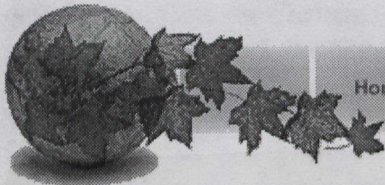


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TO THE REPORT ON

CANADA AND THE MULTILATERAL AGREEMENT ON INVESTMENT

BY

THE SUBCOMMITTEE ON INTERNATIONAL TRADE,

TRADE DISPUTES AND INVESTMENT

OF THE STANDING COMMITTEE

ON FOREIGN AFFAIRS AND INTERNATIONAL TRADE

536023/3

INTRODUCTION

On October 9, 1997, the Minister for International Trade wrote to the Chair of the Standing Committee on Foreign Affairs and International Trade, requesting parliamentary consideration of Canada's participation in the current negotiations toward a Multilateral Agreement on Investment (MAI).

The objective of this request was to encourage Canadians to provide substantive input and guidance to the Government on Canada's participation in the MAI negotiations, which were launched in May 1995. The Government approved Canada's participation in the negotiations and a negotiating mandate, upon joint recommendations from the Minister for International Trade, the Minister of Industry and the Minister of Finance. The Government has, from the outset, sought to proceed in an open and transparent manner, both to engender broad public support for Canada's aims and objectives in the negotiations, and, moreover, to ensure that the negotiating positions that Canada advances in Paris serve the best interests of all Canadians.

The Standing Committee referred the matter to the Subcommittee on International Trade, Trade Disputes and Investment, and public hearings were held in November 1997. Anticipating an intensification of the negotiations in the new year, the Minister for International Trade requested that the Subcommittee finalize

its Report before the Christmas recess of the House of Commons. On the basis of the hearings and written submissions received, the Subcommittee issued its Report, *Canada and the Multilateral Agreement on Investment*, which was adopted by the Standing Committee and tabled in the House of Commons on December 11, 1997.

The Government welcomes this report and accepts its recommendations as a valuable contribution to Canada's negotiation of a potential Multilateral Agreement on Investment.

Canada's Interests

History demonstrates that as a small economy, open to international trade and investment, Canada benefits greatly when there are clear and equitable rules governing participation in international markets. Canada has a long and proud history as a champion of the rules-based international trade and investment system.

In 1947, Canada, together with 22 other founding countries, entered into the General Agreement on Tariffs and Trade (GATT). This was a landmark agreement to reduce tariffs and other barriers to trade and eliminate discriminatory treatment in international commerce. In 1994, more than 45 years later, 124 countries launched the World Trade Organization, (WTO) advancing the GATT in support of a more integrated multilateral trading system. The WTO signatories also advanced their shared objectives of creating employment and improving standards of living, while remaining committed to sustainable development and the protection and preservation of the environment.

The GATT and its successor organization, the WTO, have succeeded in providing the stability of a set of common rules, a commitment to progressive market liberalization and a rules-based regime. Today's trading system is more open, more fair and more universal.

The Government has sought rules that maximize the benefits for Canadians in the world economy, and that provide Canadians with an equal footing in the international marketplace. We have such rules for trade in goods and services, but not for investments. The negotiation of an MAI seeks to address the partial, piecemeal and unsatisfactory rules that currently govern international direct investment. A much more comprehensive and widely accepted set of rules would enable Canada to compete more effectively in the increasingly global economy.

The MAI represents a first step in pursuing Canada's investment objectives for a worldwide treaty negotiated through the WTO, the ultimate destination and most effective home for any truly multilateral agreement on investment. Canada's initiative led to the creation of the WTO Working Group on Trade and Investment at the last WTO Ministerial Meeting in Singapore in 1996.

Canada's strategy in trade and investment negotiations can be simply stated: Canada wants investment rules that are fair, open and transparent, not just rules to benefit corporations but rules that balance the needs of the economy with the imperative of promoting and sustaining overarching Canadian values and interests.

In the end, Canadians want Canada to be at the table when the rules are negotiated to ensure that the rules meet our needs and aspirations.

Canada's Bottom Lines

Broad consultations on Canada's participation in the MAI negotiations continue with a wide range of groups -- provinces, business groups, labour and non-governmental organizations -- to ensure that the interests of all Canadians are reflected in Canada's negotiating positions. A list of these consultations held

to date can be found in the appendix of this response. In this respect, the recent meeting of federal-provincial Trade Ministers on February 19, 1998 -- the first meeting in almost six years -- allowed Trade Ministers to have a thorough discussion of Canada's objectives and bottom lines. No provinces advocated that Canada withdraw from the negotiations.

The Government agrees that an MAI will only be acceptable if it protects essential Canadian values, including our culture, education, health and social services, programs for aboriginal people and programs for minorities. The Government agrees that an MAI must have rules to ensure that the interests of labour and the environment are promoted in international trade negotiations; rules to ensure that corporations cannot seek to use the courts to curb the Government from doing its job of legislating and regulating for the benefit of all Canadians. The Government also agrees to keep the negotiating process transparent to ensure that the interests of Canadians can be heard.

The Government believes that Canada would benefit, in principle, from a good and fair set of rules for international investment. That is why Canada is at the negotiating table. But the Government will only sign an agreement that fully supports Canadian values and safeguards Canadian interests. If our requirements are not met, Canada will not sign, and we will continue to attract investment as a country known for the openness and fairness of its rules.

Recommendation 1

Recognizing the importance of better multilateral rules for the security of Canadian inward and outward investment, Canada should continue to participate actively in the MAI negotiations with its Organization for Economic Co-operation and Development (OECD) partners. Canada should become a contracting party to the MAI, subject to a final text that fully protects Canadian culture, the environment, labour standards, health, education and social services at the federal and subnational levels.

The Government agrees with this recommendation.

Canada has a long history of active participation and leadership in the development of the multilateral trading system. It is therefore natural for Canada to welcome the further evolution of that system to include this vital field of international investment. As a medium power, Canada has fared much better under a system where there are transparent rules to guide nations' behaviour.

As long as the negotiations continue to hold promises of success from Canada's standpoint, the Government will remain at the table to shape an agreement that meets Canada's objectives and reflects our national interests and values. The Government is committed to achieving the right deal at the right time, not any deal any time.

Canada's participation in the negotiations does not commit us to whatever agreement results from the process. The Government will only sign an agreement that fully preserves our freedom of action, at both the federal and provincial levels, on Canadian culture, the environment, labour standards, health, education, social services, aboriginal programs and programs for minority groups. Simply put, the Government will only accept an MAI that is consistent with our national values and our Canadian approaches to key issues.

Recommendation 2

The Government should continue and increase its efforts to inform Canadians of the merits of negotiating an MAI, while addressing the concerns brought forward by this

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The Government agrees with the recommendation.

Canada has a long history of active participation and leadership in the development of the multilateral trading system. It is essential for Canada to welcome the further evolution of that system to include this vital field of international investment. As a trading power, Canada has found much benefit under a system where there are transparent rules to guide nations' behaviour.

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The Government should continue and increase its efforts to inform Canadians of the merits of negotiating an MIA, while addressing the concerns brought forward by this

Committee's public hearings.

The Government agrees with this recommendation.

In October 1997, the Minister for International Trade requested that the Standing Committee on Foreign Affairs and International Trade (SCFAIT) hold public hearings to examine Canada's participation in the MAI negotiations. These hearings allowed organizations representing millions of Canadians and thousands of businesses to present their views. The Government has stepped up efforts to engage Canadians on the outstanding issues in the negotiations, and on the concerns brought forward by the Committee's public hearings. The Government will continue to brief the media, speak to nongovernmental organizations and community groups, and provide information to the general public. Engaging Canadians in an open and transparent process should serve to allay concerns and inform Canadians of the many benefits of negotiating an MAI.

The Government's priority has been to get information to the public. Extensive information has been provided to Members of Parliament, opposition critics have been briefed, and numerous press briefings and interviews have been given. Government officials have consulted broadly with the provinces, nongovernmental organizations (NGOs) and the private sector. A list of the organizations consulted to date is attached. Background information on the MAI negotiations and Canada's objectives has been placed on the Department of Foreign Affairs and International Trade Web site, at

www.dfait-maeci.gc.ca/english/trade/backgr-e.htm

Recommendation 3

The Government should pursue a process that fully involves the provinces, and that will allow sufficient time for the text available at that time to receive the benefit of further parliamentary examination by this Committee, prior to the signature of any negotiated agreement.

The Government agrees with this recommendation.

Re: Provinces

The Government has fully involved the provinces in Canada's negotiation of the MAI. Since the outset of the negotiations in 1995, the provinces have been frequently and consistently consulted. They are debriefed after every negotiating session, copied on all reports, and have access to all negotiating documents. Numerous meetings between federal and provincial trade officials have taken place over the past three years to address issues related to the negotiations. The federal-provincial Trade Ministerial meeting of February 19, 1998 allowed for a thorough discussion of Canada's objectives and bottom lines. No provinces advocated Canada's withdrawal from negotiations.

Re: Parliament

The Government agrees to consult further with the Committee on the negotiations towards a potential Multilateral Agreement on Investment. The Government will also continue to make public new versions of the MAI consolidation of draft working texts as they become available from the negotiating process.

Recommendation 4

Committee's public hearings

The Government agrees with this recommendation

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Recommendation 3

The Government should ensure a process that fully involves the provinces, and that will allow sufficient time for the text available at that time to resolve the benefits of certain provisions, examination by the Committee prior to the signing of any negotiated agreement.

The Government agrees with this recommendation

Re: Response

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Re: Parliament

The Government agrees to consult further with the Committee on the negotiations towards a potential Multilateral Agreement on Investment. The Government will also continue to make public new versions of the MAI consultation of draft working texts as they become available from the negotiating process.

Recommendation 4

The Government should consider undertaking a full impact analysis that will explain the reason that Canada should take part in the MAI. Where relevant, this will include a discussion of foreseeable economic, environmental, social and cultural effects of the agreement and the obligations imposed by the final terms of the agreement.

The Government agrees with the thrust of this recommendation, while noting that Canada's objectives in a satisfactory MAI are well-defined, and our bottom lines are clearly identified.

Canada's objective in a satisfactory MAI is clear: to secure fair and predictable treatment for Canadian firms abroad, similar to that enjoyed by foreign investors in Canada.

The Government analyses on a continual basis the broader impacts of the emerging MAI, focussing upon any potential economic, environmental, social and cultural effects. The extensive consultations that have been held to date with the provinces, NGOs, business and other groups inform Canada's understanding of the possible effects and benefits of an agreement. The SCFAIT hearings and the comprehensive Report of the Committee played a valuable role in informing the Government on the anticipated impact of an agreement, and as such, has contributed to the shaping of Canada's negotiating objectives.

In light of these analyses and consultations, the Government has been able to identify Canada's bottom lines in the negotiations, which are fully reflected in Canada's draft reservations to a potential agreement. These bottom lines have guided Canadian negotiators throughout the negotiations.

Recommendation 5

In future negotiations regarding matters of as widespread importance as the MAI, the Government should undertake an open and transparent process so that public disclosure and consultations can be carried out in a timely manner, to the extent that this is strategically possible.

The Government agrees with this recommendation.

This Government has been and remains committed to open and transparent processes regarding Canada's participation in international negotiations.

Recommendation 6

The definition of investment in the MAI should be clarified and should replicate the approach used in the North American Free Trade Agreement (NAFTA) and in Canada's bilateral investment treaties.

The Government agrees with this recommendation.

Canada will only accept a definition of investment that is compatible with Canada's rights and obligations under the NAFTA and other relevant agreements.

Recommendation 7

In the interest of certainty of both governments and investors, the MAI should clearly indicate, in cases where its provisions deal with the same subject matter as other international agreements, which substantive or procedural rules are to apply to any

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Recommendation 7

In the interest of certainty of both governments and investors, the MAI should clearly indicate, in cases where its provisions deal with the same subject matter as other international agreements, which substantive or procedural rules are to apply to any

dispute over the interpretation or application of these agreements.

The Government agrees with this recommendation.

Canada is working closely with other countries in the MAI negotiations to examine how to deal with the interface between the MAI and other international agreements. Canada will ensure that the MAI clearly indicates which rules would apply in the case of overlap between agreements, and as appropriate, will support language that gives precedence to the WTO.

On the potential overlap between MAI obligations and the investment provisions of the NAFTA, Canada's position is that the NAFTA will continue to govern the investment relations among Canada, the United States and Mexico. Canadian negotiators have already discussed these issues with their U.S. and Mexican counterparts. The Government is currently exploring various legal alternatives to ensure the primacy of the NAFTA in respect of Canada's investment relations with the United States and Mexico.

Countries in the MAI negotiations are exploring the inclusion of a provision that would stipulate the provisions of certain Multilateral Environmental Agreements that would prevail in the event of inconsistency with the MAI.

Recommendation 8

In the event that a satisfactory MAI is successfully negotiated, Canada and its OECD partners should actively use this agreement to subsequently pursue an investment accord at the world level, and in the interim, continue to encourage the accession of non-OECD countries to the MAI treaty.

The Government agrees with this recommendation.

As the Government has stated publicly, Canada's ultimate objective in these negotiations is to develop the foundation for a truly multilateral investment agreement within the WTO. It was Canadian leadership that led to the initiation of the WTO Working Group on Trade and Investment at the Singapore Ministerial in 1996.

At the outset of the MAI negotiations, Canada insisted that any eventual agreement should be open for accession by non-OECD countries. Five non-OECD countries have been granted the status of observer to the current negotiations, and they have expressed strong interest in joining an eventual agreement.

Increasingly, Canadians have been investing in developing countries, and the Government will continue to encourage the early accession to an agreement by non-OECD countries.

