here is the continued understanding Canadians have of their unique historical, cultural, social and economic identity and their willingness to support whatever costs there may be in maintaining their continued existence as an independent nation" (Kresl, 1996, 226). The conflict between Canada and the U.S. concerning Canada's assertion of cultural sovereignty can be reconciled " if one accepts that national defence and national culture are vital to the continued existence of the nation and that both must be treated as social goods -- completely under the sole purview of the national government" (Kresl, 227-8). Kresl recommends that Canada "press the argument that national cultural goods are social goods, that they are not to be treated as goods *comme les autres* and that no foreign government can intervene in culture policy any more

than it can in public health policy or in decisions about purchases of national

defence goods" (Kresl, 1996, 223-245).

Similarly, Schwanen argues that Canada's cultural policy objectives

ought to be refocused "since, in practical public policy terms, cultural

protection must be reflected in hard policies, such as cash subsidies, tax

deductions, and protective regulations having an economic impact"

(Schwanen, 1997, 8). Schwanen also proposes redefining cultural goods as

"public goods". He defines "public goods" as goods available for public

consumption; "no one can be excluded from a public good's benefit; indeed,

everyone benefits from it whether one pays for it or not." "[T]he public-good

aspect of cultural activity comes in the form of information about, and

representations of, other Canadians and of what is of interest to them." Thus,

what is important for the community's purposes is "the ability to access

products and services that transmit the cultural and informational signals

individuals need to ensure their informed participation in the community,

and, ultimately, the community's continued survival" (Schwanen, 1997, 8-9).

Ivan Bernier (1997) examines the lack of consensus in the present

treatment of cultural goods and services in international trade agreements,

including the WTO, NAFTA, and the OECD. He concludes that

> there is still a great deal of ambivalence concerning the way
> they should be treated....[b]ehind [which] lies a fundamental
> question...of the specificity of cultural products. For the United

States in particular, cultural products do not differ from other
products and should therefore receive exactly the same
treatment. But other States consider that [cultural products]
are fundamentally different and therefore should not be treated
as other products (Bernier, 1997, 30).

Bernier points to varying perspectives on what constitutes cultural products:

that cultural products are public goods that merit some degree
of government intervention....that cultural products, as vehicles
of meaning and values, constitute an essential part of the
democratic process within a society, and [therefore]...must be
protected....[that] a link [exists] between domestic cultural
production and national security (Bernier, 1997, 30).

He also cites the problem of determining what constitutes "state

interventions intended to promote the economic success of cultural

undertakings and those intended to promote the access and involvement of

citizens in democracy through cultural undertakings"(Bernier, 1997, 30).

Bernier recommends a new, "twin-track approach that would

recognize once [and] for all that cultural products, to the extent that they are

traded, come under the ordinary rules of international trade agreement, but

at the same time would make it possible for States to intervene in order to

insure a viable domestic cultural production and to favour a better access to

foreign cultural production. In other words, an approach that would

distinguish between the industrial and the cultural objectives of government

intervention" (Bernier, 1997, 30-31). Bernier argues, not for the exclusion of

cultural products from international trade agreements, but "to find a way of

allowing for derogatory State's interventions in defined circumstances."
(Bernier, 1997, 31)

Schwanen and Bernier, then, agree with Kresl, that in an increasingly complex environment of globalization, it is to Canada's advantage to express its cultural policies "in generally recognized economic theory" in order "to respond to retaliation by her major trading partner with compelling argumentation to an impartial observer" (Kresl, 1996, 243). Kresl also notes that Canada would benefit if it would articulate more explicitly its objectives for securing cultural sovereignty--for example, increased employment. "The argument then [converts] from support for the expression and articulation of Canada's unique culture to: 'you have to remember above all that culture is essential to the growth of Canada's economy'" (Kresl, 1996, 242).

While the objective of supporting Canadian culture is paramount, there remains a lack of cultural, economic, and political consensus on how best to achieve it, in part because of the difficulty in putting cultural objectives into economic language. The trend toward broader and more comprehensive trade and investment agreements, within the context of globalization, is challenging the domain of the nation-state and in particular, its cultural sovereignty. In the next chapter, I will consider recent theoretical perspectives on nationalism, hegemony, and culture that are relevant to these issues, as a foundation for a discussion of new strategies being

proposed in other parts of the world to deal with similar concerns.

CHAPTER THREE

<u>A Theoretical Overview of Culture: Nationalism, Globalization</u>

<u>and Culture in Modern, Post-modern and Post-colonial Theory</u>

<u>Culture in International Relations</u>

According to <u>The Washington Quarterly</u> editor Michael Mazarr, the

trend in current literature places cultural factors as the driving force in

international relations. Unconvinced, the author expresses his own view that

culture is merely an "important" or "notable factor" and that ultimately,

"parochial, divisive cultures will *decline* in influence" (Mazarr, 1996, 178).

Mazarr identifies four distinct models of cultural influences and considers

their effects in international relations. The first is:

> Model One: "Cultural values as broadly determining individual
> and national success: Culture plays a critical role in determining
> the economic fates of nations, peoples, and individuals because
> some cultures underwrite success better than others (Mazarr,
> 1996, 178-179).

Mazarr describes this model as the most traditional, noting that it follows

arguments by Harrison (1992) and Sowell (1994).[23]

Lawrence Harrison defines culture as

group or national value systems, attitudes, religious and other

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[23]

Mazarr cites Harrison's <u>Who Prospers: How Cultural Values Shape Economic and Political Success</u>
(1992) and Sowell's <u>Race and Culture: A World View</u> (1994), (Mazarr, p. 179).

institutions, intellectual achievement, artistic expression, daily behaviour, customs, lifestyle, and many other characteristics....Culture is a coherent system of values, attitudes, and institutions that influences individual and social behaviour in all dimensions of human experience" (Harrison, 1992, 9).

According to Harrison, culture and progress are connected; the "values and

attitudes--culture--of a nation, society, or ethnic group, and the institutions

that both reflect and reinforce those values and attitudes" are critical factors

in determining its success. Harrison asserts that culture influences progress,

and "is not confined to political development". He writes, "A society can

encourage the expression of human creative capacity in many ways, just as it

can suppress it. Creativity is likely to flourish where people expect and

receive fair treatment...in the way a society opens opportunities to people"

(Harrison, 1992, 1,6,9,10). Harrison cites four fundamental cultural forces

that

facilitate or suppress the expression of human creative capacity and that influence movement toward or away from this increasingly universal aspirational mode....(1) the degree of identification with others in a society--the radius of trust, or the sense of community; (2) the rigor of the ethical system; (3) the way authority is exercised within the society; and (4) attitudes about work, innovation, saving and profit (Harrison, 1992, 10).

Thomas Sowell's study focuses on the social science aspects of culture

"which provide the material requirements for life itself--the specific skills,

general work habits, saving propensities, and attitudes toward education and

entrepreneurship--in short, what economists call 'human capital'" (Sowell, 1994, xii). He argues that this is not "an antithesis to higher culture...because the material resources from which physical survival itself must come are also requirements for music, art, literature, philosophy, and other forms of higher culture" (xii). He writes, "[r]acial, ethnic and cultural differences among peoples play a major role in the events of our time....a particular people's cultural equipment or human capital is much clearer in an international perspective than in the history of one country" (Sowell, 1994, 1).

Sowell argues that while "[c]ultures are not erased by crossing a political border....[m]uch of the advancement of the human race has taken the form of...cross-cultural borrowings and influences" (Sowell, 1994, 4). Citing trade, migration, or conquest as examples where products or technologies are interchanged among diverse groups along with the associated advantages, he also states: "Perhaps the clearest and strongest indications of cultural advantages in particular fields have been the willingness of peoples in other cultures to abandon their own products or practices in favour of cultural imports" (Sowell, 1994, 4-5).

Mazarr's second model is: "Culture as a cognitive influence on decision making". He states: "peoples or countries are affected by their cultural differences which reflect their values, outlooks, interests, habits and historical hopes and fears" (Mazarr, 1996, 179). Thus, the negotiations, and often, the

solutions of leaders and decision-makers to policy problems are invested with their particular cultural values and assumptions (Mazarr, 180).

His third model is: "Culture as the principal determinant of economic and social structure". Mazarr refers to Fukuyama's (1992) work which argues that "[a] nation's well-being, as well as its ability to compete is conditioned by a single, pervasive cultural characteristic: the level of trust inherent in the society" (Mazarr, 1996, 180). According to Fukuyama, multinational corporations (MNC's)--"large, complex organizations capable of global reach"- -represent "a symbol of social trust at work", and their presence or absence point to the degree of "generalized social trust" within a nation and thus to its propensity for economic stability and success. As an example, Fukuyama considers the Chinese, French, and Italian nations to be "low-trust" societies, in contrast with the United States, Japan, and Germany, countries that exhibit a "high degree of generalized social trust" which in turn generates the creation and expansion of MNC's. Accordingly, writes Mazarr, Fukuyama argues "that (1) culture determines the degree of social trust, which (2) influences the nature of corporate institutions, which (3) helps determine a country's economic success" (Mazarr, 1996, 180-181). Mazarr then summarizes this position: "Culture serves as the dominant blueprint for social, economic, and military structures and institutions, thus exercising a strong influence on the behaviour and prospects of nation-states in the world

community" (Mazarr, 180).

Mazarr's fourth model is: "Culture as the dominant variable in conflict and international relations today". This model emerges from Huntington (1968), who argues that "the fundamental source of conflict in this new [post-cold war] world will not be primarily ideological or primarily economic. The great divisions among humankind and the dominating source of conflict will be cultural....[T]he principal conflicts of global politics will occur between nations and groups of different civilizations" (Mazarr, 1996, 181). For Huntington, the "culprits" are "seven or eight major civilizations...includ[ing] the Western, Confucian, Japanese, Islamic, Hindu, Slavic-Orthodox, Latin American, and 'possibly' the African....It is along the 'fault lines' between these civilizations...that we will find 'the battle lines of the future' at both micro and macro levels...." (Mazarr, 1996, 181). Yet Mazarr observes that "international politics is, above all, a struggle for power between coherent but essentially isolated units, each of which seeks to advance its own interests in an anarchic setting" (Mazarr, 1996, 181). Huntington's variation "[replaces] the nation-state...with a larger counter: the civilization." Mazarr points to a possible modification of this Model, however, where it could be argued that "culture influences *national* choices," and thus Model Four would become Model Two -- "culture serving as a decision-making influence in nation-states and other institutions" (Mazarr, 1996, 182).

