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

**EXCEPTIONS AND SAFEGUARDS**

**(Proposal for Discussion)**

## EXCEPTIONS AND SAFEGUARDS

(Proposal for Discussion)

### VI. EXCEPTIONS AND SAFEGUARDS

#### *GENERAL EXCEPTIONS*

1. This Article shall not apply to Article IV, 2 and 3 (Expropriation and compensation and protection from strife).
2. Nothing in this Agreement shall be construed:
  - a. to prevent any Contracting Party from taking any action which it considers necessary for the protection of its essential security interests:
    - (i) taken in time of war, or armed conflict, or other emergency in international relations;
    - (ii) relating to the implementation of national policies or international agreements respecting the non-proliferation of weapons of mass destruction;
    - (iii) relating to the production of arms and ammunition;
  - b. to require any Contracting Party to furnish or allow access to any information the disclosure of which it considers contrary to its essential security interests;
  - c. to prevent any Contracting Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.
3. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between Contracting Parties, or a disguised investment restriction, nothing in this Agreement shall be construed to prevent any Contracting Party from taking any measure necessary for the maintenance of public order.<sup>1</sup>
4. Actions or measures taken pursuant to this Article shall be notified to the Parties Group.
5. If a Contracting Party (the "requesting Party") has reason to believe that actions or measures taken by another Contracting Party (the "other Party") under this article have been taken solely for economic reasons, or that such actions or measures are not in proportion to the interest being protected, it may request consultations with that other Party in accordance with Article V, B.1 (State-State Consultation Procedures). That other Party shall provide information to the requesting Party regarding the actions or measures taken and the reasons therefor.

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1. The public order exception may be invoked only where a genuine and sufficiently serious threat is posed to one of the fundamental interests of society.