Recommendation 9

The Government should negotiate the deletion of the term "unreasonable" from the clause containing the commitment to national treatment (Article IV 1.2 on page 51 of the English version of the May 1997 MAI draft text). The suggested alternative in the footnote of the proposed text of the MAI, which combines the two clauses defining the commitment to national treatment, should be adopted.

The Government agrees with this recommendation.

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Recommendation 8

In the event that a satisfactory MAI is successfully negotiated, Canada and its OECD partners should actively use the agreement as a springboard to encourage the accession of non-OECD countries to the MAI.

The Government agrees with this recommendation.

As the Government has stated publicly, Canada's ultimate objective in these negotiations is to develop the foundation for a truly multilateral investment agreement within the WTO. It was Canadian leadership that led to the formation of the WTO Working Group on Trade and Investment at the Singapore Ministerial in 1990.

At the outset of the MAI negotiations, Canada insisted that any eventual agreement should be open for accession by non-OECD countries. Five non-OECD countries have been granted the status of observer to the current negotiations, and they have expressed strong interest in joining an eventual agreement. Increasingly, Canadians have been pressing other major countries and the Government will continue to encourage the early accession to an agreement by non-OECD countries.

Recommendation 9

The Government should negotiate the inclusion of the term "unprecedented" from the clause containing the commitment to national treatment (Article IV.1.1 on page 21 of the English version of the May 1997 Multilateral text). The suggested alternative in the footnote of the proposed text of the MAI, which contains the two clauses defining the commitment to national treatment, should be adopted.

The Government agrees with this recommendation.

The Subcommittee's recommendation is that Canada should seek the inclusion in the MAI of language equivalent to the one found in existing investment agreements negotiated by Canada. (1) Such language states that MAI signatories should accord to foreign investors treatment in accordance with international law. Canadian laws already provide for better treatment than international law.

Recommendation 10

The key issue of what constitutes an expropriation or a measure having equivalent effect to expropriation (Article IV 2.1 on page 51 of the MAI draft text), or a measure that "impairs" investment, (as outlined in Article 1.2 of the draft MAI text), should be narrowly defined to accord with Canadian and NAFTA practice.

The Government agrees with this recommendation.

As the Government has stated publicly, Canada will only accept an MAI that provides a narrow interpretation of "expropriation" that makes it entirely clear that legislative or regulatory action by government in the public interest is not expropriation requiring compensation, even if such action has adverse profitability consequences for companies or investors.

Recommendation 11

Canada should continue to press for open, accessible and transparent procedures for dispute resolution.

The Government agrees with this recommendation.

Confidentiality is widely regarded as a traditional feature, and at times a major advantage, of international arbitration. Confidential arbitrations are provided for in the NAFTA and Canada's Foreign Investment Protection Agreements (FIPAs). They are the subject of the New York Convention, the International Centre for the Settlement of Investment Disputes (ICSID) Convention and the International Chamber of Commerce and United Nations Convention on International Trade Law (UNCITRAL) arbitration rules. Nonetheless, the Government has advocated more openness and transparency to international dispute settlement in a number of forums, including the WTO and the MAI negotiations. Greater openness and transparency would increase the level of public confidence in international dispute settlement and the legal certainty provided thereby.

Recommendation 12

Canada should insist on strong references to International Labour Organization (ILO) core labour standards in the text of the agreement -- including supporting Alternative 2 on page 50 of the English MAI draft text -- which will ensure their protection at a level at least as high as that obtained in the NAFTA. Canada should also require the incorporation of the OECD Guidelines for Multinational Enterprises into the text of the agreement.

The Government agrees with this recommendation, to the extent that it refers to a strong reference to ILO core labour standards in the agreement, the inclusion of a provision not to lower standards in the text of the agreement, and to the association of the OECD Guidelines for Multinational Enterprises.

While recognizing that the ILO is the proper forum for advancing international labour law, Canada, like

other countries in the negotiations, fully supports inclusion in an agreement of references to the principles underlying ILO core labour standards and the association of the OECD Guidelines for Multinational Enterprises. Labour is a matter where, in some areas, the federal government has exclusive jurisdiction and, in other areas, provincial governments have exclusive jurisdiction. The Government is working closely with its provincial counterparts to develop a national position to explore inclusion of a provision not to lower labour standards for purposes of attracting an investment. The draft provision, Alternative 2, referenced by the SCFAIT, provides a useful model for a provision to this effect. The NAFTA provides a similar provision not to lower environmental measures. The core principles of non-discrimination on which the MAI rests will not limit the ability of governments to maintain, or indeed promote, labour standards. The Government is committed to ensuring that the MAI does not inadvertently threaten labour standards, whether in Canada or globally.

Recommendation 13

The concerns of Canadians regarding the maintenance and introduction of effective environmental standards must be addressed through the use of strong and unambiguous language in the text of the agreement -- as in Alternative 2 on page 50 of the MAI draft text. Nothing in the MAI, apart from the national treatment of non-discrimination provisions, should infringe on Canadian governments' capacity, at all levels, to introduce new measures to protect the environment and promote sustainable development.

The Government agrees with this recommendation.

The Government is committed to advancing environmental protection and sustainable development. Canada will not accept obligations that would infringe on the right of governments to regulate or take appropriate measures in the interests of protecting the environment or promoting sustainable development.

Canada is currently working with other countries to introduce language into the agreement that would stipulate clearly that the MAI does not prevent countries from maintaining, introducing or enforcing environmental measures of general application.

The Government is also committed to ensuring that countries do not lower their environmental standards in order to attract investment. The SCFAIT refers to a draft provision, Alternative 2, that mirrors the provision Canada agreed to in the NAFTA.

As environment is an area of shared jurisdiction with the provinces, the Government is working closely with provincial governments in the development of Canada's positions on these matters.

Recommendation 14

Canada must achieve an adequate and effective cultural exemption in order to sign the agreement. Therefore, Canada should remain part of the coalition of countries supporting the principle of the French approach to exempting culture from the agreement: incorporating a broad self-judging exception within the text of the MAI. Canada should aggressively pursue alliances with other OECD member countries in support of this position.

The Government agrees with this recommendation.

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.

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The Government agrees with this recommendation.

The Government has articulated publicly its commitment to preserving its freedom of action in both the federal and the provincial level, with no standard nor ceiling, in key areas such as health, education, social services and programs for aboriginal people, and programs for the arts and culture. These areas are of central concern to Canadians, and the Government believes that they are areas where Canadian solutions 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 reviews, as well as the policy flexibility to adopt new measures in future.

Recommendation 17

In order to discipline unilateral extraterritorial measures such as the Helms-Burton Act, Canada, in co-operation with the European Union and other like-minded countries, should continue to insist upon the inclusion in the MAI of the Canadian proposal or a measure of equivalent effect.

The Government agrees with this recommendation.

The Government's position in the MAI negotiations is that extraterritorial laws affecting investment should be addressed as part of the outcome of the negotiations. Canada has introduced proposals that recognize that the imposition of conflicting requirements applicable to investors creates the potential for unfair treatment. Canada has also tabled proposals to address the issue of secondary investment boycotts.

The Government will continue to insist upon the inclusion in the MAI of provisions disciplining the unilateral use of extraterritorial investment measures. Canada is currently negotiating with the United States and the European Union in an attempt to resolve these matters.

Consultations by the Federal Government

(as of April 17, 1998)

1. Public Announcement of Launch of MAI Negotiations:

- May 24, 1995

2. Provinces and Territories:

Federal / Provincial / Territorial Trade Ministers Meeting:

- February 19, 1998

Other Federal / Provincial / Territorial Ministers Meetings:

- January 30, 1998 (Environment)

Meetings with provincial / territorial officials:

- March 14, 1995
- June 1, 1995
- October 3, 1995
- February 13, 1996
- June 10, 1996
- September 17, 1996
- November 19, 1996
- March 4, 1997
- June 18, 1997
- September 8, 1997
- October 15, 1997

In order to describe unilateral extrajudicial measures taken as the High-Function Area, Canada, in co-operation with the European Union and other like-minded countries, should continue to insist upon the inclusion in the MAI of the Canadian proposal or a measure of equivalent effect.

The Government agrees with the recommendation.

The Government's position in the MAI negotiations is that extrajudicial laws affecting investment should be addressed as part of the outcome of the negotiations. Canada has introduced proposals that recognize that the imposition of conflicting requirements applicable to investors creates the potential for unfair treatment. Canada has also tabled proposals to address the issue of secondary investment protection.

The Government will continue to insist upon the inclusion in the MAI of provisions describing the unilateral use of extrajudicial investment measures. Canada is currently negotiating with the United States and the European Union in an attempt to resolve these matters.

Contributions by the Federal Government

(as of April 17, 1998)

1. Public Announcement of Launch of MAI Negotiations:

• May 24, 1997

2. Provincial and Territorial:

Federal / Provincial / Territorial Joint News Releases:

• February 19, 1998

Other Federal / Provincial / Territorial Minister Statements:

• January 30, 1998 (Environment)

Meetings with provincial / territorial officials:

• March 14, 1997

• June 1, 1997

• October 3, 1997

• February 17, 1998

• June 19, 1997

• September 17, 1997

• November 19, 1997

• March 4, 1997

• June 18, 1997

• September 8, 1997

• October 15, 1997

- December 10, 1997
- February 9, 1998 (Ontario)
- February 10, 1998 (Alberta)
- February 10, 1998 (Sask.)
- February 17, 1998 (Environment)
- February 27, 1998 (Labour)
- March 11, 1998
- March 25, 1998 (PEI)
- March 31, 1998 (Yukon)
- April 1, 1998 (BC)

Conference calls with provincial / territorial officials:

- November 2, 1995
- December 13, 1995
- March 21, 1996
- April 24, 1996
- July 3, 1996
- September 24, 1996
- November 1, 1996
- January 15, 1997
- February 11, 1997
- March 6, 1997
- April 8, 1997
- April 10, 1997
- May 5, 1997
- July 11, 1997
- September 25, 1997
- November 6, 1997
- December 12, 1997 (Labour)
- December 17, 1997
- December 18, 1997
- January 28, 1998
- January 30, 1998 (Labour)
- February 2, 1998
- March 10, 1998 (Environment)
- March 26, 1998

3. Private sector and non-governmental organisations:

Alliance of Manufacturers and Exporters of Canada:

- December 5, 1997 (meeting with representatives)
- December 18, 1997 (correspondence)
- February 11, 1998 (meeting with representatives)

International Artistic Literary Association:

- February 26, 1998 (meeting with representatives)

- December 10, 1997
- February 9, 1998 (Canada)
- February 10, 1998 (Albania)
- February 10, 1998 (Slovakia)
- February 17, 1998 (Bulgaria)
- February 27, 1998 (Latvia)
- March 11, 1998
- March 25, 1998 (1997)
- March 24, 1998 (Yugoslavia)
- April 1, 1998 (EC)

Confidence calls with provincial / territorial officials:

- November 2, 1995
- December 17, 1995
- March 21, 1996
- April 24, 1996
- July 3, 1996
- September 24, 1996
- November 1, 1996
- January 12, 1997
- February 11, 1997
- March 6, 1997
- April 8, 1997
- April 10, 1997
- May 3, 1997
- July 11, 1997
- September 22, 1997
- November 6, 1997
- December 12, 1997 (Latvia)
- December 17, 1997
- December 18, 1997
- January 28, 1998
- January 29, 1998 (Latvia)
- February 2, 1998
- March 10, 1998 (Bulgaria)
- March 24, 1998

3. Private sector and non-governmental organizations:

Alliance of Manufacturers and Exporters of Canada:

- December 2, 1997 (meeting with representatives)
- December 18, 1997 (correspondence)
- February 17, 1998 (meeting with representatives)

International Airline Association:

- February 26, 1998 (meeting with representatives)

Automotive Parts Manufacturers' Association of Canada:

- August 27, 1997 (meeting with respresentatives)

Automotive Industry Associations (various groups):

- December 8, 1997 (meeting with representatives)

Book and Periodical Council:

- October 15, 1997 (correspondence)
- November 21, 1997 (correspondence)

Business Council on National Issues (BCNI):

- January 15, 1998 (meeting with representatives)
- January 27, 1998 (meeting with representatives)
- February 3, 1998 (correspondence)

Canadian Auto Workers:

- November 22, 1995 (correspondence)

Canadian Book Publishers' Association:

- October 3, 1997 (meeting with representatives)

Canadian Chamber of Commerce (CCC) /***Canadian Council on International Business (CCIB) /******and member companies:***

- May 20, 1993 (meeting with representatives)
- January 27, 1995 (meeting with representatives)
- December 19, 1995 (meeting with representatives)
- March 4, 1996 (meeting with representatives)
- October 29, 1996 (meeting with representatives)
- November 12, 1996 (meeting with representatives)
- July 28, 1997 (meeting with representatives)
- September 3, 1997 (meeting with representatives)
- November 12, 1997 (meeting with representatives)
- January 15, 1998 (meeting with representatives)
- January 27, 1998 (meeting with representatives)
- February 12, 1998 (correspondence)

Canadian Council for the Arts:

- November 7, 1997 (meeting with the Executive Board)
- December 12, 1997 (correspondence)

Automotive Parts Manufacturers' Association of Canada:

- August 27, 1997 (meeting with representatives)

Automotive Industry Association (various groups):

- December 8, 1997 (meeting with representatives)

Bank and Financial Council:

- October 15, 1997 (correspondence)
- November 21, 1997 (correspondence)

Business Council on National Issues (BCNI):

- January 12, 1998 (meeting with representatives)
- January 27, 1998 (meeting with representatives)
- February 2, 1998 (correspondence)

Canadian Auto Workers:

- November 22, 1997 (correspondence)