Mazarr is not inclined to accept culture as the primary agent influencing international relations. His own position is informed by Arnold Toynbee's cultural studies from the 1930's and '40's. Toynbee argued that technological and economic forces, seen at their most highly developed stages in Western civilization, were powerful homogenizing factors among the world's diverse civilizations and ultimately would consolidate them (Mazarr, 1996, 182). According to Toynbee, even by the fourth millenium A.D., "'the distinction--which looms large today--between the Western civilization' and other cultures 'will probably seem unimportant....[W]hat will stand out will be a single, great experience, common to all mankind': the experience of social change and homogenization as a result of the congruence of cultures...." (Mazarr, 182). Mazarr argues that in the present era, "[t]he evolving nature of the global economy is causing governments and businesses to reach past their cultural fetters and embrace globally shared models of governance, corporate structure, and economy. If this is true, then after a spike in influence during the transitional period, cultures will decline as a factor influencing world affairs" (Mazarr, 182-3).

Culture and Globalization

Globalism, argues Mazarr, is giving rise to an "amalgamation of cultures" (Mazarr, 1996, 182-3). He points to various authors who have

commented on the impact of globalism, for example, Barber (1995), who

coins the term "McWorld" to describe the "onrushing economic,

technological, and ecological forces that demand integration and uniformity"

(Mazarr, 183); and Havel (1995), who describes our civilization as the first "in

the history of the human race that spans the entire globe and firmly binds

together all human societies, submitting them to a common global destiny"

(Mazarr, 183). Sowell also perceives a "rising world culture, or a set of beliefs

and intellectual procedures superimposed on innumerable national and

group cultures" resulting in "at least a portion of every society [becoming] a

part of a worldwide culture" (Mazarr, 183). Others point to aspects of

Western culture that have permeated the world--"[t]he secular idea, the state

system and the balance of power, pop culture jumping tariff walls and

barriers, the state as an instrument of welfare, all these have been

internalized in the remotest places" (Mazarr, 183).

In addition, many aspects of Western culture--rationalism,

monotheism, science--have historical origins elsewhere, yet are

complementary to Western ideals. Mazarr writes, "The common heritage

and complementarity of many world cultures serves as the foundation for the

enormous homogenizing influences of global communications, travel,

business, and awareness" (Mazarr, 1996, 183). He cites Ernest Gellner

(1983), who considers "literacy, technical sophistication, universal and

rigorous education, the ability to shift tasks and jobs rapidly, regular communication with many other people, and an extensive division of labour..." as central elements of industrial society (Mazarr, 184). Gellner identifies "the convergence thesis"--that "the industrial mode of production uniquely determines the culture of society; the same technology canalizes people into the same type of activity and the same kinds of hierarchy" (Mazarr, 184) Yet Gellner does not envision a fully homogenous world, finding it "overwhelmingly likely that differences between cultural styles of life and communication, despite a similar economic base, will remain large enough to require separate servicing, and hence distinct cultural political units" (Mazarr, 184). Thus, for Gellner, "'[c]ulture and nationalism will not disappear, but the sharpness of nationalist conflict may be expected to diminish' and late industrial society 'can be expected to be one in which nationalism persists, but in a muted, less virulent form'" (Mazarr, 184).

While world cultures and social structures have evolved over thousands of years, and, Mazarr argues, had the potential to emerge in a multitude of diverse forms, the most advanced economies have essentially uniform components: "all possess in common institutions like central banks, ministries of finance, technology research centers, schools at a host of levels, militaries with identical sorts of units and ranks and organizational charts, and hundreds of other parallel structures" (Mazarr, 1996, 184). Although

"important cultural differences remain...and continue to influence national and individual fates," Mazarr comments that "the homogeneity of modern industrial societies appears nothing less than astounding" (Mazarr, 184).

Mazarr asserts that while cultural identities will not disappear entirely,

> they will be diluted by alternate forms of loyalty and identification, and their influence will decline rather than grow in the long run....[C]ulture will not become *unimportant*, but will grow *less* important as a driving force in international relations. It is a process that will discredit Models Three and Four quite soon, while leaving the insights of Models One and Two as significant--but declining--factors in international relations for perhaps hundreds of years (Mazarr, 185).

Culture in Time and Space - Modernism and Postmodernism

David Harvey (1990) considers the historical transition of culture within the last 150 years. Harvey refers to the tension inherent in Baudelaire's (1863) view of modernity as "'the transient, the fleeting, the contingent; it is the one half of art, the other being the eternal and the immutable'" (Harvey, 1990, 10). He quotes Berman's (1982) description of modernity:

> To be modern is to find ourselves in an environment that promises adventure, power, joy, growth, transformation of ourselves and the world--and, at the same time, that threatens to destroy everything we have, everything we know, everything we are. Modern environments and experiences cut across all boundaries of geography and ethnicity, of class and nationality, of religion and ideology; in this sense, modernity can be said to unite all mankind. But it is a paradoxical unity, a unity of

disunity; it pours us all into a maelstrom of perpetual
disintegration and renewal, of struggle and contradiction, of
ambiguity and anguish. To be modern is to be part of a universe
in which, as Marx said, 'all that is solid melts into air' (Harvey,
1990, 10-11).

"The transitoriness of things makes it difficult to preserve any sense of

historical continuity. If there is any meaning to history, then that meaning

has to be discovered and defined from within the maelstrom of

change....Modernity", writes Harvey, "...not only entails a ruthless break with

any or all preceding historical conditions, but is characterized by a never

ending process of internal ruptures and fragmentations within itself" (Harvey,

1990, 12).

Harvey writes that the 'project' of Enlightenment during the eighteenth

century

'sought to develop objective science, universal morality and law,
and autonomous art according to their inner logic'....[It sought]
to use the accumulation of knowledge generated by many
individuals working freely and creatively for the pursuit of
human emancipation and the enrichment of daily
life....[Through] [t]he scientific domination of nature....[and]
[t]he development of rational forms of social organization and
rational modes of thought...the universal, eternal, and the
immutable qualities of all humanity could be revealed (Harvey,
1990, 12).

But Harvey also points to the mythical image of Dionysus as representing the

dilemma of modernity:

The eternal and immutable essence of humanity...'to be at one and the same time "destructively creative" (i.e....a process destructive of unity) and "creatively destructive" (i.e. to devour the illusory universe of individualism, a process involving the reaction of unity)'....The image of 'creative destruction' is very important to understanding modernity precisely because it derived from the practical dilemmas that faced the implementation of the modern project. How could a new world be created, after all, without destroying much that had gone before? (Harvey, 1990, 16).

Harvey mentions "the vast and convoluted history of cultural modernism since its inception in Paris after 1848" (1990, 20) and attributes "a new role, and a new impetus, to cultural modernism" (1990, 18) to Nietzsche's "intervention" at the beginning of the twentieth century.

To the degree that Nietzsche had led the way in placing aesthetics above science, rationality, and politics, so the exploration of aesthetic experience -- 'beyond good and evil' -- became a powerful means to establish a new mythology as to what the eternal and the immutable might be about in the midst of all the ephemerality, fragmentation, and patent chaos of modern life.... Artists, writers, architects, composers, poets, thinkers, and philosophers had a very special position within this new conception of the modernist project. If the 'eternal and immutable' could no longer be automatically presupposed, then the modern artist had a creative role to play in defining the essence of humanity....*The artist, argued Frank Lloyd Wright -- one of the greatest of all modernist architects -- must not only comprehend the spirit of his age but also initiate the process of changing it* (emphasis mine) (Harvey, 1990, 18-19).

In modernism, Harvey writes,

[t]he tensions between internationalism and nationalism, between globalism and parochialist ethnocentrism, between universalism and class privileges, were never far from the surface....[M]odernism, after 1848, was very much an urban

phenomenon, that...existed in a restless but intricate relationship with...explosive urban growth,...strong rural-to-urban migration, industrialization, mechanization, massive reorderings of built environments, and politically based urban movements, of which the revolutionary uprisings in Paris in 1848 and 1871 were a clear but ominous symbol (Harvey, 1990, 25).

In the early twentieth century, Harvey continues, "[m]odernism ...took on multiple perspectivism and relativism as its epistemology for revealing what it still took to be the true nature of a unified, though complex, underlying reality" (Harvey, 1990, 30).

If the modernism of the inter-war years was 'heroic' but fraught with disaster, the 'universal' or 'high' modernism that became hegemonic after 1945 exhibited a much more comfortable relation to the dominant power centres in society....High modernist art, architecture, literature, etc. became establishment arts and practices in a society where a corporate capitalist version of the Enlightenment project of development for progress and human emancipation held sway as a political-economic dominant (Harvey, 1990, 35).

In the post-war era of the 1950's and 60's,

[t]he de-politicization of modernism that occurred with the rise of abstract expressionism ironically presaged its embrace by the political and cultural establishment as an ideological weapon in the cold war struggle. The art was full enough of alienation and anxiety, and expressive enough of violent fragmentation and creative destruction (all of which were surely appropriate to the nuclear age) to be used as a marvellous exemplar of US commitment to liberty of expression, rugged individualism and creative freedom....But in order to be distinguishable from the modernism extant elsewhere (chiefly Paris), a 'viable new aesthetic' had to be forged out of distinctively American raw materials. What was distinctively American had to be celebrated as the essence of Western culture (Harvey, 1990, 37).

The works of avant-garde artists "articulated...values that were subsequently assimilated, utilized, and co-opted by politicians, with the result that artistic rebellion was transformed into aggressive liberal ideology" (Harvey, 1990, 37). Harvey stresses

the significance of this absorption of a particular kind of modernist aesthetic into official and establishment ideology, and its use in relation to corporate power and cultural imperialism. It meant that, for the first time in the history of modernism, artistic and cultural, as well as 'progressive' political revolt had to be directed at a powerful version of modernism itself. Modernism lost its appeal as a revolutionary antidote ....Establishment art and high culture became...an exclusive preserve of a dominant elite...[and] [w]orse...could do nothing more than monumentalize corporate and state power or the 'American dream' as self-referential myths, projecting a certain emptiness of sensibility on that side of Baudelaire's formulation that dwelt upon human aspirations and eternal truths (Harvey, 1990, 37-38).

In his analysis of postmodernism, Harvey describes

what appears to be [its] most startling fact...its total acceptance of the ephemerality, fragmentation, discontinuity, and the chaotic that formed the one half of Baudelaire's conception of modernity. But postmodernism responds...in a very particular way. It does not try to transcend it, counteract it, or even to define the 'eternal and immutable' elements that might lie within it. Postmodernism swims, even wallows, in the fragmentary and the chaotic currents of change as if that is all there is....To the degree that it does try to legitimate itself by reference to the past, therefore, postmodernism typically harks back to that wing of thought, Nietzsche in particular, that emphasizes the deep chaos of modern life and its intractability before rational thought (Harvey, 1990, 44).

On the history of "cultural commodification", Harvey writes: "the

commodification and commercialization of a market for cultural products

during the nineteenth century (and the concomitant decline of aristocratic,

state, or institutional patronage) forced cultural producers into a market form

of competition that was bound to reinforce processes of 'creative destruction'

within the aesthetic field itself" (Harvey, 1990, 22).

