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

**INVENTORY OF INVESTMENT MEASURES**

**(Note by the Secretariat)**

## INVENTORY OF INVESTMENT MEASURES

### I. Introduction

1. At its June meeting the Negotiating Group examined the inventory of measures affecting investment prepared by the CIME/CMIT [DAFFE/MAI(96)15/REV1] and requested the Secretariat to prepare a systematic presentation of this information which will classify the measures in the inventory by type of measure and by sector and agreed to review the results of this work at its October 1996 session [DAFFE/MAI/M(96)4].
2. The present Note explains how the information contained in the inventory has been organised to respond to the Negotiating Group's request and how delegations could exploit this information for their own purposes.

### II. Organisation of the data

3. A database has been constructed from the updated material provided by delegations, using the software Microsoft ACCESS. All the investment measures reported in the inventory have been indexed by Country, Level of Government, Type of measure and Sector, and can be accessed and printed out in the form of synoptic tables or description of individual measures. The information in the database can accordingly be extracted using these various classifications and lay-outs.
4. The database and relevant instructions concerning its use have been prepared on a diskette, a copy of which will be sent separately to every delegation.

### III. Classification

5. The Annex to the present document provides an illustration on the various classifications available in the database. They closely follow the original headings of the inventory but provide, in certain instances, a more detailed breakdown of the measures reported in it.
6. Tables 1 and 2 provide the general layout of the database. Country measures fall under General (covering all economic activities) or Sector-specific measures. There are 19 sectors: Banking and Financial Intermediation, Post and Telecommunications, Radio and Television, Motion Picture and Video Production and Distribution, Publishing, Aerospace, Air Transport, Water Transport, Land Transport, Tourism and Travel, Fishing and Fish Processing, Real Estate, Mining and Quarrying, Energy, Agriculture, Pastoral and Forestry, Defences Activities; Professional Services, Manufacture and Other. Table 1 concerns central government measures; Table 2 sub-national measures.

7. Both the General and Sectoral classifications have been sub-divided in categories of measures. As shown in table 3, there are two different categories of measures namely a) General measures: Authorisation/Notification/Reciprocity and b) Residency/Nationality of Managers .

8. Sectoral measures have been classified into four categories: Authority/Notification/Reciprocity, Equity, Residency/Nationality of Managers and Monopoly. Banking and Financial intermediation is an example (see Table 4).

9. As shown in Table 5, Monopolies have been subdivided into Public Monopolies, Private Monopolies, Mixed Monopolies and Concessions.

10. All measures in a given country are also accessible by using the country index. (See example of Austria in Annex).

#### **IV. Follow-up**

11. Care has been taken in following the same categories of measures found in the inventory and reproducing the information provided by the delegations. The few differences between the database and that of the printed version of the inventory [DAFFE/MAI(96)15/REV1] concerns the regrouping of certain measures (Authorisation/Notification/ Reciprocity) or the refinement of certain descriptions (between authorisation and equity measures for example). The database is also more “user friendly” for finding specific information or comparing measures and sectors across countries.

12. It would appear desirable, nevertheless, that delegations review their respective entries in the database for any for errors and omissions and inform the Secretariat accordingly. They may also wish to bring their entries more in line with that of other countries for greater clarity and consistency.

**Table 1: INWARD DIRECT INVESTMENT**

Measures	Central Government Measures								
	General Measures		Sectoral Measures						
Countries		Banking & Financial Intermediation		Post & Telecommunication		Radio & Television Activities	Motion Picture & Video Production & Distribution	Publishing	
		Banking & Securities	Insurance	Post	Telecom- munication & cable			Newspapers & Periodicals	Books & Other Publications
		1	2	3	4	5	6	7	8
Australia	x	x			x	x	x	x	
Austria	x	x	x						
Belgium	x	x							
Canada	x	x	x		x	x	x		x
Czech Republic	x	x							
Denmark	x	x							
Finland	x	x	x						
France	x	x	x		x	x	x	x	
Germany	x	x							
Greece	x	x				x			
Hungary	x	x							
Iceland	x	x	x					x	
Ireland	x	x	x						
Italy	x	x	x						
Japan	x	x		x		x			
Luxembourg	x	x							
Mexico	x	x		x		x		x	
Netherlands	x	x	x			x			
New Zealand	x				x				
Norway	x	x	x						
Poland	x	x	x		x	x		x	
Portugal	x	x	x		x	x	x		
Spain	x	x	x		x	x			
Sweden	x	x	x		x	x			
Switzerland	x	x	x			x	x		
Turkey	x	x				x			
United Kingdom	x					x			
United States	x	x			x	x			

