



Negotiating Group on the Multilateral Agreement on Investment (MAI)

Drafting Group No.3 on Definition, Treatment and Protection of Investors and Investments

**DEFINITION OF INVESTOR AND INVESTMENT
STATUS OF NEGOTIATIONS**

DEFINITION OF INVESTOR AND INVESTMENT STATUS OF NEGOTIATIONS

1. On Thursday, 30 January 1997, DG3 discussed the definition of investor and investment on the basis of the text [DAFFE/MAI/DG3(97)2] which had been circulated on Wednesday afternoon and a paper submitted by three delegations. At the end of the meeting, two other delegations circulated two other proposals respectively concentrating on an explanatory note to the positive list and the question of indirect investment.

2. All delegations agreed that a number of specific questions were not solved for various reasons at this stage: intellectual property, indirect investment, concessions, public debt (pending EG5's advice), real estate, "personal use" of investment.

Three questions were discussed in more depth:

- Deletion of the negative list. A strong majority of countries favour this provided there is agreement on the drafting of safeguard clauses (the principle of which was discussed in EG5), but some countries would prefer to retain the negative list;
- A footer to the definition of investor. (A text was proposed in the paper submitted by three delegations.) However, this was clearly rejected by a number of countries. (One of the related questions, i.e. the relationship to trade agreements, needs to be examined further);
- A footer to the definition of investment. There was no final agreement on this. The text proposed by one delegation would include the content of this footer in an explanatory note rather than in the text.

3. Most delegations explained that they would wish to refer back to their capitals on these issues.