> The collapse of time horizons and the preoccupation with
> instantaneity have in part arisen through the contemporary
> emphasis in cultural production on events, spectacles,
> happenings, and media images. Cultural producers have
> learned to explore and use new technologies, the media, and
> ultimately multi-media possibilities. The effect, however, has
> been to re-emphasize the fleeting qualities of modern life and
> even to celebrate them. But it has also permitted a
> *rapprochement*...between popular culture and what once
> remained isolated as 'high culture'....The closing of the gap
> between popular culture and cultural production in the
> contemporary period, while strongly dependent on new
> technologies of communication, seems to lack any avant-gardist
> or revolutionary impulse, leading many to accuse
> postmodernism of a simple and direct surrender to
> commodification, commercialization, and the market....The
> most difficult of all questions about the postmodern
> movement...[is] its relationship with, and integration into, the
> culture of daily life....[T]here are innumerable points of contact
> between producers of cultural artifacts and the general public:
> architecture, advertising, fashion, films, staging of multi-media
> events, grand spectacles, political campaigns, as well as the
> ubiquitous television. It is not always clear who is influencing
> whom in this process" (Harvey, 1990, 59).

According to Harvey, "[p]ostmodernism...signals nothing more than a

logical extension of the power of the market over the whole range of cultural

production" (Harvey, 1990, 62). Evidence of this is apparent in "'the virtual

takeover of art by big corporate interests.... Corporations have become the

major patrons of art in every respect. They form huge collections. They fund

every major museum exhibition....Auction houses have become lending

institutions, giving a completely new value to art as collateral....'" (Harvey,

1990, 62). He cites Frederic Jameson's "daring thesis that postmodernism is

nothing more than the cultural logic of late capitalism....in which the

production of culture 'has become integrated into commodity production

generally...and assigns an increasingly essential structural function to

aesthetic innovation and experimentation'" (Harvey, 1990, 63).

"[P]ostmodernism," Harvey argues, should not be construed as "some

autonomous artistic current. Its rootedness in daily life is one of its most

patently transparent features" (Harvey, 1990, 63).

Homi Bhabha considers culture in postcolonial perspectives, which, he

argues,

> intervene in those ideological discourses of modernity that
> attempt to give a hegemonic 'normality' to the uneven
> development and the differential, often disadvantaged, histories
> of nations, races, communities, peoples. Postcolonialism
> formulates [its] critical revisions around issues of cultural
> difference, social authority, and political discrimination in order
> to reveal the antagonistic and ambivalent moments within the
> 'rationalizations' of modernity....[T]he affective experience of
> social marginality -- as it emerges in non-canonical cultural
> forms -- transforms our critical strategies. *It forces us to confront*
> *the concept of culture outside 'objets d'art' or beyond the*

*canonization of the 'idea' of aesthetics, to engage with culture as
an uneven, incomplete production of meaning and value, often
composed of incommensurable demands and practices,
produced in the act of social survival.* [emphasis mine] Culture
reaches out to create a symbolic textuality, to give the alienating
everyday an aura of selfhood, a promise of pleasure. The
transmission of *cultures of survival* does not occur in the
ordered *musée imaginaire* of national cultures with their claims
to the continuity of an authentic 'past' and a living 'present' --
whether this scale of value is preserved in the organicist
'national' traditions of romanticism or within the more universal
proportions of classicism (Bhabha, 1994, 172).

Bhabha describes the duality of culture:

Culture as a strategy of survival is both transnational and
translational. It is transnational because contemporary
postcolonial discourses are rooted in specific histories of cultural
displacement....Culture is translational because such spatial
histories of displacement -- now accompanied by the territorial
ambitions of 'global' media technologies -- make the question of
how culture signifies, or what is signified by *culture*, a rather
complex issue. It becomes crucial to distinguish between the
semblance and similitude of the symbols across diverse cultural
experiences -- literature, art, music ritual, life, death -- and the
social specificity of each of these productions of meaning as they
circulate as signs within specific contextual locations and social
systems of value. The transnational dimension of cultural
transformation -- migration, diaspora, displacement, relocation -
- makes the process of cultural translation a complex form of
signification. The natural(ized), unifying discourse of 'nation',
'peoples', or authentic 'folk' tradition, those embedded myths of
culture's particularity, cannot be readily referenced. The great,
though unsettling, advantage of this position is that it makes you
increasingly aware of the construction of culture and the
invention of tradition (Bhabha, 1994, 172).

Bhabha's views illustrate the difficulty in determining the constituents of

culture by imposing upon them ordered notions of national ideals or

positioning cultural experience in relation to specific cultural forms.

Culture and Postcolonial Nationalism

According to Bhabha, the postcolonial perspective

attempts to revise those nationalist or 'nativist' pedagogies that set up the relation of Third World and First World in a binary structure of opposition. [It] resists the attempt at holistic forms of social explanation. It forces a recognition of the more complex cultural and political boundaries that exist on the cusp of these often opposed political spheres. It is from this hybrid location of cultural value--the transnational and the translational--that the postcolonial intellectual attempts to elaborate a historical and a literary project (Bhabha, 1994, 173).

If culture can be viewed as translational, as Bhabha suggests, it is

problematic when one considers the position of cultural nationalists and the

community of the arts and cultural industries. For them, culture is particular

to the Canadian experience; the Canadian experience must be seen to be

identifiable in the cultural products that can be consumed on the

international market. Cultural products cannot become generic in their

identification, the value is inherently in the source, in being able to

distinguish cultural products by origin. But, as Bhabha argues,

[i]f we contest the 'grand narratives', then what alternative temporalities do we create to articulate the differential (Jameson), contrapuntal (Said), interruptive (Spivak) historicities of race, gender, class, nation within a growing transnational culture? Do we need to rethink the terms in which we conceive of community, citizenship, nationality, and the ethics of social affiliation? (Bhabha, 1994, 174)

Bhabha continues:

Current debates in postmodernism question the cunning of
modernity--its historical ironies, its disjunctive temporalities, its
paradoxes of progess, its representational aporia. It would
profoundly change the values, and judgements, of such
interrogations, if they were open to the argument that
metropolitan histories of civitas cannot be conceived without
evoking the savage colonial antecedents of the ideals of civility.
It also suggests, by implication, that the language of rights and
obligations, so central to the modern myth of a people, must be
questioned on the basis of the anomalous and discriminatory
legal and cultural status assigned to migrant, diasporic, and
refugee populations. Inevitably, they find themselves on the
frontiers between cultures and nations, often on the other side
of the law (Bhabha, 1994, 175).

The postcolonial perspective forces us to rethink the profound
limitations of a consensual and collusive 'liberal' sense of
cultural community. It insists that cultural and political identity
are constructed through a process of alterity. Questions of race
and cultural difference overlay issues of sexuality and gender
and overdetermine the social alliances of class and democratic
socialism. The time for 'assimilating' minorities to holistic and
organic notions of cultural value has dramatically passed. *The
very language of cultural community needs to be rethought from
a postcolonial perspective....Culture becomes as much an
uncomfortable, disturbing practice of survival and
supplementarity -- between art and politics, past and present, the
public and the private -- as its resplendent being is a moment of
pleasure, enlightenment or liberation. It is from such narrative
positions that the postcolonial prerogative seeks to affirm and
extend a new collaborative dimension, both within the margins of
the nation-space and across boundaries between nations and
peoples* (emphasis mine) (Bhabha, 1994, 175).

Bhabha's theories have been applied to the Canadian experience by

Sherry Simon (1996), who considers the concept of cultural identity in

relation to issues of unity and belonging within Quebec. Simon writes of the

complexity of

> the imbrication of culture into the very rationality of the political and economic spheres of contemporary life. This collusion between the State and culture is characterized by increasing confusion between the citizen, the consumer and the cultural subject.... Nationalist themes are used in corporate advertising, artists are touted as an economic resource and as entrepreneurs, corporations sponsor cultural events, ministries dictate the grant in aid logic which allows cultural products to be created and marketed. This increasing interpenetration of realms makes it difficult to clearly draw a line separating issues of citizenship from those of culture.....There is an increasing distance between the political discourses of identity, which treat cultural belonging as an unproblematic fact which emerges out of the necessities of the past, and the mobilities and uncertainties of contemporary identities, created through contacts which disturb path[s] of linear, historical filiation, travelling instead along surface networks of desire (Simon, 1996, 122-123).

Simon questions the meaning of belonging to a cultural group, and of

having a cultural identity. She concludes that

> [t]oo often, cultural identity is defined as a kind of bubble which encircles and entraps an individual in a total coherence of meaning. That is, each culture is understood as a total universe of references and behaviours, when in fact the reality of culture in the world today has a lot more to do with dialogue, interaction, and movement....We must do away with the idea of 'cultural diversity' as the 'separation of totalized cultures, pre-given cultural contents and customs held in a time-frame of relativism' that gives rise to liberal notions of multiculturalism, cultural tolerance and exchange, 'that live unsullied by the intertextuality of their historical locations, safe in the utopianism of a mythic memory of a unique collective identity' (Simon, 1996, 126).

Utilizing Bhabha's interpretation of the notions of culture, Simon

writes:

> The migrant lives in a hybridized space of negotiation, where
> cultural identity is not an immobile thing but rather a
> transaction, in constant movement. But this translational
> identity is not exclusive to the immigrant or to the migrant. The
> dilemmas of translation remind us that meaning is never
> immediate, that every act of language carries the possibility of
> different interpretations, that we are always in some ways
> outside of ourselves. Local cultures today are in constant
> interaction with the vectors of global culture....All identity can
> be understood as translational, as engaged in negotiation
> between a plurality of worlds (Simon, 1996, 127).

Writing on Quebec, Simon describes the "cultural boundary-crossings

enacted in [the] cultural productions [of Quebec artists and writers]....[that]

speak of the contradictory and transitional identities of contemporary

Montreal" as "mobile frontiers of culture" from which "we should envisage the

possibility of citizenship in the political community of Quebec" (Simon, 1996,

129).

Simon views the Canada/Quebec relationship in the same way that we

might view that of Canada and the U.S.

> Quebec culture exhibits all the paradoxes of a border culture, a
> contact zone, where influences from its English-speaking
> neighbours are constant and numerous. Border cultures have to
> erect strong fences in order to maintain their specificity; in
> Quebec that fence has been the French language. On one level,
> the desire to protect the language from invasive outside
> influences has resulted in an ideology of linguistic protectionism,

which has included a distrust of translation as a means of nourishing cultural creativity. On other levels, however, contact with English and other languages has been a vital source of creative engagement (Simon, 1996, 127).

Raymond Breton (1984) considers societies, and thus identity, to be

formed partly through

> the construction of a symbolic order [that] entails, first, the definition of a collective identity which, with time, becomes articulated in a system of ideas as to who we are as a people. This identity is represented in the multiplicity of symbols surrounding the rituals of public life, the functioning of institutions, and the public celebration of events, groups, and individuals (Breton, 1984, 125).