**Table 1: INWARD DIRECT INVESTMENT**

Measures									
Countries	Aerospace	Air Transport	Water Transport				Land Transport		Tourism & Travel
	9	10	Sea and Coastal Water Transport 11	Inland Water Transport 12	Port Services 13	Other 14	Road Transport 15	Rail Transport 16	17
Australia		x	x						x
Austria		x	x	x			x		x
Belgium		x	x	x					
Canada		x	x				x		
Czech Republic		x							
Denmark		x	x						
Finland		x	x						
France	x	x	x	x			x	x	x
Germany		x	x	x					
Greece			x						x
Hungary		x	x	x			x		
Iceland		x	x						x
Ireland		x	x						
Italy		x	x						x
Japan	x	x	x						
Luxembourg		x					x	x	
Mexico		x	x	x			x	x	
Netherlands		x	x	x				x	
New Zealand		x	x						
Norway		x	x				x		
Poland		x							
Portugal		x	x						
Spain		x	x				x		
Sweden		x	x					x	
Switzerland		x	x	x					
Turkey		x	x		x				
United Kingdom		x	x						
United States		x	x		x	x			

**Table 1: INWARD DIRECT INVESTMENT**

Measures	Central Government Measures							
	Sectoral Measures							
Countries	Fishing & Fish Processing	Real Estate Activities	Mining & Quarrying		Energy			
	18	19	Extraction, Exploration & Exploitation	Mining	Uranium, Nuclear, Atomic	Electricity	Thermal Energy	Other
Australia	x	x		x	x			
Austria	x							
Belgium	x							
Canada	x				x			
Czech Republic								
Denmark	x							
Finland	x	x	x	x	x			
France			x		x	x		
Germany								
Greece	x	x		x				
Hungary		x						
Iceland	x	x						x
Ireland	x	x						
Italy	x							
Japan	x	x	x	x		x		
Luxembourg								
Mexico	x	x	x					
Netherlands								
New Zealand	x	x						
Norway	x	x	x					
Poland	x	x						
Portugal								
Spain		x	x					
Sweden								
Switzerland			x		x	x		
Turkey	x	x	x	x				
United Kingdom	x							
United States	x		x	x	x		x	x

**Table 1: INWARD DIRECT INVESTMENT**

Measures										
Countries	Agriculture, Pastoral & Forestry	Defence Activities		Professional services						
		National Security	Other	Accounting, Book- Keeping and Auditing Activities	Business & Management Consultancy Activities	Legal Activities	Employment services	Education	Health professions	
	26	27	28	29	30	31	32	33	34	
Australia	x		x							
Austria			x	x		x	x			
Belgium										
Canada	x				x					
Czech Republic				x						
Denmark		x								
Finland										
France	x	x		x	x	x	x	x	x	x
Germany										
Greece				x						
Hungary				x						
Iceland										
Ireland	x									
Italy										
Japan	x									
Luxembourg										
Mexico						x		x		
Netherlands										
New Zealand										
Norway										
Poland										
Portugal										
Spain			x							
Sweden			x							
Switzerland										
Turkey				x						
United Kingdom			x							
United States	x		x	x		x	x	x	x	x

**Table 1: INWARD DIRECT INVESTMENT**

Measures	Central Government Measures									
	Sectoral Measures									
Countries	Manufacture			Other						
	Food Products	Leather Products	Motor Vehicles, Trailers & Semi-Trailers	Construction	Customs Brokerages	Casinos & Gambling	Patent Agency	Retail Trade	Foreign Aid	Other
	36	37	38	39	40	41	42	43	44	45
Australia									x	
Austria										x
Belgium										
Canada					x		x			
Czech Republic										
Denmark										
Finland										
France										
Germany										x
Greece										
Hungary										
Iceland										
Ireland	x									
Italy										
Japan		x								
Luxembourg										
Mexico			x	x						
Netherlands										
New Zealand										
Norway										
Poland						x				
Portugal										
Spain						x				
Sweden										
Switzerland										
Turkey								x		
United Kingdom										
United States					x					

