FOREIGN INVESTMENT PROTECTION AGREEMENTS

The Canadian government initiated a foreign investment protection agreement (FIPA) program in 1989 in order to protect Canadian investment in developing countries and emerging economies. This program was implemented in response to consultations with Canadian business and reflected the need for an instrument to protect direct investment in regions not yet covered by international agreements on investment issues (such as the OECD Investment Codes). This program is consistent with similar programs initiated by other G7 countries.

In 1994, Canada sought and received Cabinet approval for a new model agreement to be used as a basis for Canada's negotiations in the area of investment protection. The evolution both of Canada's own situation (the conclusion of the NAFTA which contains substantial provisions on investment) and the international context (the completion of the Uruguay Round of Multilateral Trade Negotiations) led to a re-examination of Canada's 1989 model.

The new model retains the fundamental elements found in Canada's earlier agreements, including fair treatment in accordance with international law, MFN treatment for investors, state-to-state and investor-to-state dispute settlement, transfer of funds in freely convertible currency and the concept of prompt, adequate and effective compensation for expropriation. In addition, the new model introduces, inter alia, obligations based upon the national treatment principle, "standstill" provisions, stronger investor-to-state dispute settlement, and provisions regarding entry of personnel.

In the past year Canada concluded negotiations and signed Foreign Investment Protection Agreements with the Philippines, Romania, Ecuador, Barbados, Venezuela, South Africa, and Panama. Negotiations are pending or continuing with a number of Canada's trading partners in Asia, Eastern Europe, the Middle East, the Caribbean, and Central and South America.