Further, Breton cites numerous researchers from Mead (1934) to Gusfield

(1981) who concur that

> there is an interdependence between the individual and collective processes of identity formation. Thus, individuals expect to recognize themselves in public institutions. They expect some consistency between their private identities and the symbolic contents upheld by public authorities, embedded in the societal institutions, and celebrated in public events. Otherwise, individuals feel like social strangers; they feel that the society is not their society" (Breton, 1984, 125).

The fundamental assumptions that people develop about their sense of

"belonging" to their society emerge from these expectations.

Nationalism

Many scholars have analyzed nationalism, but no particular consensus

occurs in their interpretations. Anthony Smith (1971) wrote of the

"comparative lack of sociological interest and research" in the field of nationalism (1971, 3), a condition that apparently prevails today. Walker Connor (1992) expressed frustration at the "slipshod and inconsistent terminology [that] remain the bane of the study on nationalism" which, he claims, "has even precluded a realistic assessment of the magnitude of nationalism's revolutionary potentiality" (Connor, 1992, 48). Philip Schlesinger (1987) discovered a void in recent literature in the field of communication and cultural studies concerning analysis of the role of cultural processes in constructing national identity, and all but dismisses such terms as "cultural identity" and "national culture" as "so many useful handles [that] offer respectability and brand identification for...politico-economic projects in the cultural domain" (Schlesinger, 1987, 219). Nor did he find "[a] single explicit theorization" on national identity (Schlesinger, 1987, 220).

The following summarizes the most common features of nationalism. At its core, nationalism is an aggressive movement, an ideology, that expresses and reinforces social affiliations and secures political objectives (Smith, 1971, 3-5). Anthony Birch (1989) considers nationalism to be primarily based on and motivated by political ideology relating to the self-government of a nation (Birch, 1989, 4). Smith (1971) describes it in broader terms as "a distinct ideological variety of social and political movement"

which can be analyzed in terms of its relationship to cultural, economic, and social modernisation (Smith, 1971, 6). Others (Shafer, 1982; Connor, 1992; Ma, 1992) define it as powerful, emotional feelings of loyalty, patriotism and devotion to a nation. A. W. Orridge (1981) argues that nationalism cannot be confined to a single definition; the varieties of emerging nationalisms that have been adapted from earlier eighteenth and nineteenth century European models of nation-states prove that it is multi-dimensional, malleable, and widespread.

Some theorists divide nationalism into those that are political, economic, or cultural in origin and development (Shafer, 1982, 26). Boyd Shafer concludes that all nationalisms have both political and cultural aspects "because politics are a part of every people's culture" (Shafer, 1982, 26). Birch supports Shafer's position, but suggests that the dominant element of nationalism is political because it is the governing factor behind sociological, cultural, and institutional constructs and processes that influence national identity. "The pure theory of nationalism supposes the existence of nations before they acquire political expression, but in reality nations have to be created by a process which is at least partly political" (Birch, 1989, 7-8).

Birch notes that nationalism has a number of loose connotations relating to "loyalty to the state", or patriotism; "the belief that one's own

culture and civilization are superior to all others", more accurately called

chauvinism; or ambiguous "feelings of national identity". He views

nationalism in more precise terms, as:

> a political doctrine about the organization of authority....[that] is
> generally expressed in terms that are specific to particular
> communities, but it can and should also be expressed in terms
> of a general theory about good government (Birch, 1989, 5).

The problems of ambiguity arise, Birch observes, because "proponents of

nationalism [resting on the generalized belief that a society with a distinct

language and civilization is entitled to govern itself] have tended to be more

parochial", and because of "the extreme difficulty of defining the social unit

which, according to nationalist principles, is entitled to govern itself" (Birch,

1989, 5).

Birch also cautions that nationalism should not be linked with other

contemporary doctrines that produce categories such as conservative

nationalism, liberal nationalism and socialist nationalism (1989, 7). He

writes:

> nationalism is a doctrine about the proper relationship between
> society and the political regime which can be held
> simultaneously with any one of the various doctrines about the
> proper extent and nature of government policies. People are not
> conservative nationalists or liberal nationalists; they are
> nationalists who may happen also to be either conservatives or
> liberals (Birch, 1989, 4-5, 7).

Shafer (1982) stresses the emotional, sentimental elements of patriotic

loyalty to one's country as being of equal relevance to social, cultural, and

political criteria. This is apparent in ten concepts which he ascribes to the

meaning of nationalism:

1. A certain defined territory or land;
2. Some common cultural characteristics such as language, customs, manners, and literature;
3. Some common dominant social (e.g. Muslim or Christian) and economic (e.g. capitalist or communist) institutions;
4. A common independent or sovereign government;
5. A shared belief in a common history and often a common ethnic origin, often mistakenly believed to be racial in character. The common past may be, and often is, invented or imagined.... [N]ationalists share the history of national achievements and the shame of national failures or defeats. These beliefs strengthen the feelings of identity.
6. A love or esteem for fellow nationals...in general rather than as individuals in particular.
7. A devotion to the entity, however little comprehended, called the nation, which embodies and symbolizes the common territory, culture, social and economic institutions, and government;
8. A shared common pride in the achievements, often the military more than the cultural, of this nation and a common sorrow for its tragedies, even its defeats.
9. A shared disregard for or hostility to other, though not necessarily all, nations, especially if these seem to threaten the national interests or the separate national existence of the nation.....
10. A shared hope that the nation will have a safe and happy future (Shafer, 1982, 161-163).

The themes of shared beliefs, common association, and mutual

histories reflect the social, cultural, and political conditions necessary for

nationalism to exist, but nationalism can be viewed both as a doctrine or

ideology, and as the process of its implementation--from political ideology, to

the formation of a society, to establishing and exercising policy that reaffirms the ideology within the society. The result, whether promising or damaging, is that particular groups construct cultural and political boundaries about themselves which are reflected in terms of "nation", "nation-state", and "national identity". I will consider some problems that arise in defining these terms.

Nations and Nation-States

Shu-Yun Ma (1992) agrees with Connor's premise that "loyalty to the nation [is] the most essential element of nationalism" (Ma, 1992, 302). Ma distinguishes between ideal nation-states, multinational states, and state-nations, and emphasizes that "state" and "nation" are not interchangeable:

> while state is a legal and political concept, nation is a cultural one (Ma: 1992, 294).

Hugh Seton-Watson (1977) stipulated that the state has "the power to require obedience and loyalty from its citizens" but the nation is considered as an entity to which people belong in a voluntary sense. (Ma, 1992, 294). Going further, Ma differentiates between "nation-state" and "state-nation":

> the states in the former are formed after nations, whereas in the latter the sequence is just the reverse....Geographically, nation-states are those [in] which boundaries of states and nations are more or less coterminous....In the ideal nation-state, there is a one-to-one perfect match between the nation and the state....Many other nation-states...[consist] of more than one

nation [and can be called] multinational states.....State-nations...[are those] in which there were only tribes or ethnic groups but no nations at the time of state-formation (Ma: 1992, pp. 294, 299).

If these terms are somewhat confusing, Ma, (writing in 1992) points out that only 19 states (such as Japan, Denmark and Iceland) out of the 164 in the world fit the criteria of ideal nation-state. Many more nation-states consist of more than one nation (1992, 295).

For example, within the legal and political "state" of Canada, more than one nation can conceivably exist, provided it is defined exclusively in cultural rather than political terms. The provinces may be considered as states having specific jurisdiction within the larger state of Canada, but they are not nations because the cultural parameters extend beyond their defined territorial limits. Quebec, on the other hand, having asserted its positions with respect to cultural distinctiveness and greater autonomy, could be described as a nation with the potential to become an ideal nation-state. Canada, using Ma's terms, can be considered a multinational-state, taking into consideration both Quebec and the native peoples.

Smith (1971) described the nation-state as "the almost undisputed founder of world order, the main object of individual loyalties, the chief definer of [one's] identity. It is far more significant for the individual and for world security than any previous type of political and social organisation....it

has become an indispensable prop in our thinking" (Smith, 1971, 2-3). Thus

the state, as a politically-constituted entity, governs the individuals who

comprise the nation, that is, the voluntarily-organized collective of those

individuals who inhabit the territory legally defined and claimed by the state.

Birch defines "nation" as "a society which either governs itself today, or

has done so in the past, or has a credible claim to do so in the not-too-distant

future" (Birch, 1989, 6). He recognizes three groups of concepts that

influence the meaning of "nation", with the following characteristics:

Sociological Concepts	Cultural Concepts	Institutional Concepts
Family	Religion	Municipality
Clan	Language	Country
Tribe	Literature	Province
Community	Culture	State
Society	Civilization	Empire

(Birch, 1989, 6)

Birch's list is useful as a point of departure in considering national identity

since it conveys the basis of experience between the individual and his or her

community. I would add education to the list of cultural concepts, because it

is also a significant social and cultural instrument for transmitting knowledge

between generations that reinforces identity.

National and Cultural Identity

Defining terms such as national identity or cultural identity proves equally daunting to theorists. Schlesinger considers various theoretical interpretations of collective identity, including those of Oriol and Igonet-Fastinger (1984), that "identity" implies

> a pressing invitation to a dialectic: that of always situating 'us' in relation to 'them', the lived experience in relation to the institutionalised one, the present in relation to history, all of these prescriptions immediately calling forth a reciprocal effort (Schlesinger, 1987, 235).

Schlesinger also refers to La Pierre's (1984) work on related collective identity which the author ascribed "to a collective memory through which the contemporary group recognises itself through a common past, remembrance, commemoration, interpretation and reinterpretation" (Schlesinger, 1987, 235). La Pierre also noted that the paradox of a collective memory is that it is often selective, particularly at the hands of the historians (Schlesinger, 1987, 235).

Schlesinger concludes that identity has dynamic and flexible applications, and he argues that "'national identity' is best understood as a specific form of collective identity" (Schlesinger, 1987, 236). From Alberto Melucci's (1982) research on social movements, and in particular, the "concept of identity...[as] a theory of action which explains the formation and activities of groups" (1987, 236), Schlesinger extracts three factors which he

considers relevant to individual and collective identity. First, identity is permanent in time; second, it establishes unity between subjects or objects within distinguishable limits; and third, it recognizes identical features between two elements (Schlesinger, 1987, 237). Melucci considered an "identity crisis" to have occurred when "a given configuration in time and in space" could no longer be maintained (1987, 237).

