



Negotiating Group on the Multilateral Agreement on Investment (MAI)

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

SUMMARY RECORD

Meeting on 15 and 19-20 January 1998

DG N° 3 ON DEFINITION, TREATMENT AND PROTECTION OF INVESTORS AND INVESTMENTS

Summary Record of the meeting held on 15 and 19-20 January 1998

1. Adoption of the agenda

The Group adopted the Agenda [DAFFE/MAI/DG3/A(98)1].

2. Approval of the Summary Record

The Group approved the Summary Record of the meeting held on 4 December 1997 [DAFFE/MAI/DG3/M(98)9.]

3. Draft Article on Lodging Country Specific Exceptions

The Group continued its work on the draft Article on the lodging of country specific exceptions on the basis of Section A of the Report to the Negotiating Group [DAFFE/MAI/DG3(97)19].

4. Generalisation of Financial Services Texts

The Group continued and concluded its work on the possible generalisation of certain financial services texts, on the basis of a Note by the Chairman [DAFFE/MAI/DG3(97)17].

5. Labour and Environment

On the basis of a Note by the Chairman [DAFFE/MAI/DG3(97)18] and the portion of the previous report dealing with the Preamble [DAFFE/MAI/DG3(97)19, page 10], the Group:

- Gave further consideration to the options for text concerning the Preamble;
- Completed its initial consideration of issues relating to “not lowering standards”, including among others the need for separate text on labour and on environment, whether such text(s) should be binding, and the nature of the measures or standards to be subject to the text(s);
- Gave initial consideration to issues relating to an additional article based on GATT Article XX, on NAFTA Article 1114(1) and/or paragraphs 3 and 4 of the draft MAI articles on performance requirements;
- Took note of contributions by several delegations [these contributions were subsequently circulated on OLIS as DAF/MAI/DG3/RD(98)1 to 8].

6. Other business/Future work

a) One delegation asked whether investments by branches of foreign companies come under the protection of the MAI. The Chair noted that a positive answer to this question could be found in paragraph 1, page 99 of the Consolidated Text and Commentary DAF/MAI(97)1/REV2. To

meet the delegation's concern, the Chair proposed that this paragraph should be amended to read as follows: "It was noted that branches in **some countries** have the legal capacity to invest. **Delegations agreed that** this specific situation **is** covered by the definition of investor even after deletion of the word "branch" since the list of "legal and other entities" covered by the definition of "investor" is not exclusive".

[Chair's Note: Unless objections are received by the date of the next DG3 meeting, this proposal will be considered approved.]

b) The Group agreed on a report to the Negotiating Group on the results of its discussions of items 3 and 4 [circulated as DAFPE/MAI/DG3(98)1]. It also agreed that a draft separate report to the Negotiating Group on the results of its discussions on Labour and Environment be prepared for approval by the Group under written procedure [this report will be circulated as DAFPE/MAI/DG3/RD(98)2].

c) The Group will meet next on 20 February 1998.