**Table 2: INWARD DIRECT INVESTMENT**

Measures	Provincial / State Measures								
	General Measures	Sectoral Measures							
Countries		Banking & Financial Intermediation		Post & Telecommunication		Radio & Television Activities	Motion Picture & Video Production & Distribution	Publishing	
		Banking & Securities	Insurance	Post	Telecom- munication & cable			Newspapers & Periodicals	Books & Other Publications
		1	2	3	4	5	6	7	8
Australia	x								
Austria	x								
Belgium	x								
Canada	x	x	x				x	x	
Czech Republic									
Denmark	x								
Finland	x								
France									
Germany									
Greece									
Hungary									
Iceland									
Ireland									
Italy		x							
Japan									
Luxembourg									
Mexico									
Netherlands									
New Zealand									
Norway									
Poland									
Portugal									
Spain									
Sweden									
Switzerland									
Turkey									
United Kingdom									
United States		x	x						

Measures									
Countries	Aerospace	Air Transport	Water Transport				Land Transport		Tourism & Travel
	9	10	Sea and Coastal Water Transport 11	Inland Water Transport 12	Port Services 13	Other 14	Road Transport 15	Rail Transport 16	17
Australia									
Austria									
Belgium									
Canada									
Czech Republic									
Denmark									
Finland									
France									
Germany									
Greece									
Hungary									
Iceland									
Ireland									
Italy									
Japan									
Luxembourg									
Mexico									
Netherlands									
New Zealand									
Norway									
Poland									
Portugal									
Spain									
Sweden									
Switzerland		x							
Turkey									
United Kingdom									
United States						x		x	

**Table 2: INWARD DIRECT INVESTMENT**

Measures	Provincial / State Measures										
	Sectoral Measures										
Countries	Fishing & Fish Processing	Real Estate Activities	Mining & Quarrying		Energy				Agriculture, Pastoral & Forestry	Defence Activities	
	18	19	Extraction, Exploration & Exploitation	Mining	Uranium, Nuclear, Atomic	Electricity	Thermal Energy	Other	26	National Security	Other
Australia	x	x							x		
Austria		x				x					
Belgium											
Canada	x	x	x	x							
Czech Republic											
Denmark											
Finland											
France											
Germany											
Greece											
Hungary											
Iceland		x									
Ireland											
Italy											
Japan											
Luxembourg											
Mexico											
Netherlands											
New Zealand											
Norway											
Poland											
Portugal											
Spain											
Sweden											
Switzerland		x	x								
Turkey											
United Kingdom											
United States	x	x		x		x	x	x			

Measures										
Countries	Professional services							Manufacture		
	Accounting, Book-Keeping and Auditing Activities	Business & Management Consultancy Activities	Legal Activities	Employment services	Education	Health professions	Other	Food Products	Leather Products	Motor Vehicles, Trailers & Semi-Trailers
	29	30	31	32	33	34	35	36	37	38
Australia										
Austria										
Belgium										
Canada										
Czech Republic										
Denmark										
Finland										
France										
Germany										
Greece										
Hungary										
Iceland										
Ireland										
Italy										
Japan										
Luxembourg										
Mexico										
Netherlands										
New Zealand										
Norway										
Poland										
Portugal										
Spain										
Sweden										
Switzerland										
Turkey										
United Kingdom										
United States										

**Table 2: INWARD DIRECT INVESTMENT**

Measures	Provincial / State Measures						
	Sectoral Measures						
Countries	Other						
	Construction	Customs Brokerages	Casinos & Gambling	Patent Agency	Retail Trade	Foreign Aid	Other
	39	40	41	42	43	44	45
Australia			x				
Austria							
Belgium							
Canada							
Czech Republic							
Denmark							
Finland							
France							
Germany							
Greece							
Hungary							
Iceland							
Ireland							
Italy							
Japan							
Luxembourg							
Mexico							
Netherlands							
New Zealand							
Norway							
Poland							
Portugal							
Spain							
Sweden							
Switzerland							
Turkey							
United Kingdom							
United States							