Schlesinger considers the characterization of nations through the integrative role of communication (1987, 237) and again notes a lack of resources that apply communication theory directly to theories on nationalism, or the reverse. However, he discovers political theorists who have considered the concept of "collective political identity" (1987, 239). A summary of the works of W. J. MacKenzie (1978) and Karl Deutsch (1966) combines the former's ideas on "social communication", with the latter's theory that " 'the essential aspect of the unity of a people...is the efficiency of communication among individuals--something that is...similar to mutual rapport, but on a larger scale'" (Schlesinger, 1987, 240-241). MacKenzie suggests that "the linking of communities in a selective way by mass media" constitutes a "shared social space" or "network", and he argues that "those who share a network share an identity" (Schlesinger, 1987, 240).

In other words, an important, unifying feature of a society is its ability to establish integrated networks of communication among its regions. These

networks then facilitate the interpretation of cultural dimensions of a

particular community to another to the extent that each understands the

other to embody similar attributes and entrenched values. For example,

Mary Vipond (1989) writes that the 1988 Broadcasting Act charged the CBC

"with providing radio and television services incorporating a wide range of

programming...and creating programming that is 'predominantly and

distinctively Canadian' and contributes to 'shared national consciousness and

identity.' The 1988 Act was...more specific...as to the regional, multicultural

and linguistic minority services the CBC should provide...." (Vipond, 1989,

151). She observes, however, the potential for conflict between culture and

competition: "While charged with the cultural responsibility of nation-

building, [the CBC] is only one part of an otherwise commercially oriented

system, within which it must compete for audiences, money and credibility"

(1989, 151). Taking into account Deutsch's "functional" theory concerning

effective communication among a national community, Vipond contemplates

the validity of this agenda when she considers that

> [the] current state of our mass media, largely Canadian-owned
> but filled with American content, can best be understood as the
> product of the tensions within and between these two Canadian
> idea systems, the myth of communications and the ideology of
> liberal individualism (Vipond, 1989, xi).

Smith observed the continuity in specific criteria that comprised a

nation-state when he surveyed the members of the United Nations; "each

possesses its flag, anthem, administration, educational system, army, judicial

system, legislature, citizenship rights, founding myth and constitution,

coinage and capital" (Smith, 1971, 2). The amalgamation of these entities

occurs in the process of national integration, which Birch describes as the

practical organization of communities "which possessed a fairly clear sense of

separate identity in the past but have been brought together by various

economic, social and political developments" (Birth, 1989, 8).

Four essential steps in this process are:

1.   the creation of symbols of national identity, such as a
      head of state, a flag and a national anthem;
2.   the establishment of national political institutions which
      bring all citizens under the same laws and are also seen to
      be representative of the various sections of society;
3.   the creation of an educational system which gives
      children a sense of national identity, teaches them about
      their common history, and (directly or indirectly)
      inculcates patriotism; and
4.   the development of national pride. If people are to feel
      that their country is worth special sacrifices they have to
      feel that it embodies special virtues (Birch, 1989, pp. 9-
      10).

These are factors which would tend to generate loyalty among the dominant

group in the nation, but which would have the reverse effect of isolating

cultural minorities (Birch, 1989, 11-12), particularly when we recall that Ma

considers loyalty to be instrumental in analyzing the degree of integration of

nations with the state (Ma, 1992, 298). In Birch's view, "the main obstacle to

the development of national integration is the existence of ethnic or cultural

minorities within the state who resist integrative tendencies" (Birch, 1989, 10).

Orridge articulates one of the problems of nationalism when he states:

> If the nationalistic image of the world were reflected in political reality, the map would consist of states based on culturally distinctive groups occupying homogeneous, compact and mutually exclusive national territories (Orridge, 1981, 45).

The reality in Europe is that culturally distinct groups occur within larger populations through long histories of conquest and the geographic movement of people. This raises the question of the dialectical nature of nationalism as a mechanism of accommodation of culturally distinct groups or as a catalyst for conflict between them (a theme which has been considered previously by Ma (1992) and Birch (1989) in theoretical terms of integration). As Orridge states:

> For almost every nationality claiming independence and self-determination, there were smaller groups within the same area wanting continued association with the larger state to preserve their privileged position or at least restrain the excesses of the larger nationality. (Orridge, 1981, 46)

Orridge attempts to explain the widespread adoption of nationalism in its variety of forms by linking it to other developments of modern society such as "industrialization, science and technology, rapid communications, the involvement of the mass of the population in political life, and large-scale bureaucratic administration" (Orridge, 1981, 54). Two theories account for these connections. The first is a process of uneven regional industrial and

technological development that creates imbalance between more progressive groups which may establish themselves as nations. Nationalism, writes Orridge, "is the response of the less favoured areas as they assert their independence...or equality with the favoured areas and their right to share in the benefits of modernity" (1981, 55). The second theory links nationalism and modernization to social cohesion. That is, the constituent units that comprised nation-states which preceded our own were those of institutions rather than individual citizens. In medieval Europe, for example, "manors, monasteries, guilds, towns, religious orders, [and] nobilities... defined the position and...personal identity of the individual....There was no need for any widespread sense of common identity among the whole population" (1981, 55-56). Modern society reflects the degree to which "industrialization and urbanization", "geographical and social mobility" have reversed the roles of institutions and mass population. By appealing to a sense of identity, the state can ensure itself of the political loyalty of its constituents. Further, identity provides a sense of stability for individuals in a constantly changing world (1981, 56). Social cohesion, then, is a reflection of collective identity that "ties the population to the state" (1981, 56).

For a nation to exist, must there exist a national consciousness, a component in the imagination (imag[e]/i/nation) of the people, that transcends regional or cultural particularities and coalesces as an holistic

community within a broader spatial and temporal landscape? Bhabha

describes an inherent "tension" in articulating the nation in time and space:

> the reference to a 'people'--from whatever political or cultural
> position it is made--[turns] into a problem of knowledge that
> haunts the symbolic formation of modern social authority. The
> people are neither the beginning nor the end of the national
> narrative; they represent the cutting edge between the totalizing
> powers of the 'social' as homogeneous, consensual community,
> and the forces that signify the more specific address to
> contentious, unequal interests and identities within the
> population (Bhabha, 1994, 146).

This "cutting edge" represents an inherent instability in an ideological view of

the nation. Bhabha queries, "How do we articulate cultural differences

within this vacillation of ideology in which the national discourse also

participates, sliding ambivalently from one enunciatory position to

another?....What might be the cultural and political effects of the liminality of

the nation, the margins of modernity, which come to be signified in the

narrative temporalities of splitting, ambivalence and vacillation?" (Bhabha,

1994, 146).

> Deprived of that unmediated visibility of historicism -'looking to
> the legitimacy of past generations as supplying cultural
> autonomy'--the nation turns from being the symbol of modernity
> into becoming the symptom of an ethnography of the
> 'contemporary' within modern culture. Such a shift in
> perspective emerges...in the tension between signifying the
> people as an a apriori historical presence, a pedagogical object;
> and the people constructed in the performance of narrative, its
> enunciatory 'present' marked in the repetition and pulsation of
> the national sign. The pedagogical founds its narrative authority
> in a tradition of the people...as a moment of becoming

designated by *itself*, encapsulated in a succession of historical moments that represents an eternity produced by self-generation. The performance intervenes in the sovereignty of the nation's *self-generation* by casting a shadow *between* the people as 'image' and its signification as a differentiating sign of Self, distinct from the Other of the Outside (Bhabha, 1994, 147-8).

Bhabha concludes that "we are confronted with the nation split within itself, articulating the heterogeneity of its population....becom[ing] a liminal signifying space that is *internally* marked by the discourses of minorities, the heterogeneous histories of contending peoples, antagonistic authorities and tense locations of cultural difference" (Bhabha, 1994, 148).

Once the liminality of the nation-space is established, and its signifying difference is turned from the boundary 'outside' to its finitude 'within', the threat of cultural difference is no longer a problem of 'other' people. It becomes a question of otherness of the people-as-one. The national subject splits in the ethnographic perspective of culture's contemporaneity and provides both a theoretical position and a narrative authority for marginal voices or minority discourse (Bhabha, 1994, 150).

Bhabha refers to Foucault's view that "people emerge in the modern state as a perpetual movement of 'the marginal integration of individuals'" (Bhabha, 1994, 150). According to Foucault,

the 'reason of state' in the modern nation must be derived from the heterogeneous and differentiated limits of its territory. The nation cannot be conceived in a state of *equilibrium* between several elements co-ordinated and maintained by a 'good' law.
[Foucault states:] Each state is in permanent competition with other countries, other nations...so that each state has nothing before it other than an indefinite future of struggles. Politics has now to

> deal with an irreducible multiplicity of states
> struggling and competing in a limited history...the
> State is its own finality (Bhabha, 1994, 151).

Foucault considers the main characteristic of the modern nation, "of our political rationality, is the fact that this integration of the individuals in a community or in a totality results from a constant correlation between an increasing individualisation and the reinforcement of this totality....[M]odern political rationality is permitted by the antinomy between law and order" (Bhabha, 1994, 152).

Bhabha also refers to Fanon's position that "[c]ulture abhors simplification" (Bhabha, 1994, 152).

> [Fanon] tries to locate the people in a performative time: 'the fluctuating movement that the people are *just* giving shape to'. The present of the people's history, then, is a practice that destroys the constant principles of the national culture that attempt to hark back to a 'true' national past, which is often represented in the reified forms of realism and stereotype. Such pedagogical knowledges and continuist national narratives miss the 'zone of occult instability where the people dwell' (Fanon's phrase). It is from this *instability* of cultural signification that the national culture comes to be articulated as a dialectic of various temporalities--modern, colonial, postcolonial, 'native'--that cannot be a knowledge that is stabilized in its enunciation: 'it is always contemporaneous with the act of recitation. It is the present act that on each of its occurrences marshals in the ephemeral temporality inhabiting the space between the "I have heard" and "you will hear"(Bhabha, 1994, 152).

Bhabha also considers Julie Kristeva's feminist exploration of the

nation

> as a symbolic denominator,....a powerful repository of cultural
> knowledge that erases the rationalist and progressivist logics of
> the 'canonical' nation....The borders of the nation...are
> constantly faced with a double temporality: the process of
> identity constituted by historical sedimentation (the
> pedagogical); and the loss of identity in the signifying process of
> cultural identification (the performative). The time and space of
> Kristeva's construction of the nation's finitude is analogous to
> [Bhabha's] argument that the figure of the people emerges in
> the narrative ambivalence of disjunctive times and meanings
> (Bhabha, 1994, 153).

According to Bhabha, both Fanon and Kristeva "seek to redefine the

symbolic process through which the social imaginary -- nation, culture or

community -- becomes the subject of discourse, and the object of psychic

identification....Cultural identification is then posed on the brink of what

Kristeva calls the 'loss of identity' or Fanon describes as a profound cultural

'undecidability'" (Bhabha, 1994, 153-4). The result, Bhabha argues, is that

> [t]he language of national collectivity and cohesiveness is now
> at stake. Neither can cultural homogeneity, or the nation's
> horizontal space be authoritatively represented within the
> familiar territory of the *public sphere*....The narrative of national
> cohesion can no longer be signified, in [Benedict] Anderson's
> words, as a 'sociological solidity' fixed in a 'succession of *plurals*'
> -- hospitals, prisons, remote villages -- where the social space is
> clearly bounded by such repeated objects that represent a
> naturalistic, national horizon (Bhabha, 1994, 154).