Canadian Book Publishers' Association:

- October 3, 1997 (meeting with representatives)

Canadian Chamber of Commerce (CCC):

Canadian Council on International Business (CCIB):

and member companies:

- May 20, 1997 (meeting with representatives)
- January 27, 1997 (meeting with representatives)
- December 19, 1997 (meeting with representatives)
- March 4, 1998 (meeting with representatives)
- October 29, 1997 (meeting with representatives)
- November 12, 1997 (meeting with representatives)
- July 30, 1997 (meeting with representatives)
- September 2, 1997 (meeting with representatives)
- November 12, 1997 (meeting with representatives)
- January 12, 1998 (meeting with representatives)
- January 27, 1998 (meeting with representatives)
- February 12, 1998 (correspondence)

Canadian Council for the Arts:

- November 7, 1997 (meeting with the Executive Board)
- December 12, 1997 (correspondence)

- February 13, 1998 (correspondence)
- February 26, 1998 (meeting with representatives)

Canadian Environmental Law Association:

- October 27, 1997 (Canadian negotiators met with Acting Executive Director, Michelle Swenarchuk, on the margins on MAI consultations with NGOs)

Canadian Federation of Agriculture:

- May 12, 1997 (correspondence)
- May 22, 1997 (meeting with representatives)
- June 11, 1997 (meeting with representatives)
- October 22, 1997 (meeting with representatives)
- November 19, 1997 (meeting with representatives)
- November 21, 1997 (meeting with representatives)
- December 12, 1997 (Chief Negotiator met with CFA's Trade rep.)
- January 7, 1998 (correspondence)
- January 27, 1998 (meeting with representatives)
- March 24, 1998 (meeting with representatives)

Canadian Federation of University Women:

- March 18, 1998 (meeting with representatives)

Canadian Institute for Environmental Law & Policy:

- February 12, 1998 (correspondence)

Canadian Labour Congress:

- March 28, 1997 (meeting with representatives)
- April 8, 1997 (correspondence)
- April 10, 1997 (correspondence)
- July 16, 1997 (meeting with representatives)
- July 31, 1997 (correspondence)
- September 15, 1997 (correspondence)
- September 17, 1997 (correspondence)
- October 17, 1997 (correspondence)
- November 20, 1997 (meeting with representatives)
- January 23, 1998 (meeting with representatives)
- March 9, 1998 (meeting with representatives)

Canadian Magazines Publishers' Association:

- July 28, 1997 (meeting with representatives)

Canadian Nurses' Association (and other health groups):

- January 20, 1998 (meeting with representatives)

- February 13, 1998 (correspondence)
- February 26, 1998 (meeting with representatives)

Canadian Environmental Law Association

- October 27, 1997 (Canadian negotiators met with Acting Executive Director, Michelle Swennisch, on the margins of NAFTA consultations with FICOs)

Canadian Federation of Agriculture

- May 12, 1997 (correspondence)
- May 22, 1997 (meeting with representatives)
- June 11, 1997 (meeting with representatives)
- October 22, 1997 (meeting with representatives)
- November 19, 1997 (meeting with representatives)
- November 21, 1997 (meeting with representatives)
- December 12, 1997 (Chief Negotiator met with CFA's Trade rep.)
- January 7, 1998 (correspondence)
- January 27, 1998 (meeting with representatives)
- March 24, 1998 (meeting with representatives)

Canadian Federation of University Women

- March 18, 1998 (meeting with representatives)

Canadian Institute for Environmental Law & Policy

- February 12, 1998 (correspondence)

Canadian Labour Congress

- March 28, 1997 (meeting with representatives)
- April 8, 1997 (correspondence)
- April 10, 1997 (correspondence)
- July 16, 1997 (meeting with representatives)
- July 31, 1997 (correspondence)
- September 12, 1997 (correspondence)
- September 14, 1997 (correspondence)
- October 17, 1997 (correspondence)
- November 20, 1997 (meeting with representatives)
- January 22, 1998 (meeting with representatives)
- March 9, 1998 (meeting with representatives)

Canadian Magazine Publishers' Association

- July 28, 1997 (meeting with representatives)

Canadian Nurses' Association (and other health groups)

- January 20, 1998 (meeting with representatives)

Canadian Pulp and Paper Association:

- February 12, 1998 (correspondence)

Canadian Research Institute for the Advancement of Women:

- November 24, 1997 (correspondence)
- January 8, 1998 (correspondence)

Canadian Steel Producers Association:

- October 21, 1997 (meeting with representatives)

Canadian Teachers' Federation:

- October 8, 1997 (correspondence)
- November 25, 1997 (correspondence)
- December 10, 1997 (correspondence)
- January 26, 1998 (meeting with representatives)

Citizens for Honest Democracy:

- November 22, 1997 (correspondence)
- December 21, 1997 (correspondence)

Citizens for Public Justice:

- October 23, 1997 (correspondence)
- December 1, 1997 (correspondence)
- December 18, 1997 (correspondence)
- January 26, 1998 (correspondence)

Contemporary Information Analysis Ltd.:

- February 17, 1998 (correspondence)

Council of Canadians:

- August 25, 1997 (correspondence)
- September 24, 1997 (correspondence)
- October 17, 1997 (correspondence)
- October 27, 1997 (Canadian negotiators met with Chairperson, Maude Barlow, on the margins on MAI consultations with NGOs)

Dairy Farmers of Canada:

- May 20, 1997 (meeting with representatives)

Federation of Canadian Municipalities:

Canadian Paper and Paper Association

- February 14, 1998 (correspondence)

Canadian Research Institute for the Advancement of Women

- November 24, 1997 (correspondence)
- January 8, 1998 (correspondence)

Canadian Steel Processors Association

- October 21, 1997 (meeting with representatives)

Canadian Teachers' Federation

- October 8, 1997 (correspondence)
- November 25, 1997 (correspondence)
- December 18, 1997 (correspondence)
- January 26, 1998 (meeting with representatives)

Chicoutimi Forest Industry

- November 25, 1997 (correspondence)
- December 21, 1997 (correspondence)

Chicoutimi Public Health

- October 23, 1997 (correspondence)
- December 1, 1997 (correspondence)
- December 18, 1997 (correspondence)
- January 26, 1998 (correspondence)

Contemporary Information Analysis Ltd.