**Table 3.a: INWARD DIRECT INVESTMENT**

Measures	<i>Central Government Measures</i>	
	<b>General Measures</b>	
	<i>Authorisation/Notification/Reciprocity</i>	<i>Residency/Nationality of Managers</i>
<b>Countries</b>		
Australia	x	
Austria	x	
Belgium	x	
Canada	x	
Czech Republic	x	
Denmark	x	
Finland	x	x
France	x	
Germany		
Greece	x	
Hungary	x	
Iceland	x	x
Ireland		
Italy		
Japan	x	
Luxembourg		
Mexico	x	
Netherlands	x	
New Zealand	x	
Norway	x	x
Poland	x	
Portugal	x	
Spain	x	
Sweden	x	x
Switzerland	x	x
Turkey	x	
United Kingdom	x	
United States	x	

**Table 3.b: INWARD DIRECT INVESTMENT**

Measures	<i>Provincial/State Government Measures</i>	
	<b>General Measures</b>	
	<i>Authorisation/Notification/Reciprocity</i>	<i>Residency/Nationality of Managers</i>
<b>Countries</b>		
Australia	x	
Austria	x	
Belgium	x	
Canada	x	
Czech Republic		
Denmark	x	
Finland	x	
France		
Germany		
Greece		
Hungary		
Iceland		
Ireland		
Italy		
Japan		
Luxembourg		
Mexico		
Netherlands		
New Zealand		
Norway		
Poland		
Portugal		
Spain		
Sweden		
Switzerland		
Turkey		
United Kingdom		
United States		

**Table 4.a: INWARD DIRECT INVESTMENT**

Measures	Sectoral Measures - Central Government Measures							
	Banking & Financial Intermediation							
	Banking & Securities				Insurance			
Countries	Authority/Notification/ Reciprocity	Equity	Residency/Nationality of Managers	Monopoly	Authority/Notification/ Reciprocity	Equity	Residency/Nationality of Managers	Monopoly
Australia	x							
Austria	x				x		x	
Belgium	x				x			
Canada	x	x	x			x	x	
Czech Republic	x	x			x			PUB
Denmark	x				x			
Finland	x	x	x		x			
France	x				x			
Germany	x							
Greece	x		x		x			
Hungary	x							
Iceland		x	x				x	
Ireland	x				x			
Italy	x	x			x			
Japan	x							
Luxembourg	x							
Mexico		x						
Netherlands	x	x				x		
New Zealand								
Norway	x				x			
Poland								
Portugal	x				x			
Spain	x				x			
Sweden	x		x		x			
Switzerland	x		x		x			
Turkey	x							
United Kingdom	x				x			
United States	x							

**Table 4.b: INWARD DIRECT INVESTMENT**

Measures	Sectoral Measures - Provincial/State Measures							
	Banking & Financial Intermediation							
	Banking & Securities				Insurance			
Countries	Authority/Notification/ Reciprocity	Equity	Residency/Nationality of Managers	Monopoly	Authority/Notification/ Reciprocity	Equity	Residency/Nationality of Managers	Monopoly
Australia								
Austria								
Belgium								
Canada		x	x			x		MIX
Czech Republic								
Denmark								
Finland								
France								
Germany								
Greece								
Hungary								
Iceland								PUB
Ireland								
Italy								
Japan								
Luxembourg								
Mexico								
Netherlands								
New Zealand								
Norway								
Poland								
Portugal								
Spain								
Sweden								
Switzerland								PUB
Turkey								
United Kingdom								
United States	x				x			

PUB: Public Monopoly  
MIX: Mixed Monopoly

**Table 5: MONOPOLY**

<b>Countries</b>	Public Monopoly	Private Monopoly	Mixed Monopoly	Concession
Australia				
Austria				
Belgium				
Canada				
Czech Republic				
Denmark				
Finland				
France				
Germany				
Greece				
Hungary				
Iceland				
Ireland				
Italy				
Japan				
Luxembourg				
Mexico				
Netherlands				
New Zealand				
Norway				
Poland				
Portugal				
Spain				
Sweden				
Switzerland				
Turkey				
United Kingdom				
United States				

## AUSTRIA

### GENERAL AUTHORISATION/NOTIFICATION PROCEDURES

#### Central government measures

No authorisation is required for inward direct investment in the form of creation or extension of an enterprise, or participation therein except for investment in some sectors subject to special conditions.

