



Negotiating Group on the Multilateral Agreement on Investment (MAI)

LIBERALISATION AND THE LODGING OF COUNTRY SPECIFIC RESERVATIONS

(Note by the Chair)

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1. Following the OECD Ministerial meeting and before the summer break, I would invite Delegations to take stock of the progress made so far with respect to our liberalisation objectives under the MAI and to agree on the actions needed to reach our common goals.

2. The Ministerial Mandate calls for an agreement with "high standards for the liberalisation of investment regimes" and a "satisfactory scope and balance of commitments". Assessment of the extent to which these objectives are met will be to some extent subjective. However, a Negotiating Group discussion will enable Delegations to share their impressions and provide a sound basis for further work.

3. Looking ahead, we must continue to allow time for bilateral discussions which will provide essential input into the final result. However, we also need to complete the framework within which these discussions take place. I therefore propose to charge DG3 with completing the draft article on the lodging of country specific reservations including the definition of a "measure". I will myself prepare a set of guidelines on generic and technical issues, including the question of de facto national treatment, drawing on the results of earlier Negotiating Group discussions on the basis of DAFPE/MAI(97)11 and 14.

4. The Negotiating Group could review the results of this work in September and, if necessary, resolve outstanding questions. I would then ask delegations to submit revised lists of reservations to consolidate progress made so far and harmonise the presentation of reservations. This would provide a solid basis for a further discussion of liberalisation at the October meeting of the Negotiating Group.

5. Revised lists of reservations should take into account:

- The progress made in the consolidated text, including with respect to new disciplines where many countries have so far indicated where they may need reservations;
- The results of bilateral discussions and the examination of the reservation lists of other countries;
- The results of the work of DG3 on the article on the lodging of country specific reservations;
- My guidelines for the lodging of reservations.

6. The negotiations would benefit, in my view, from a more harmonised presentation of country submissions. The format for the lodging of country specific reservations, as issued in January 1997, could be improved for instance by:

- asking delegations to list horizontal measures first and to submit a separate reservation for each non-conforming measure; and
- reminding delegations to refer to any and all specific MAI obligation(s) in respect of which a reservation is proposed, and to give a rationale in each case.

Questions:

a. How do Delegations assess the progress achieved to date in moving towards the goal of high standards for the liberalisation of investment regimes as specified in the negotiating mandate? In particular:

- In what ways do delegations consider that the preliminary lists of reservations fall short of the goal?
- In what circumstances (if any) would exceptions to standstill be acceptable?

b. Do Delegations agree with the proposal to call for revised and harmonised lists of reservations following the September meeting of the Negotiating Group?