In exploring this unstable social and temporal space, Bhabha

juxtaposes Fanon's "critique of the fixed and stable forms of the nationalist

narrative" (Bhabha, 1994, 152) and Kristeva's "critique and redefinition of the

nation as a space for the emergence of feminist political and psychic

identifications" (Bhabha, 1994, 153). For Fanon and Kristeva, "postcolonial

time questions the teleological traditions of past and present, and the

polarized historicist *sensibility* of the archaic and the modern" (Bhabha, 1994,

153). Fanon and Kristeva "seek to redefine the symbolic process through

which the social imaginary -- nation, culture or community -- becomes the

subject of discourse, and the object of psychic identification ....[and] force us

to rethink the sign of history *within* those languages, political or literary,

which designate the people 'as one'" (Bhabha, 1994, 153).

Bhabha points to the "ideological ambivalence" of nationalism and

challenges "the nation's claim to modernity, as an autonomous or sovereign

form of political rationality" (Bhabha, 1995, 176). He raises the question of

the authenticity of nationalism in his affirmation of

> Gellner's paradoxical point that the historical necessity of the
> idea of the nation conflicts with the contingent and arbitrary
> signs and symbols that signify the effective life of the national
> culture. The nation may exemplify modern social cohesion but
> [quoting Gellner:]
>> Nationalism is not what it seems, and above all not
>> what it seems to itself....The cultural shreds and
>> patches used by nationalism are often arbitrary
>> historical inventions. Any old shred would have
>> served as well. But in no way does it follow that
>> the principle of nationalism...is itself in the least
>> contingent and accidental (Bhabha, 1995, 176).

"The problematic boundaries of modernity are enacted in these ambivalent

temporalities of the nation-space", Bhabha writes.

> The language of culture and community is poised on the fissures
> of the present becoming the rhetorical figures of a national
> past....To write the story of the nation demands that we
> articulate that archaic ambivalence that informs modernity. We
> may begin *by questioning that progressive metaphor of modern*
> *social cohesion --the many as one--shared by organic theories of*
> *the holism of culture and community, and by theorists who treat*
> *gender, class, or race as radically 'expressive' social totalities*
> (emphasis mine) (Bhabha, 1995, 177).

Bhabha considers Benedict Anderson's views on the nation-state in

(Anderson's) Imagined Communities (1983) where the author concludes that

> the narrative of the modern nation can only begin....[b]y
> separating language from reality...[to enable] a national
> temporality of the 'meanwhile', a form of homogeneous empty
> time....Such a form of temporality produces a symbolic structure
> of the nation as 'imagined community' which....gives the
> imagined world of the nation a sociological solidity; it links
> together diverse acts and actors on the national stage who are
> entirely unaware of each other, except as a function of this
> synchronicity of time;...a form of civil contemporaneity realized
> in the *fullness* of time (Bhabha, 1995, 158).

The space of the arbitrary sign, its separation of language and
reality, enables Anderson to emphasize the imaginary or
mythical nature of the society of the nation....From the place of
the 'meanwhile', where cultural homogeneity and democratic
anonymity articulate the national community, there emerges a
more instantaneous and subaltern voice of the people, minority
discourses that speak...between times and places" (Bhabha,
1994, 158).

Having initially located the imagined community of the nation in
the homogeneous time of realist narrative, towards the end of
his work Anderson abandons the 'meanwhile' - his pedagogical

temporality of the people. In order to represent the people as a performative discourse of public identification, a process he calls 'unisonance', Anderson resorts to another time of narrative. Unisonance is 'that special kind of contemporaneous community which language alone suggests',....[that] 'looms up *imperceptibly* out of a horizonless past'.... (Bhabha, 1994, 159).

It is at this point in the narrative of national time that the unisonant discourse produces its collective identification of the people, not as some transcendent national identity, but in a language of doubleness that arises from the ambivalent splitting of the pedagogical and the performative....In embedding the *meanwhile* of the national narrative, where the people live their plural and autonomous lives within homogenous empty time, Anderson misses the alienating and iterative time of the sign....The 'meanwhile' turns into quite another time, or ambivalent sign, of the national people. If it is the time of the people's anonymity it is also the space of the nation's anomie (Bhabha, 1994, 159).

[T]his anteriority of signification as a position of social and cultural knowledge, this time of the 'before' of signification ...has its own national history in Renan's 'Qu'est ce qu'une nation?'....In Renan's argument the pedagogical function of modernity - the will to be a nation - introduces into the enunciative present of the nation a differential and iterative time of reinscription....Renan argues that the non-naturalist principle of the modern nation is represented in the *will* to nationhood - not in the prior identities of race, language or territory. It is the will that unifies historical memory and secures present-day consent. The will is, indeed, the articulation of the nation-people:

> [Renan:] A nation's existence...a daily plebiscite, just as an individual's existence is a perpetual affirmation of life....The wish of nations is, all in all, the sole legitimate criteria, the one to which one must always return (Bhabha, 1994, 160).

Bhabha raises the question:

Does the will to nationhood circulate in the same temporality as the desire of the daily plebiscite? Could it be that the iterative

plebiscite decentres the totalizing pedagogy of the will? Renan's will is itself the site of a strange forgetting of the history of the nation's past' the violence involved in establishing the nation's writ. It is this forgetting - the signification of a minus in the origin - that constitutes the *beginning* of the nation's narrative....It is through this syntax of forgetting - or being obliged to forget - that the problematic identification of a national people becomes visible. The national subject is produced in that place where the daily plebiscite - the unitary number - circulates in the grand narrative of the will....To be obliged to forget - in the construction of the national present - is not a question of historical memory; it is the construction of a discourse on society that *performs* the problem of totalizing the people and unifying the national will (Bhabha, 160-1).[24]

In Bhabha's view, Anderson "fails to locate the alienating time of the

arbitrary sign in his naturalized, nationalized space of the imagined

community....[H]e misses that profound ambivalence...deep within the

utterance of the narrative of modernity....[where] the pedagogies of life and

will contest the perplexed histories of the living people, their cultures of

survival and resistance...." (Bhabha, 1994, 161).

Some of the foregoing views are synthesized in Anthony D. Smith's

(1990) work, "The Supersession of Nationalism", which I include here. Smith

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[24]

A view similar to Renan's position is expressed in a statement made by Pierre Trudeau on November 24, 1976, two weeks after the first Quebec referendum: "Our forefathers willed this country into being....Times, circumstance and pure will cemented us together in a unique national enterprise, and that enterprise, by flying in the face of all expectations, of all experiences, of all conventional wisdom, that enterprise provides the world with a lesson in fraternity. This extraordinary undertaking is so advanced on the road to liberty, so advanced in the way of social justice and of prosperity, that to abandon it now would be to sin against the spirit, to sin against humanity" (Olive, NP, Oct 27/98, A18).

considers it is only a remote possibility that the power of nationalism can be displaced by a more consuming, global culture that is both temporal and transient. He perceives the term "global culture" as a contradiction (Smith, 1990, 6). "What we have today in the West is a foretaste of the global pattern to come: a pastiche of cultural styles, beneath a veneer of American modernism, underpinned by a common "technical" and "scientific" discourse....[S]uch a 'global culture' possesses three characteristics which are, or seem to be, truly novel: it seems universal, timeless and technical" (Smith, 6). But Smith points out that cultures of the ancient worlds, the Hellenistic and Roman, and the Islamic and Christian cultures of the middle ages, which we perceive to be universal, were not

> in the sense that they had no connections with particular places or specific origins or special myths and symbols. On the contrary, they had become diffused from particular places and origins and carried with them...their special symbolism and mythology....Such cultures, too, were generally carried on the backs of conquering armies, and are therefore unlike the 'universal' culture of the modern world (Smith, 6-7).

According to Smith, "global culture" is timeless,

> in the sense that the mass commodity standardised culture of modernity is historically shallow; it is bereft of 'roots' in any specific past, being a ceaseless pursuit of the elusive present. In that sense, too, it is anti-national; for we can only imagine the nation, as Anderson has illustrated, in an empty, homogenous time. But this global culture imagines itself in panoramic space, but not in time, and without sequence [both of which are irrelevant]....(Smith, 1990, 7).

Global culture is "pre-eminently technical", Smith continues:

> Its use of folk elements is without any emotional commitment.
> Its pastiche is playful, but calculated....[T]he cosmopolitan
> culture reflects its technological base, the myriad overlapping
> communications systems that create networks of
> interdependence and the discourse of technical and quantitative
> elements in which it expresses itself. For this reason, it is
> manned and operated...by an increasingly technical
> intelligentsia, which replaces the human intelligentsia of a
> nationalist world, and whose culture of technical discourse
> replaces the critique of its humanistic counterparts" (Smith,
> 1990, 7).

Smith summarizes these views: "A global culture is memory-less, and

the attempt to enforce it merely evokes the plurality of memories that

compose particular identities the more intensely. The domain of 'culture' has

its own properties that cannot be reduced to any structural base in the

project of superseding national cultures with a cosmopolitan culture of

telecommunications networks" (Smith, 1990, 9).

Ryan's (1989) views on hegemony are useful in closing this analysis.

He cites Gramsci's notion of hegemony "which names domination by

consensus rather than by coercion, through culture rather than through the

exercise of force" as "a crucial concept for cultural studies" (Ryan, 1989, 18).

Ryan considers two forms of hegemony:

> [The first] is in fact itself a kind of resistance....an attempt by
> holders of power to keep [internal] threats stabilized and
> pacified....[W]hat we understand as domination consists of an
> actual position or site of power, but it also consists of a
> deflection of threats that constitute an altogether different kind.

> And this second dimension of domination is reconceptualized within the post-structuralist framework as being itself a form of resistance....[Here,] hegemony instead appears as a response to the potential threat to domination posed by those under subordination, and the threat is precisely that they represent a potentially much more powerful force (Ryan, 1989, 19).

In summary, it is apparent that the nation-state will survive into our future, but its form will undoubtedly change as a result of globalization. Drezner points out that "[t]heoretically, the economic and cultural forces unleashed by globalization impose new constraints on countries, but not a straight-jacket. Globalization also creates new strategies and roles for the nation-state" (Drezner, 1998, 218). Nor is Drezner worried about the cultural homogenization of Barber's McWorld;

> Barber's evidence consists of anecdotes, film revenue reports, and rock lyrics," "movies and MTV," "none of which proves his theory that capitalism erodes democracy....[Barber] describes a thin gruel of global culture but ignores the richer cultural stew that all countries, the United States included, possess. In describing the aspects of culture that can move across boundaries, he fails to realize that much of what defines culture is immobile (Drezner, 1998, 219).