No authorisation is required for investment by established foreign-controlled enterprises, except for the acquisition of real estate which is subject to the approval by the local Real Estate Commission.

#### Provincial/State measures

The Federal Provinces, under their own constitutionally granted authority, permit the acquisition of real estate by foreigners subject only to approval by the local Real Estate Commission, which is part of the municipal and provincial administration. (Code, I/A; Exception)

### SECTORAL MEASURES

#### Central government measures

##### ***Banking and Financial Intermediation: Banking and Securities***

Foreign financial institutions may freely establish representative offices in Austria, provided they notify the bank supervisory authorities.

##### ***Banking and Financial Intermediation: Insurance***

Foreign insurers must have a general agent resident in Austria. (Code, I/A)

##### ***Air transport***

Registration of aircraft is reserved to EEA nationals and companies majority-owned by EEA nationals. At least one aircraft has to be more than 50 per cent owned by the applicant (EEA national or an equivalent juridical person) or has to be under his power of disposition due to a leasing contract. Cabotage is reserved to airlines from EEA member states. Licences to operate an air carrier are granted only to companies majority-owned by EEA nationals.

Authority: EEA regulations No. 2408/1992, 2407/1992.

##### ***Water Transport: Sea and Coastal Water Transport***

Requirements for the right of flag and registration: more than 50 per cent ownership by EEA nationals and a registered office located in Austria

Authority: Sea Shipping Law, Federal Law Gazette No. 174/1981 amended by No. 692/1992

***Water Transport: Inland Water Transport***

Transit traffic is only allowed on a bilateral basis. Cabotage is not allowed. A simple financial participation is not possible.

***Land Transport: Road Transport***

Licences for commercial transport of passengers (buses, taxicabs, cableways) and for commercial freight traffic on roads are subject to the following requirements:

Unincorporated firms: Company's registered office in Austria. Seventy-five per cent of the personally liable partners and all partners with the power of attorney have to be nationals of EEA member states.

Juridical persons: company's registered office in Austria. The majority of the members of the board of directors, including the chairman, must be nationals of EEA member states and 75 per cent of the voting shares have to be possessed by EEA nationals.

Authority: Law of freight traffic (Güterbeförderungsgesetz), Federal Law Gazette No. 63/1952 amended by No. 222/1994, and Law for long and short hauls (Gelegenheitsverkehrsgesetz), Federal Law Gazette No. 85/1952 amended by No. 223/1994.)

***Tourism and Travel***

A reciprocity requirement applies to the issuance of a license to a foreign natural person to become a tour operator or to own a travel agency in Austria. Unless otherwise provided by treaty, reciprocity will be considered to be satisfied if there are no restrictions applying to Austrians that do not also apply to nationals of the applicant's country. In the absence of reciprocity, the State Governor may grant the foreign applicant equal status with Austrians. (Exception)

***Fishing and Fish Processing***

Requirements for the right of flag and registration: more than 50 per cent ownership by EEA nationals and a registered office located in Austria.

Authority: Sea Shipping Law, Federal Law Gazette No. 174/1981 amended by No. 692/1992

***Defence Activities: Other***

Production of defence material requires a concession that may be granted subject to nationality requirements concerning the ownership or membership of the board of directors. A concession may be granted only to an enterprise whose headquarters are in Austria. The import, export and transit of defence material are subject to authorisation by the Federal Government.

Production and Trade of military arms and munitions are subject to Austrian nationality requirements.