- February 17, 1998 (correspondence)

Conseil de l'Industrie

- August 25, 1997 (correspondence)
- September 24, 1997 (correspondence)
- October 17, 1997 (correspondence)

• October 27, 1997 (Canadian negotiators met with Chairperson Manda Hallow on the margins of MAT consultation with NGOs)

Deer Farmers of Canada

- May 20, 1997 (meeting with representatives)

Federation of Canadian Municipalities

- February 9, 1998 (meeting with representatives)
- January 22, 1998 (correspondence)
- March 6, 1998 (meeting with representatives)

The Health Action Lobby:

- January 20, 1998 (meeting)
- February 11, 1998 (correspondence)
- April 13, 1998 (correspondence)

Information Technology Association of Canada:

- January 19, 1996 (correspondence)
- April 21, 1997 (correspondence)
- September 3, 1997 (meeting with representatives)

International Institute for Sustainable Development:

- November 7, 1997 (meeting with representatives)
- January 28, 1998 (meeting with representatives)

Learning Disabilities Association of Canada:

- January 20, 1998 (correspondence)

Mining Association of Canada:

- February 13, 1997 (correspondence)

National Council of Women of Canada:

- December 10, 1997 (meeting with representatives)
- January 23, 1998 (correspondence)

National Electricity Roundtable

- February 27, 1998 (meeting with representatives)

National Farmers Union:

- May 13, 1997 (correspondence)
- June 6, 1997 (correspondence)
- June 27, 1997 (correspondence)

National Pensioners Association of Canada

- February 24, 1998 (meeting with representatives)

National Roundtable on the Economy and the Environment:

- February 9, 1998 (meeting with representatives)
- January 22, 1998 (correspondence)
- March 6, 1998 (meeting with representatives)

The Health Action Labors

- January 30, 1998 (meeting)
- February 11, 1998 (correspondence)
- April 17, 1998 (correspondence)

Information Technology Association of Canada:

- January 19, 1996 (correspondence)
- April 24, 1997 (correspondence)
- September 3, 1997 (meeting with representatives)

International Institute for Sustainable Development:

- November 7, 1997 (meeting with representatives)
- January 28, 1998 (meeting with representatives)

Learning Disabilities Association of Canada:

- January 20, 1998 (correspondence)

Mining Association of Canada:

- February 13, 1997 (correspondence)

National Council of Women of Canada:

- December 10, 1997 (meeting with representatives)
- January 23, 1998 (correspondence)

National Electricity Knowledge:

- February 27, 1998 (meeting with representatives)

National Farmers Union:

- May 13, 1997 (correspondence)
- June 6, 1997 (correspondence)
- June 23, 1997 (correspondence)

National Foresters Association of Canada:

- February 24, 1998 (meeting with representatives)

National Knowledge on the Economy and the Environment:

- November 21, 1997 (meeting with representatives)
- February 6, 1998 (meeting with representatives)

Ontario Secondary School Teachers' Federation:

- January 12, 1998 (correspondence)

Oxford Coalition for Social Justice:

- February 6, 1998 (correspondence)

Société professionnelle des auteurs et des compositeurs du Québec:

- February 2, 1998 (meeting with representatives)

Society of Composers, Authors and Music Publishers of Canada:

- December 18, 1997 (meeting with representatives)

Sectoral Advisory Groups on International Trade (SAGITs) and International Trade Advisory Committee (ITAC) task forces:

Meetings to brief these groups on the progress in negotiations:

- October 16, 1996 (Cultural Industries)
- October 29, 1996 (Energy, Chemical and Plastics)
- October 31, 1996 (Forest Products)
- November 6, 1996 (Business, Professional and Educational Services)
- February 25, 1997 (Cultural Industries)
- June 17, 1997 (Cultural Industries)
- August 27, 1997 (Agri-Food)
- August 29, 1997 (ITAC Task Force on Trade and Env.)
- October 28, 1997 (Medical and Health Care Products and Services)
- November 20, 1997 (Agri-Food)
- November 25, 1997 (Cultural Industries)
- November 25, 1997 (ITAC Task Force on Trade and Env.)
- November 26, 1997 (Energy, Chemical and Plastics)
- December 15, 1997 (ITAC Task Force on Trade Policy)
- February 2, 1998 (ITAC Task Force on Trade and Env.)
- February 11, 1998 (Forest products)
- February 27, 1998 (Fish and Sea Products)

Correspondence:

- June 27, 1996 (ITAC Task Force on Trade Policy)
- September 20, 1996 (ITAC Task Force on Trade Policy)
- October 7, 1997 (letters to all SAGITs)

Sierra Club:

- November 21, 1997 (meeting with representatives)
- February 6, 1998 (meeting with representatives)

Ontario Secondary School Teachers' Federation

- January 12, 1998 (correspondence)

Quebec Coalition for Social Justice

- February 6, 1998 (correspondence)

Société professionnelle des auteurs et des compositeurs du Québec

- February 2, 1998 (meeting with representatives)

Society of Composers, Authors and Music Publishers of Canada

- December 18, 1997 (meeting with representatives)

Sectoral Advisory Groups on International Trade (SAGIT) and International Trade Advisory Committee (ITAC) task forces:

Meetings to brief these groups on the progress in negotiation.

- October 16, 1996 (Cultural Industries)
- October 29, 1996 (Energy, Chemical and Plastics)
- October 31, 1996 (Forest Products)
- November 4, 1996 (Business, Professional and Educational Services)
- February 22, 1997 (Cultural Industries)
- June 17, 1997 (Cultural Industries)
- August 27, 1997 (Agri-Food)
- August 29, 1997 (ITAC Task Force on Trade and Env.)
- October 28, 1997 (Medical and Health Care Products and Services)
- November 20, 1997 (Agri-Food)
- November 22, 1997 (Cultural Industries)
- November 22, 1997 (ITAC Task Force on Trade and Env.)
- November 26, 1997 (Energy, Chemical and Plastics)
- December 12, 1997 (ITAC Task Force on Trade Policy)
- February 2, 1998 (ITAC Task Force on Trade and Env.)
- February 11, 1998 (Forest Products)
- February 27, 1998 (Fish and Sea Products)

Conferences:

- June 27, 1996 (ITAC Task Force on Trade Policy)
- September 20, 1996 (ITAC Task Force on Trade Policy)
- October 7, 1997 (brief to all SAGIT)

Other:

- October 27, 1997 (Canadian negotiators met with Executive Director, Elizabeth May, on the margins on MAI consultations with NGOs)
- January 5, 1998 (meeting with representatives)
- February 6, 1998 (correspondence)

World Wildlife Fund (Canada):

- December 10, 1996 (correspondence)
- January 28, 1997 (correspondence)
- March 20, 1997 (correspondence)

Writers' Union of Canada:

- November 25, 1997 (correspondence)
- February 10, 1998 (correspondence)

4. Senate and House of Commons Standing Committees Hearings and/or Briefings on MAI:

House of Commons Standing Committee on Foreign Affairs and International Trade:

- November, 1997

Witnesses:

- Canadian Labour Congress
- Canadian Council for International Business
- University of Toronto
- Council of Canadians
- Polaris Institute
- Centre for Trade Policy and Law
- Simon Fraser University
- Fraser Institute
- British Columbia Legislature
- International Environmental Law and Policy
- Government of British Columbia

Submissions by organisations:

- Alberni Environmental Coalition
- Alliance of Canadian Cinema, Television and Radio Artists
- Alliance for Public Accountability
- Appleton and Associates
- Association of Canadian Publishers
- Business Council on National Issues
- Canadian Association of Physicians for the Environment
- Canadian Conference of the Arts
- Canadian Council for International Business
- Canadian Environmental Law Association