In this chapter, I reviewed current interdisciplinary theory in Canadian and cultural studies pertaining to globalization, nationalism, sovereignty, culture, identity, and hegemony. In the next chapter, these theoretical views will be utilized to position Canada's present and potential approaches to constructing its cultural policy framework, within the contexts of cultural nationalism and cultural cohesion.

CHAPTER FOUR

The Shift Toward Cultural Cohesion: New Perspectives and Conclusions

In the previous chapters, I explored the rationale for cultural

nationalism in the contemporary environment of Canadian culture and

cultural policy-making, and within the theoretical environment of

modernism, post-modernism, and post-colonialism. As we have seen, at the

end of the twentieth century, the position of culture has been predominantly

subordinated in a global hierarchy that prioritizes economic growth. But the

conditions of globalization, in broadening access to international

marketplaces by reducing national protectionist barriers, are also challenging

contemporary perspectives on cultural boundaries and cultural production.

As a result, cultural diversity and human development are acquiring greater

priorities in international policy-making in government and non-government

organizations. But they are not yet in a position of equal consideration with

issues concerning economic development. The 1996 UNESCO Report stated

this succinctly:

> One of the most basic freedoms is to be able to define our own
> basic needs. This freedom is threatened by a combination of
> global pressures and global neglect. The international spread of
> cultural processes is at least as important as that of economic
> processes. The world-wide pressures of the so-called 'global'
> popular culture are powerful. They are often accepted, even
> welcomed, with alacrity and enthusiasm. The danger is that

they swamp other tastes and interests....Most people wish to participate in 'modernity', but in terms of their own traditions. The very existence of this Commission reflects the force of this demand (UNESCO, 1996, 15).

An approach which could be useful for Canada is found in the strategies being generated by European arts and cultural organizations to preserve cultural heritage and affirm cultural diversity. Their intentions, directed toward both the public and private sectors, are to achieve more cohesion and equity between cultural values and economic concerns. Motivations for these strategies can be traced to the increasingly hegemonic encroachment of American popular culture and the concomitant trends toward global monoculture.

The concept of cultural cohesion as a site for developing co-operative international principles for cultural policy appears to have practical applications for the Canadian cultural environment and in particular, Canada's current policy initiatives and proposals. The Council of Europe's 1997 Report from the European Task Force on Culture and Development, In from the margins, ("CU Report") identifies "three strategic goals for cultural support at intergovernmental level:"

> fostering democratic values and human rights, building confidence and mutual respect; and promoting awareness of the cultural community of the new Europe and its diversity. These are the prerequisites for cultural cohesion in Europe today and tomorrow. Of course, cohesion means something more than co-operation, although the latter is...essential....It also means

solidarity....It is sometimes feared that closer European contact may threaten national cultural autonomy, but this is by no means necessarily the case. Indeed global media developments are far more likely to have an impact on national and regional cultural specificity" (CU Report, 1997, 287).

The term "social cohesion" has been part of the discourse of cultural studies since at least 1981, when Orridge considers it, in relation to nationalism, as a reflection of collective identity that "ties the population to the state" (Orridge, 1981, 56). Bhabha also refers to social cohesion in terms of its "unifying" connotations with respect to nationalism, but in questioning "that progressive metaphor of modern social cohesion--*the many as one*--shared by organic theories of the holism of culture and community, and by theorists who treat gender, class or race as radically "expressive" social totalities" (Bhabha, 1995, 177), he raises doubts as to whether it serves as an authentic reflection of the nation or imposes excessive homogeneity. I would argue that the term "cultural cohesion" as it is considered by the CU has less pejorative connotations than what Bhabha and Orridge imply by social cohesion. Taking into account the CU's position, my view is that cultural cohesion refers to a strategy of integration and/or intersection between economic and social priorities in the development and application of international, unifying principles of cultural autonomy.

The CU Report is situated in an holistic approach to culture and is a deliberate departure from previous studies on cultural policy that had been

based on economic or sociological principles, which, the task force observed, "assume that decision makers will adopt rational grounds for policy over and above ideological and other constraints or vested interests" (CU Report, 19-21) The objective of the Task Force, was to develop

> a strategy which assesses the economic, social and political
> contexts from a cultural perspective, identifies some relevant
> trends in cultural policy and examines in detail how cultural
> activities and general economic and social policies interact with,
> and support each other (CU Report, 20).

Grounded in cultural rather than economic theory, In from the margins is an important text, not only because its authors recognized that theirs was "the first ever attempt to survey the European cultural scene in the context of development" but because it projects the role of culture and cultural identity as the key component of development and argues "that the task of government is to reposition culture at the heart of decision-making" (CU Report, 17, 21). The central themes of the Report are "two interlocking priorities--to bring the millions of dispossessed and disadvantaged Europeans in from the margins of society and *cultural policy in from the margins of governance*" (emphasis mine) (CU Report, 9).

The CU Report notes that historically, cultural policy development was founded on principles of identity, diversity, creativity, and participation in cultural life, principles that may no longer be adequate as western cultural influences become more pervasive. As a result, "a new fascination with the

local and with 'difference' has emerged. It is complemented by a trend known as 'glocalisation'....[which] is less a reaction against globalisation than a realisation by the multinational companies and other major international players that strategies for a global market must at one and the same time be international and local". "Glocalisation" is already evident as "principle[s] of harmonisation across the continent are balanced with subsidiarity and the encouragement of local and regional networking". As a result, "the dynamics of international cultural co-operation are undergoing fundamental change. From being government-sponsored and controlled from above, exchanges are becoming [increasingly] direct or horizontal--artist to artist, producer to producer...." (CU Report, 85). The Report makes many significant recommendations which reinforce the validity and practicability of cultural cohesion strategies. In my view, these strategies could be essential for Canada as it establishes an over-arching federal policy directive from which the various Ministries could operate unilaterally but also cohesively and without jeopardizing the key priorities of the individual ministerial portfolios.

A Canadian position which advances a similar argument to that of the CU Report is D. Paul Schafer's text, Canadian Culture: Key to Canada's Future Development (Shafer, 1995). The author advocates a "rejection of the official concept of Canadian culture" that traditionally has been described as "the arts, heritage and the cultural industries" in favour of a "more indigenous

and authentic" interpretation (Shafer, 1995, 4,5,11). Arguing that Canadians have struggled historically "to build a *culture*, not an economy," Schafer writes, "It is the fundamental purpose of Canadian development to create a culture which is comprehensive, coherent, cohesive, humane and contexted properly in the natural and historical environment" (Shafer, 1995, 58-59). While his text is less comprehensive than the CU Report, it supports the theoretical framework of the CU approach.

The CCA's Final Report of the Working Group on Cultural Policy for the 21st Century (1998) must also be noted as a source which makes recommendations, directed at the federal level, for cultural policy that is open, accountable, and transparent, yet is informed by the complexities of the relationships among Canadian creators and their audiences (CCA, 1998, 1B).

A further document that reinforces these strategies is the Australian Commonwealth's 1994 text on cultural policy, Creative Nation, the first such comprehensive cultural policy statement in its history. Its authors recognize that "What is distinctly Australian about our culture is under assault from homogenised international mass culture". Their recommendations consider all aspects of cultural creation and development, but a dominant theme is the critical role of government in enabling Australian culture to flourish both nationally and internationally. To that end, they argue that cultural policy

must not only extend to all areas of government but that a Ministry of Culture

must be established for that purpose and that it be recognized at the Cabinet

level. (Creative Nation, 1994, 1-2).

Kresl (1989) offers an alternative concept for cultural policy analysis

which he bases on mainstream economic theory and which he reappraises in

a later paper (Kresl, 1996, 223). Kresl's position

> suggests a rationale...for an activist cultural policy, especially for
> a smaller state....[It develops] an approach...to analyze the
> consequences of implementation of specific policies aimed at
> the cultural industries, and to determine which of those policies
> are least defensible, in a GATT environment, and are most likely
> to evoke a retaliatory response by the country's trading partner
> (Kresl, 1996, 223-224).

Kresl states the crux of the argument in economic terms:

> The crucial point of disagreement between the United States
> and Canada regarding cultural goods is whether they can be
> treated as any other goods, or whether they must be considered
> a distinct category that requires special treatment. If they
> cannot be considered distinct, then they must be treated exactly
> as one would shoes, bicycles or toasters. But if it can be
> demonstrated that cultural goods do have special
> characteristics, then they must be treated as a special category
> of international trade (Kresl, 1996, 224-225).

He argues that for countries such as Canada and France, part of "the cultural

output of the economy...are the cultural goods that involve articulation and

expression of the national culture...." (Kresl, 1996, 226). The author is

persuasive in asserting Canada's right to protect those cultural goods, and

their creators and producers, from being "'crowded out' by imports of cultural

goods expressing foreign national values", as well as the right of Canadians to have unimpeded access to "domestically created and produced cultural goods" (Kresl, 1996, 227). In Kresl's view, however, Canada has failed in the past to make a convincing argument for this position "and as a consequence [our] culture policy is generally viewed in the US as an employment scheme that has little justification in a global economy in which such barriers to trade are under continuous pressure to be lowered and to stay low" (Kresl, 1996, 242).

His position supports the notion that a rationale exists for cultural nationalism; that is, for Canada to assert a claim of cultural sovereignty as fundamental to the development and preservation of its domestic and international policies that pertain specifically to issues of creation, production, distribution, and access to cultural goods and services that are inherently Canadian in origin and content. But this rationale is also problematic because it defeats the purpose of, or at least functions against the intent of cultural cohesion--which is to engender support for principles of cultural autonomy by elevating the profile of culture and cultural values as intrinsic to economic development rather than being subsumed by them. In one way, then, the defence of cultural nationalism operates as a political and economic barrier to the practice of cultural cohesion.

Multilateral agreements in trade and investment have obvious and measurable benefits in the significant economic opportunities and advantages that are created among their participants. The present Liberal government, for example, formerly campaigned against the FTA as members of the opposition, but now has no intention of rescinding its obligations under either the FTA or NAFTA. Yet if an exemption for culture is not put in place in the proposed MAI, one which carries no risk of retaliation similar to that in the FTA and NAFTA, the result may have the effect of erasing or eroding national cultural boundaries.

The MAI has become a catalyst in the ongoing debate on how Canadian culture is defined, and particularly, how those who participate in its creation and distribution should participate in that production in economic terms. It has created an imperative for Canadian policymakers to analyze the current state of Canada's domestic cultural policy framework, as the prospect looms that our sovereign powers to determine those policies may be undermined by the MAI's--or an equivalent agreement's--stringent terms. The MAI raises Canadian apprehensions because it tests the autonomy of Canadian domestic and international cultural policies.