Authority: Art. 108 para. 1 Trade Act and Art. 183 para. 1 Trade Act

***Professional Services: Accounting, Book-Keeping and Auditing Activities***

Limitations on market access for: 1. EEA nationals: no restrictions except a qualification exam ("Eignungsprüfung"); 2. non EEA nationals: foreign accountants', auditors' and tax advisors' (who must be authorised according to the law of their home country) equity participation and shares in the operating results of any Austrian legal entity may not exceed 25 per cent; this applies only to non-members of the Austrian Professional Body. (GATS)

***Professional Services: Legal Activities***

Lawyers may only practice law if they are registered in the list of lawyers of the ""Chamber of Lawyers"". One of the legal requirements for being listed is citizenship of an EEA member state. Non Austrian nationals have to take a qualification exam (Eignungsprüfung).

The practice of law in the form of a joint stock company is not possible whereas it is possible to establish a "civil unlimited corporation" (Gesellschaft Bürgerlichen Rechtes). All members of such a company must be Austrian nationals.

Public notaries: Public notaries must be Austrian nationals.

***Professional Services: Employment Services***

Employment Agencies are subject to EEA nationality requirement.

Authority: Arbeitsvermittlungsgewerbe: Art. 129, para. 1, Trade Act and Arbeitskräfteüberlassungsgewerbe: Art. 258, para. 1, Trade Act and Art. 183 para. 1 Trade Act

***Other: Other***

Production and Trade of non-military arms and munitions are subject to EEA nationality requirement.

Authority: Arbeitsvermittlungsgewerbe: Art. 129, para. 1, Trade Act and Arbeitskräfteüberlassungsgewerbe: Art. 258, para. 1, Trade Act and Art. 183 para. 1 Trade Act

Chimney-sweepers are subject to Austrian nationality requirements.

Authority: Art. 108, para. 1, Trade Act and Art. 183 para. 1 Trade Act

**Provincial/State measures**

***Real Estate Activities***

Authorisation is required for the acquisition of real estate by established foreign-controlled companies. (Code, I/A; Exception)

***Energy: Electricity***

Licensing requirements according to the State (Länder). Electricity Laws (Elektrizitätswesengesetze).

Natural person: EEA nationality, location in Austria.

Juridical person: location in Austria (no capital requirements concerning ownership), managers must be EEA nationals and to have a domicile in Austria.

In some states, the nationality requirements are not applicable if the establishment of the utility company is in the interest of the Austrian economy.

## **BANKING AND FINANCIAL INTERMEDIATION**

### **1. Authorisation/Notification/Reciprocity**

#### **Central government measures**

##### **Banking and Securities:**

Foreign financial institutions may freely establish representative offices in Austria, provided they notify the bank supervisory authorities.

Establishment of branches of foreign banks or foreign securities houses is subject to a reciprocity requirement.

##### **Insurance:**

Establishment of branch offices of foreign insurance companies is subject to a reciprocity requirement.

### **2. Residency/Nationality of Managers**

#### **Central government measures**

##### **Insurance:**

Foreign insurers must have a general agent resident in Austria. (Code, I/A)

## **MONOPOLY**

#### **Central Government measures**

### **1. Public monopoly**

#### ***Post and Telecommunication: Post***

Post

#### ***Post and Telecommunication: Telecommunication and Cable***

Voice telephone, provisions of the fixed telecommunications network

#### ***Radio and Television Activities***

Television broadcasting

#### ***Other: Casinos and Gambling***

Gaming, casinos, lotteries, etc

#### ***Other: Other***

Import of tobacco

## 2. Concessions

### ***Air transport***

Transport by air

### ***Land Transport: Road Transport***

Transport by bus

### ***Land Transport: Rail Transport***

Transport by rail

### ***Mining and Quarrying: Exploration, Extraction and Exploitation of oil and gas***

Transport by pipeline

### ***Energy: Electricity***

Distribution of electricity

### ***Other: Retail Trade***

Retail sale of pharmaceutical products

## **Provincial/State measures**

### 1. Concessions

#### ***Radio and Television Activities***

Regional and local broadcasting systems (Authority: Regional Radio Broadcasting Act, Federal Law Gazette N°506/1993)