



Negotiating Group on the Multilateral Agreement on Investment (MAI)

FINANCIAL MATTERS

(Note by the Chairman)

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1. It was agreed to revisit financial services issues and other financial matters after the negotiations in Geneva on financial services under the GATS are concluded in December 1997.

2. This Note takes stock of the outstanding issues identified by EG5 and informal consultations by financial experts. It also invites the Negotiating Group to consider possible modalities to complete the work on financial matters, taking into account that it will be important that financial expertise remain associated with this work.

I. Financial services issues

3. In its Report DAFPE/MAI/EG5(97)4/REV1, EG5 presented texts and recommended their adoption with respect to the following issues¹:

- Prudential measures;
- Recognition arrangements;
- Authorisation procedures;
- Transparency;
- Information transfer and data processing;
- Membership of self-regulatory bodies and associations;
- Definition of financial services.

4. EG5 Report also mentioned other issues raised by one delegation, with respect to “new financial services”²; “acquired rights”³; “right of initial establishment”⁴; equality of competitive opportunity; application of national treatment in sub-national units of government; and restrictions based on dotation capital of branches of financial services enterprises. Another delegation raised the issue of “indirect investment”.

II. Other financial matters

5. In Report DAFPE/MAI/FS(97)2 on the informal consultations held by financial experts in June 1997, texts are available on the following issues:

- a) a temporary safeguard clause, including the role of the Fund;
- b) the treatment of public debt in the MAI;
- c) transactions in pursuit of monetary and exchange rate policies;
- d) payment and clearing systems/lender of last resort; and

- e) the dispute settlement procedures for financial services.

The Report noted that these texts needed to be reviewed in capitals and will require further refinement.

III. Issues for discussion

a) How should we deal with financial services issues mentioned in Part I of this Note?

b) Is there a need to clarify the scope and content of draft country-specific exceptions in the field of financial services? If this is the case, should this be achieved within the framework of the mandate of the recently created Technical Group on Selected Issues Raised by Country-Specific Exception, with the participation of financial experts?

c) How should we deal with the other financial matters mentioned in Part II of this Note? In particular, should a separate financial expert group be convened to carry out a precise mandate for completing the work in this area, or should DG3 be given this task, with the participation of financial experts?

¹ DG3 is expected to conclude its work on the possible generalisation of financial services texts at its meeting on 15 January 1998.

² I.e. the right for a foreign enterprise to supply services which are not offered yet on the territory of the Contracting Party where the foreign enterprise is established.

³ I.e. protection of benefits already enjoyed by already established enterprises against the introduction of market access limitations although the latter are not discriminatory.

⁴ I.e. protection against non-formally discriminatory moratoria or quota systems for the granting of licences.