- October 27, 1997 (Canadian negotiators met with Executive Director, Elizabeth May, on the margins of MAF consultations with NGOs)
- January 7, 1998 (meeting with representatives)
- February 6, 1998 (correspondence)

World Wildlife Fund (Canada):

- December 10, 1997 (correspondence)
- January 28, 1997 (correspondence)
- March 30, 1997 (correspondence)

Writers' Union of Canada:

- November 25, 1997 (correspondence)
- February 10, 1998 (correspondence)

4. Senate and House of Commons Standing Committee Hearings and/or Briefings on MAF:

House of Commons Standing Committee on Foreign Affairs and International Trade:

- November, 1997

Witnesses:

- Canadian Labour Congress
- Canadian Council for International Business
- University of Toronto
- Council of Canadians
- Polaris Institute
- Centre for Trade Policy and Law
- Simon Fraser University
- Fraser Institute
- British Columbia Physicians
- International Environmental Law and Policy
- Government of British Columbia

Submitters by organization:

- Alberta Environmental Coalition
- Alliance of Canadian Cinema, Television and Radio Artists
- Alliance for Public Accountability
- Aphton and Associates
- Association of Canadian Publishers
- Business Council on National Issues
- Canadian Association of Physicians for the Environment
- Canadian Conference of the Arts
- Canadian Council for International Business
- Canadian Environmental Law Association

- Canadian Federation of Agriculture
- Canadian Film and Television Production Association
- Canadian Institute of International Affairs
- Canadian Labour Congress
- Canadian Public Health Association
- Canadian Pulp and Paper Association
- Canadian Teachers' Federation
- Centre for Research on Violence against Women and Children
- Centre for Trade Policy and Law
- Citizens Concerned About Free Trade
- Consumers Association of Canada
- Council of Canadians
- Daytimers - Unitarian Church of Vancouver
- Enviro-Clare
- First Unitarian Congregation of Ottawa, Committee Concerned about MAI
- Government of British Columbia
- Green Party of Canada, Global Compliance Research Project
- Information and Technology Association of Canada
- International Institute for Sustainable Development
- Langara Students' Union
- Mining Association of Canada
- National Action Committee on the Status of Women
- National Centre for Sustainability
- National Council of Women of Canada
- National Pensioners and Senior Citizens Federation
- Newfoundland and Labrador Federation of Labour
- Nova Scotia Public Interest Research Group
- Ontario Veterinary College, Department of Population Medicine
- Playwrights Union of Canada
- Polaris Institute
- Science for Peace
- Sierra Club of Canada
- Society of Composers, Authors and Music Publishers of Canada (SOCAN)
- University of Saskatchewan
- University of Toronto
- Windsor Area MAI-Day Coalition
- Women of Faith New Worker Society
- World Vision Canada
- Writers' Union of Canada

House of Commons Standing Committee on Environment and Sustainable Development

- February 3, 1998

Witnesses:

- Canadian Environmental Law Association
- Canadian Labour Congress
- Sierra Club
- West Coast Environmental Law Association

- Canadian Federation of Agriculture
- Canadian Film and Television Production Association
- Canadian Institute of International Affairs
- Canadian Labour Congress
- Canadian Public Health Association
- Canadian Film and Paper Association
- Canadian Teachers' Federation
- Centre for Research on Violence against Women and Children
- Centre for Trade Policy and Law
- Childs' Concern About First Trade
- Consumers Association of Canada
- Council of Canadians
- Daytuner - Unitarian Church of Vancouver
- Bayvic-Clare
- First Unitarian Congregation of Ottawa (committee concerned about MAI)
- Government of British Columbia
- Green Party of Canada, Global Citizenship Research Project
- Information and Technology Association of Canada
- International Institute for Sustainable Development
- Lawyers Students' Union
- Mining Association of Canada
- National Action Committee on the Status of Women
- National Centre for Sustainability
- National Council of Women of Canada
- National Pensioners and Senior Citizens Federation
- Newfoundland and Labrador Federation of Labour
- Nova Scotia Public Interest Research Group
- Ontario Veterinary College, Department of Population Medicine
- Playwrights Union of Canada
- Police Institute
- Science for Peace
- Sierra Club of Canada
- Society of Composers, Authors and Music Publishers of Canada (SOCAN)
- University of Saskatchewan
- University of Toronto
- Windsor Area MAI-Deaf Coalition
- Women of Faith New Worker Society
- World Vision Canada
- Writers' Union of Canada

Board of Common Standing Committee on Environment and Sustainable Development

February 2, 1998

Witnesses:

- Canadian Environmental Law Association
- Canadian Labour Congress
- Sierra Club
- West Coast Environmental Law Association

House of Commons Standing Committee on Health

- December 4, 1997

Witnesses:

- Barry Appleton
- Business Council on National Issues
- Canadian Health Coalition
- Council of Canadians
- Fraser Institute

House of Commons Standing Committee on Heritage

- November 26, 1997

House of Commons Standing Committee on Agriculture

- February 24, 1998

House of Commons Standing Committee on Fisheries and Oceans

- March 31, 1998

Senate Committee on Foreign Affairs

- November 27, 1997

Senate Committee on Fisheries and Oceans

- March 19, 1998

5. Mailings to all Members of Parliament and the Senate on MAI:

- July 25, 1997
- September 15, 1997
- October 17, 1997
- November 4, 1997
- February 16, 1998
- February 19, 1998

6. Individual Briefings to Opposition Trade Critics on MAI:

- September 11, 1997
- September 18, 1997
- September 25, 1997
- October 22, 1997

1. The footnote referenced by this recommendation reads: "Each Contracting Party shall accord to

House of Commons Standing Committee on Health

• December 4, 1997

Witnesses:

- Gary Appleton
- Business Council on National Issues
- Canadian Health Coalition
- Council of Canadians
- Food Institute

House of Commons Standing Committee on Heritage

• November 26, 1997

House of Commons Standing Committee on Agriculture

• February 24, 1998

House of Commons Standing Committee on Fisheries and Oceans

• March 31, 1998

Senate Committee on Foreign Affairs

• November 27, 1997

Senate Committee on Fisheries and Oceans

• March 19, 1998

2. Mailings to all Members of Parliament and the Senate on MAI

- July 25, 1997
- September 15, 1997
- October 17, 1997
- November 4, 1997
- February 16, 1998
- February 19, 1998

4. Individual Briefings to Opposition Trade Critics on MAI

- September 11, 1997
- September 18, 1997
- September 25, 1997
- October 22, 1997

1. The footnote referred to by the respondent in this regard reads: "Each Contracting Party shall accord to

investments in its territory of investors of another Contracting Party fair and equitable treatment and full and constant protection and security. Such treatment shall also apply to the operation, management, maintenance, use, enjoyment or disposal of such investments. In no such case shall a Contracting Party accord treatment less favourable than that required by international law."

