



6. MULTILATERAL AGREEMENT ON INVESTMENT NEGOTIATIONS

In May 1995, the member countries of the Organization for Economic Co-operation and Development (OECD) agreed to launch negotiations for a Multilateral Agreement on Investment (MAI), open to accession by non-OECD countries. The negotiations are scheduled to conclude in May 1997. As of March 1997, the target date appears to be ambitious since many issues need to be addressed.

The MAI constitutes a first attempt to elaborate a set of multilateral disciplines, similar to those governing international trade. It would build upon the investment rules of the NAFTA, the EC treaties, previous OECD agreements, the existing rules of the WTO and bilateral investment agreements that Canada and many other countries have.

The cornerstone of the MAI would lie in two "core" obligations: the obligation for a country to provide equal treatment between foreign and domestic investors and investments (national treatment); and to treat all foreign investors and investments the same way without favouring one or some (most-favoured nation treatment). The MAI would include rules governing the conditions for expropriation, requirements for prompt and effective compensation, and the unrestricted transfer of funds. Each MAI signatory would be able to challenge any measure of another signatory it considers contrary to the MAI. In addition, the MAI would enable an investor to bring a claim against a state directly. The structure of dispute settlement is expected to be similar to that in the NAFTA.

The MAI would also include rules regarding other measures affecting foreign investment. For example, it would prohibit certain performance requirements, such as local content and minimum levels of exports, and the use of specified performance requirements as conditions attached to advantages such as subsidies. The MAI would also include disciplines on measures governing the temporary entry and stay of key personnel, as the ability to transfer and hire such individuals is an essential element of a decision to invest and in the operation of an investment. Rules for governments to ensure equal treatment for foreign investment with respect to privatization, actions of monopolies and state enterprises, and the granting of investment incentives are also likely to be included in the MAI.