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

### **AGENDA**

**Meeting on 24-25 October 1996**

## NEGOTIATING GROUP ON THE MAI

### AGENDA

24 - 25 October 1996

1. **Adoption of the Agenda** DAFFE/MAI/A(96)6
  
2. **Approval of the Summary Record of 11-13 September 1996** DAFFE/MAI/M(96)5
  
3. **Non-Discriminatory Barriers**
  - Note by the Chairman DAFFE/MAI(96)28
  - Contributions by Member Countries
  - For Reference:
  - Contributions by one delegation DAFFE/MAI/RD(95)18  
DAFFE/MAI/RD(96)19
  - Contribution by one delegation DAFFE/MAI/RD(96)10
  
4. **The Treatment of Cultural Measures in the MAI**
  - Note by the Chairman DAFFE/MAI(96)29
  - Contributions by Member Countries
  - For Reference:
  - Contribution by one delegation DAFFE/MAI/RD(96)26

- 5. Environmental Matters**
- Note by the Chairman DAFFE/MAI(96)30
- Contributions by Member Countries
- For Reference:
- Selected texts from other international agreements DAFFE/MAI/RD(96)44
- Note by the Chairman of the Environment Policy Committee DAFFE/MAI/RD(96)45
- 6. Inventory of Investment Measures**
- Note by the Secretariat DAFFE/MAI(96)27
- For Reference:
- Report by CIME/CMIT DAFFE/MAI(96)15/REV1
- 7. Report by Drafting Group No. 3 on Definition, Treatment and Protection of Investors and Investments** DAFFE/MAI/DG3(96)1
- For Reference:
- Consolidated Texts and Comments from Drafting Groups 1, 2, and 3 DAFFE/MAI(96)16/REV1
- 8. Progress Report by Expert Group No.1 on Dispute Settlement and Geographical Scope**
- 9. Next Steps/Other Business**

## ANNOTATIONS TO THE AGENDA

### **Item 3: Non-Discriminatory Barriers**

At its March session, the Negotiating Group held an initial exchange of views [DAFFE/MAI(96)7] on whether the National Treatment/MFN obligations of the MAI would be sufficient to bring about effective equality of competitive opportunities for foreign and domestic investors, particularly when confronted with the same restrictions or regulatory requirements. One delegation [DAFFE/MAI/RD(95)18 and DAFPE/MAI/RD(96)19] and another delegation [DAFFE/MAI/RD(96)10] submitted written contributions on this subject. The Chairman proposed that further discussion take place to delimit the problem and determine what could be done on a practicable basis.

### **Item 4: The Treatment of Cultural Measures in the MAI**

The Negotiating Group will have an orientation debate on how the MAI should deal with measures taken by a Party to preserve or promote cultural interests. The Negotiating Group is invited to consider the questions raised in the Chairman's note, taking account of the note by one delegation [DAFFE/MAI/RD(96)26] and any other Member country contributions.

### **Item 5: Environmental Matters**

The issue for consideration by the Negotiating Group is whether special provisions are needed in the MAI to address environmental concerns in order to ensure closer integration of environmental and investment policies. The Chairman's note looks at other international agreements that have addressed the issue and raises questions concerning possible approaches in the MAI, including the association of the OECD Guidelines.

### **Item 6: Inventory of Investment Measures**

As requested by the Negotiating Group, the Secretariat has prepared a systematic presentation of the updated inventory of measures affecting investment in DAFPE/MAI(96)15/REV1, classifying the contents by type of measure and by sector. The Negotiating Group is invited to review the results of this work [DAFFE/MAI(96)27] and discuss the use they wish to make of the inventory in the coming months.

**Item 7: Report by DG3 on Definition, Treatment and Protection of Investors and Investments**

DG3 met in June and September and examined the issues that were remitted by the Negotiating Group and other issues arising from the consolidation of Reports by Drafting Groups 1 and 2. While some issues have been resolved by DG3, others require further work at the technical level, and seven issues have been identified as requiring consideration by the Negotiating Group on the basis of the options and text submitted by DG3. The Negotiating Group may wish to consider how best to resolve the outstanding issues.

**Item 8: Progress Report by EG1 on Dispute Settlement and Geographical Scope**

The Chairman of EG1 will report on progress made in the examination of draft texts on a dispute settlement mechanism for the MAI, including consultations, state-state, and investor-state.

He will also report on EG1's review of the existing OECD instruments on Conflicting Requirements and on its discussion on this issue [DAFFE/MAI/EG1(96)11].

**Item 9: Next Steps and Other Business**

In light of the discussions, the Negotiating Group will be invited to consider the agendas for December and January and the possible referral of issues to expert/drafting groups.

A provisional agenda for the December meeting and the schedule of proposed dates for future meetings were agreed at the meeting in September [DAFFE/MAI/RD(96)39].