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**Negotiating Group on the Multilateral Agreement on Investment (MAI)**

**Expert Group No.1 on Selected Issues Concerning Dispute Settlement and Geographical Scope**

**AGENDA**

**Meeting on 18-20 September 1996**

**EXPERT GROUP N° 1 ON SELECTED ISSUES CONCERNING  
DISPUTE SETTLEMENT AND GEOGRAPHICAL SCOPE**

**AGENDA**

18-20 September 1996

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| <b>1.</b> | <b>Adoption of the Agenda</b>   | DAFFE/MAI/EG1/A(96)4                     |
| <b>2.</b> | <b>Approval of the Summary Record of the meeting held on 15-16 April 1996</b> | DAFFE/MAI/EG1/M(96)3                     |
| <b>3.</b> | <b>Dispute Settlement:<br/>Consultation/Conciliation and State-State</b>      |  |
|           | Note by the Chairman  | DAFFE/MAI/EG1(96)9                       |
|           | Contributions from Member Countries   |  |
|           | <u>For Reference:</u>   |  |
|           | Dispute Settlement in the MAI:<br>A Conceptual Framework                      | DAFFE/MAI/EG1(96)7                       |
| <b>4.</b> | <b>Conflicting Requirements</b>   |  |
|           | Note by the Chairman  | DAFFE/MAI/EG1(96)10                      |
|           | Contributions from Member Countries   |  |
|           | <u>For Reference:</u>   |  |
|           | Contributions from Member Countries   | DAFFE/MAI/RD(96)23<br>DAFFE/MAI/RD(96)29 |
| <b>5.</b> | <b>Next Steps/Other Business</b>  |  |

## Notes to the Agenda

### **ITEM 3: Dispute Settlement: Consultation/ Conciliation and State-State**

Following the Negotiating Group's discussion in June of the scope of dispute settlement, the Chairman concluded that sufficient progress had been made to permit the drafting of texts on dispute settlement in parallel to the continued discussions on MAI obligations. The Negotiating Group requested the Expert Group to develop texts starting with consultations/conciliation and state-state dispute settlement. Delegates are invited to consider the texts set out in the Chairman's note [DAFFE/MAI/EG1(96)9], as well as any Member country contributions.

### **ITEM 4: Conflicting Requirements**

At its June 1996 meeting, the Negotiating Group requested the Expert Group to review the existing OECD instrument on conflicting requirements and to report back to the Negotiating Group by its October meeting [see Annex, Revised Mandate]. The Note by the Chairman [DAFFE/MAI/EG1(96)10] provides some background on the OECD instrument. Delegates are invited to comment on the questions raised concerning experience under the instrument.

### **ITEM 5: Next Steps/Other Business**

The Expert Group is expected to make a progress report to the Negotiating Group in October and a final report in December 1996. In addition to the issues it has been discussing, the Group is also charged with considering:

- a) issues arising from the consolidated text on the definition and treatment of investors and investments, in particular the options for dealing with the issue of the protecting investor rights.
- b) the general question of implementing international treaties in national law. The Expert Group should decide which issues it will address at its October and December meetings.

Annex

**REVISED MANDATE FOR “EXPERT GROUP N° 1 ON  
DISPUTE SETTLEMENT AND GEOGRAPHICAL SCOPE”**

1. The Group, open to participation of all delegations, is charged with considering the relevant aspects of dispute settlement, taking account of discussions in the Negotiating Group especially regarding the scope of dispute settlement, under the following headings:
  - a. Consultation and Conciliation
  - b. State-to-State
  - c. Investor-to-State
2. The Group will also consider
  - a. The geographical scope of the agreement
  - b. Issues arising from the consolidated text on the definition and treatment of investors and investments, taking account of guidance provided by the Negotiating Group, in particular the options for dealing with the issue of the protection of investor rights.
  - c. The general question of implementing international treaties in national law.
3. The Group will make proposals, including proposals for text wherever possible. Priority will be given to proposals on state-to-state dispute settlement.
4. The Group will make a progress report to the Negotiating Group in October 1996 and a final report in December 1996.
5. The Group will review the existing OECD instruments on conflicting requirements at a September meeting and report back to the Negotiating Group by its October meeting.
6. The Group’s Mandate will terminate after its report to the Negotiating Group, unless the Negotiating Group decides otherwise.

Chair: Mr Marino Baldi (Switzerland)