My research suggests that approaches to cultural policy in Canada fail to reconcile and resolve Canada's legitimate assertion of cultural sovereignty with the equally legitimate, if hegemonic, reality of multilateral trade and

investment agendas and practices. Nor have Canada's current policies successfully integrated changing world views toward achieving equilibrium and cohesion between cultural and economic development.

For example, current approaches to cultural policy in Canada, which might also be described as industrial policy, attempt to shield Canadian jobs in the cultural industries and the products created by them, by arguing for the need to secure public space in which Canadian cultural expression and activity can occur. A cultural exemption ensures there is space for Canadian creators to produce Canadian ideas for a Canadian audience, although the objective is not described in terms of the jobs for Canadians that are created when public space is allocated for Canadian creativity, or when limitations are imposed on foreign direct investment (FDI) in Canadian creative enterprises. Instead, it is framed in terms of the necessity for Canadians to protect their cultural space in order to hear their own voices. Otherwise, if international commercial enterprises were to have equal and reciprocal access to Canada's artistic or cultural production, the likely effect would be the eradication of nationally identifiable attributes of Canada's cultural identity.

Thus Canada must design its cultural policies from a position of openness about its objectives. Cultural policies created for the preservation, promotion, and development of Canadian culture, which are based solely or

primarily on the grounds of cultural sovereignty, will continue to be deficient in any future negotiations of multilateral agreements concerning trade or investment, until they bring into their discourse elements of economic theory. Moreover, current approaches to Canadian cultural policy will continue to be resisted by American investors in the Canadian marketplace unless the fundamental assumptions of each nation with respect to culture can achieve a workable compromise. (U.S. ambassador Gordon Griffin has stated unsympathetically, with respect to Canada, "our mutual relationship is not contained on an a la carte menu....One cannot order the ice cream without also getting the broccoli" (National Post, Nov 11/98, A19)).

The ongoing evolution of the MAI has exposed discrepancies between the two federal ministries of international trade and culture, particularly in terms of consistency with respect to cultural policy objectives. Until Canada devises an over-arching federal cultural policy by which its various Ministries may be informed and operate in consonance, Canadian cultural products will remain vulnerable to comprehensive international trade and investment agreements which prioritize foreign economic agendas.

The role of culture is a critical component of international relations which cannot be breached by arguments which favour the creation of economic "level playing fields". Despite the irrevocable trends of globalization and a world economy based on progressive communications

and technological exchange, nationalism and the nation-state will survive.
The Canadian nation-state will endure, in part because of its cultural
resilience. Zemans has argued that we face a global future, in which a
transnational, transcultural world is linked through instantaneous
communication and expanding information technologies. In this
environment, "there is a growing awareness of the importance of the local,
the human need for community and for belonging (the context within which
the individual can see the world and identify)" (Zemans, 1995, 159) and of
the stability and continuity that such a community offers.

Current approaches to Canadian cultural policy are inconsistent with
evolving theories and strategies relating to cultural cohesion and post-
colonial discourse on the role of culture in international relations, not only
because they ghettoize culture but because they follow protectionist models
which continue to create an elitist representation of culture. And although
the U.S. has no difficulty in describing Canadian cultural policies as
"protectionist" or "nationalist", members of the Canadian cultural community,
as well as various federal and provincial policymakers, deliberately refrain
from using such language in the construction of an appropriate carve-out text
for culture, referring instead to "preserving" and "projecting" Canadian culture
internationally. Yet cultural nationalism is clearly an underlying theoretical
rationale for this position. When viewed in the context of Bhabha's and

others' theories, cultural nationalism is a restrictive code. But how else can Canadian culture be protected? Culture in multilateral agreements must have as much attention focused upon it as other areas. Bhabha's statement is worth repeating here: "Culture becomes as much an uncomfortable, disturbing practice of survival and supplementarity -- between art and politics, past and present, the public and the private -- as its resplendent being is a moment of pleasure, enlightenment or liberation. It is from such narrative positions that the postcolonial prerogative seeks to affirm and extend a new collaborative dimension, both within the margins of the nation-space and across boundaries between nations and peoples" (Bhabha, 1994, 175). The collaborative dimension of cultural development is affirmed in all of the emerging strategies noted in this chapter.

The MAI does indeed pose hard questions for Canadian cultural sovereignty. In my view, Canada has a legitimate right to assert cultural sovereignty and as a natural consequence, to shape policies and practices toward that end. The U.S. has no apparent intention of compromising its economic agendas by relaxing or taking into account the cultural sovereignty position held by Canada. As a result, Canada is continually reacting to the U.S.' challenges of its cultural policies. Even if Canada has or creates an over-arching federal cultural policy from which all its Ministries are guided in international relations, there is no guarantee that any cultural policies will be

secure from challenge by the U.S. or other foreign interests. The advantage for Canada would be that such cultural policies would show Canadian solidarity in international relations, so that individual Ministerial portfolios could operate harmoniously but with the backing of the other portfolios in circumstances where it became necessary. The strategies and directives articulated by the CU Report, Creative Nation, and Schafer encourage this perspective, so that Canadian cultural policies are not produced solely in response to, or with the primary purpose of warding off challenge.

The issues raised in this thesis centre around controversial national positions on concepts of culture—cultural industries, cultural products and goods, and cultural sovereignty. In a post-modern world confronted by the homogenizing effects of globalization, the MAI controversy exposes the vulnerabilities of the status quo: it demands that a new model of cultural cohesion be identified, one which integrates Canadian cultural priorities more predominantly within the Canadian community and secures Canadian cultural products through effective, overarching federal cultural policies. The primary objective for Canada, then, will be to formulate the appropriate cultural policy model that will empower Canadian culture in all its forms.

Changing perspectives about culture and cultural values are gaining influence in relation to globalizing economic trends such as those demonstrated by the MAI. The emerging frontier in cultural policy

development challenges prescribed assumptions about economic and cultural priorities. The CU Report elaborates a variety of measures to integrate culture into community and national development. In contrast, the debate concerning a cultural exemption in the MAI, from the American perspective, resists the premises of cultural cohesion and reflects ongoing attitudes with which Canada still contends, that cultural sovereignty is negotiable in international agreements.

Clearly, the boundaries between cultural development and global economics, while in transition, have not yet merged. While the form in which it will evolve is less predictable, I do not doubt that the nation-state of Canada will survive and that the nation's cultural resilience will prevail.

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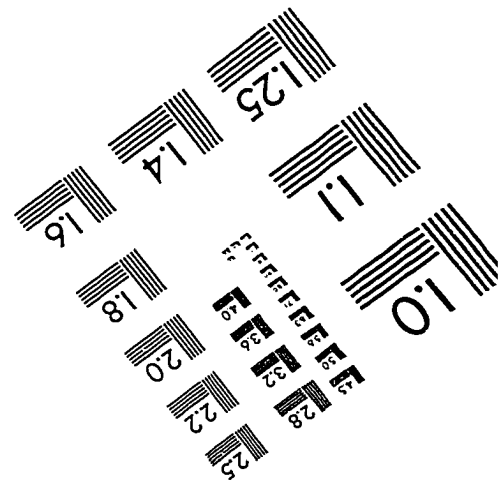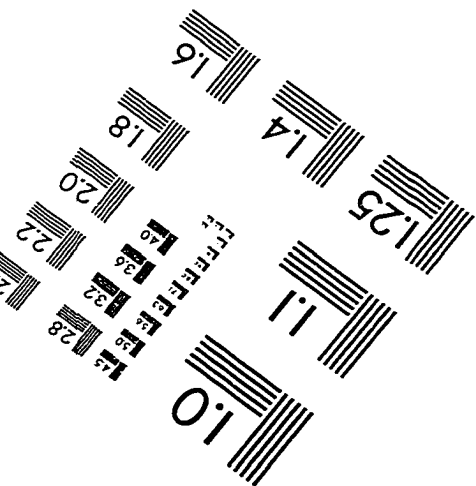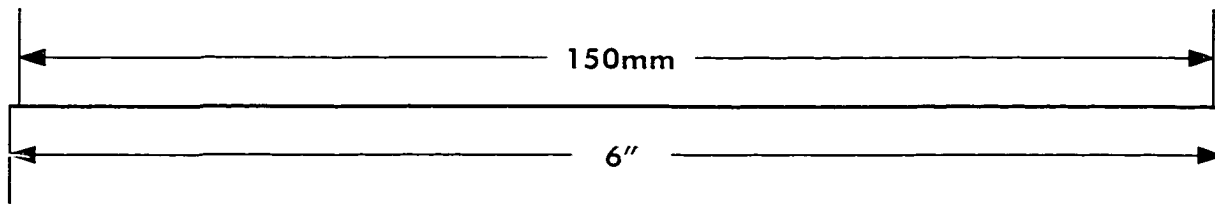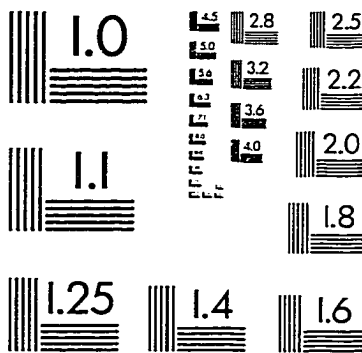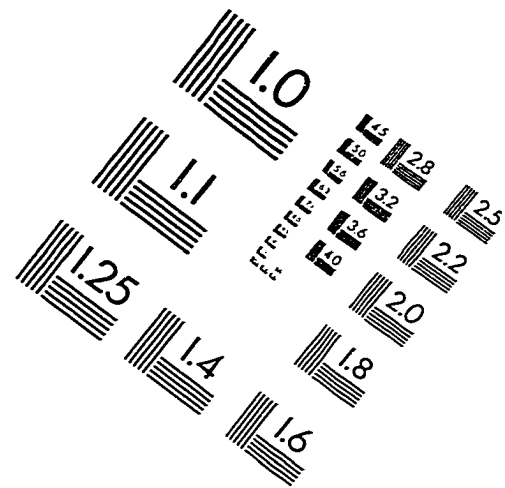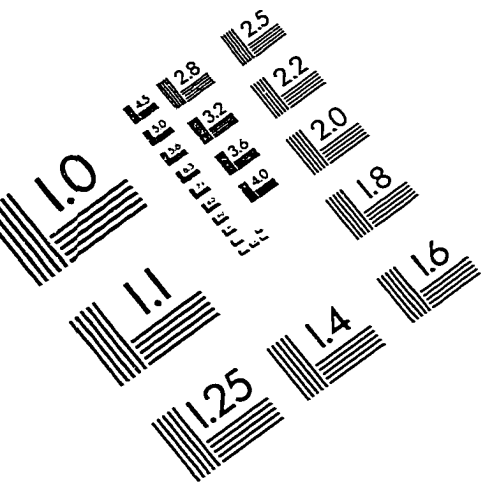
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