



Negotiating Group on the Multilateral Agreement on Investment (MAI)

DEFINITION OF INVESTMENT AND INVESTOR

(Chairman's Text)

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Investor means:

- (i) a natural person having the nationality of, or who is permanently residing in, a Contracting Party in accordance with its applicable law; or
- (ii) a legal person or any other entity constituted or organised under the applicable law of a Contracting Party, whether or not for profit, and whether private or government owned or controlled, and includes a corporation, trust, partnership, sole proprietorship, joint venture, association or organisation.

Investment means:

Every kind of asset owned or controlled, directly or indirectly, by an investor, including^{1, 2}:

- (i) an enterprise (being a legal person or any other entity constituted or organised under the applicable law of the Contracting Party, whether or not for profit, and whether private or government owned or controlled, and includes a corporation, trust, partnership, sole proprietorship, branch, joint venture, association or organisation);
- (ii) shares, stocks or other forms of equity participation in an enterprise, and rights derived therefrom;
- (iii) bonds, debentures, loans and other forms of debt, and rights derived therefrom;
- (iv) rights under contracts, including turnkey, construction, management, production or revenue-sharing contracts;
- (v) claims to money and claims to performance;
- (vi) intellectual property rights;
- (vii) rights conferred pursuant to law or contract such as concessions, licenses, authorisations, and permits;
- (viii) any other tangible and intangible, movable and immovable property, and any related property rights, such as leases, mortgages, liens and pledges.

¹ This broad definition of investment calls for further work on appropriate safeguard provisions. In addition, the following issues require further work to determine their appropriate treatment in the MAI: indirect investment, intellectual property, concessions, public debt and real estate.

² For greater certainty, an interpretative note will be required to indicate that, in order to qualify as an investment under the MAI, an asset must have the characteristics of an investment, such as the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk.