

Canada will preserve the right to adopt or maintain policies, programs and measures that promote and preserve Canadian culture and cultural industries. Such an approach is reflected in the NAFTA, the Canada-U.S. Free Trade Agreement (FTA), the Canada-Chile FTA, the General Agreement on Trade in Services (GATS), and Canada's Foreign Investment Protection Agreements (FIPAs).

In the MAI negotiations, Canada, together with France and other countries, advocates a self-defining general carve-out for culture. Canada will remain part of the coalition of countries supporting this effort, and will pursue alliances with other OECD countries in support of this position. In the event that a general carve-out is not possible, Canada will lodge a country-specific exception of equivalent effect, with no standstill or rollback, that would allow Canada to adopt or maintain any investment measures necessary to preserve and promote Canadian culture. Canadian negotiators are working with Canada's cultural community to develop language that would provide a level of protection at least equivalent to that secured by Canada in the NAFTA.

In sum, Canada's culture is simply not negotiable.

Recommendation 15

The federal government, in consultation with its provincial and territorial counterparts should finalize as soon as possible its draft list of reservations affecting areas of public policy lying within the jurisdiction of subnational levels of government. The federal government should make available to the public the complete list of reservations once agreed upon.

The Government agrees with this recommendation.

To date in the negotiations, Canada has only put federal government measures on the table. Accordingly, Canada has not tabled exceptions on investment measures under the jurisdiction of Canadian provinces.

Should an eventual agreement prove satisfactory and the provinces be covered, the Government will table reservations to ensure that coverage of provincial measures does not exceed the NAFTA.⁽²⁾ The Government agrees to make public a list of exceptions, or reservations, respecting provincial measures once such a list is finalized in consultation with provincial and territorial governments.

Recommendation 16

In consultation with subnational levels of government, Canada must achieve an unbound reservation for health, education and social services.

The Government agrees with this recommendation.

The Government has articulated publicly its commitment to preserving its full freedom of action, at both the federal and the provincial level, with no standstill nor rollback, in key areas such as health, education, social services and programs for aboriginal people, and programs for minority groups. These areas are of critical concern to Canadians, and the Government believes fully that they require a uniquely Canadian solution in terms of public policy. Canada's approach in the MAI negotiations is based on the NAFTA. In the NAFTA, Canada listed sectors or fields of activity where we wished to maintain current investment restrictions, as well as the policy flexibility to adopt new measures in future.

Recommendation 17