2. 2 In the NAFTA, Canada secured a grandfathering of all nonconforming provincial measures together with unbound reservations to ensure full policy flexibility in certain sensitive sectors.

© Department of Foreign Affairs and International Trade,
December 1996



"The Government's response to the Committee's recommendations confirms our commitment to an approach that is both sensitive to, and in keeping with, the interests and concerns raised by the Canadian public," said Mr. Marchi. "Indeed, the parliamentary consensus reflected in the Committee report very much complements the position taken by the Government throughout the MAI negotiations."

At the Minister's request, the all-party Sub-Committee on International Trade, Trade Disputes and Investment of the Standing Committee on Foreign Affairs and International Trade held public hearings in November on the MAI and submitted its report with recommendations in December 1997. The Government has responded positively to all of these 17 recommendations, which provide useful advice to the Government and its negotiators.

During the hearings, the Sub-Committee heard from more than 50 Canadian witnesses and received over 150 written submissions representing diverse perspectives and a wide range of concerns. A number of experts and spokespersons for national associations also presented their views on the proposed deal.

In its response, the Government reiterates its commitment to continued consultations with Parliament, the provinces and Canadians. Canada will only sign an agreement, with bounded reservations, that fully preserves its freedoms of action at both the federal and provincial levels, on Canadian culture, the environment, labour standards, health, education, social services, Aboriginal programs and programs for minority groups.

"In this parliamentary process, I've asked, I've listened and I've agreed," concluded Minister Marchi. "In these negotiations, there is no time line. There is only Canada's bottom line, and we will not sign on unless our requirements are met."

The MAI is being negotiated in Paris under the auspices of the Organization for Economic Co-operation and Development (OECD), a body that promotes co-operation among the world's 29 major industrialized countries including Canada. The agreement is an attempt to negotiate a multi-lateral framework of rules for investment.

A background paper is attached.

For further information, media representatives may contact:

investments in his territory of investors of another Contracting Party but not equitable treatment and full and constant protection and security. Such treatment shall also apply to the operation, management, maintenance, use, enjoyment or disposal of such investments. In no event shall a Contracting Party accord treatment less favourable than that required by international law.

3. In the NAFTA, Canada secured a grandfathering of all nonconforming provincial measures together with national reservations to ensure full policy flexibility in certain sensitive sectors.

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Department of Foreign Affairs
and International TradeMinistère des Affaires étrangères
et du Commerce international

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MARCHI TABLES GOVERNMENT RESPONSE TO PARLIAMENTARY COMMITTEE'S REPORT ON MAI

International Trade Minister Sergio Marchi today tabled the Government's response to a House of Commons Sub-Committee report on negotiations for the proposed Multilateral Agreement on Investment (MAI).

"The Government's response to the Committee's recommendations confirms our commitment to an approach that is both sensitive to, and in keeping with, the interests and concerns raised by the Canadian public," said Mr. Marchi. "Indeed, the parliamentary consensus reflected in the Committee report very much complements the position taken by the Government throughout the MAI negotiations."

At the Minister's request, the all-party Sub-Committee on International Trade, Trade Disputes and Investment of the Standing Committee on Foreign Affairs and International Trade held public hearings in November on the MAI and submitted its report with recommendations in December 1997. The Government has responded positively to all of these 17 recommendations, which provide useful advice to the Government and its negotiators.

During the hearings, the Sub-Committee heard from more than 50 Canadian witnesses and received over 150 written submissions representing diverse perspectives and a wide range of concerns. A number of experts and spokespersons for national associations also presented their views on the proposed deal.

In its response, the Government reiterates its commitment to continued consultations with Parliament, the provinces and Canadians. Canada will only sign an agreement, with ironclad reservations, that fully preserves its freedom of action at both the federal and provincial levels, on Canadian culture, the environment, labour standards, health, education, social services, Aboriginal programs and programs for minority groups.

"In this parliamentary process, I've asked, I've listened and I've agreed," concluded Minister Marchi. "In these negotiations, there is no time line. There is only Canada's bottom line, and we will not sign on unless our requirements are met."

The MAI is being negotiated in Paris under the auspices of the Organization for Economic Co-operation and Development (OECD), a body that promotes co-operation among the world's 29 major industrialized countries including Canada. The agreement is an attempt to negotiate a multilateral framework of rules for investment.

- 30 -

A backgrounder is attached.

For further information, media representatives may contact:

April 23, 1988 / 88-0423

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In its response, the Government reiterates its commitment to continued consultation with Parliament, the provinces and Canadians. Canada will only sign an agreement with focused reservations that fully preserves its freedom of action at both the federal and provincial levels, or Canadian culture, the environment, labour standards, health, education, social services, Aboriginal programs and programs for minority groups.

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For further information, media representatives may contact:

Leslie Swartman
Office of the Minister for International Trade
(613) 992-7332
Media Relations Office
Department of Foreign Affairs and International Trade
(613) 995-1874

Backgrounder

HIGHLIGHTS OF THE GOVERNMENT RESPONSE TO THE SUB-COMMITTEE ON INTERNATIONAL TRADE, TRADE DISPUTES AND INVESTMENT OF THE STANDING COMMITTEE ON FOREIGN AFFAIRS AND INTERNATIONAL TRADE (SCFAIT)

In the Government's response to the Sub-Committee's report, Minister Marchi, on behalf of the Government of Canada, expressed his satisfaction with the report's recommendations. The recommendations confirm Canada's approach to date in these negotiations. As well, the Government agrees with all the recommendations. This is especially true of the following recommendations:

Recommendation 1 - *That Canada continue to participate in the negotiations*

The Government is satisfied with this recommendation that "Canada's participation in the negotiations does not commit us to whatever agreement results from the process. The Government will only sign an agreement that fully preserves our freedom of action, at both the federal and provincial levels, on Canadian culture, the environment, labour standards, health, education, social services, Aboriginal programs and programs for minority groups. Simply put, the Government will only accept a MAI that is consistent with our national values and our Canadian approaches to key issues."

Recommendation 2 - *Consultations and informing Canadians*

In November 1997, the Sub-Committee on International Trade, Trade Disputes and Investment held public hearings on the MAI, at the request of the Minister for International Trade. Canadians were invited to appear before the Sub-Committee and submit briefs. In fact, the Government's priority has been to inform the Canadian public. Members of Parliament have been informed extensively, opposition critics have been briefed and numerous press briefings and interviews have been given. Government officials have consulted broadly with the provinces, non-governmental organizations and the private sector. A list of the organizations consulted to date by the Government, as well as background information on the MAI negotiations and Canada's objectives, is available on the Department of Foreign Affairs and International Trade Internet site (<http://www.dfait-maeci.gc.ca>).

Recommendation 3 - *Involvement of provinces and further parliamentary examination before signing any negotiated agreement*

Since the outset of the negotiations in 1995, the Government involved the provinces and consulted them frequently and consistently. They are debriefed after every negotiating session, copied on all reports and have access to all negotiating documents. Federal and provincial trade officials have met numerous times over the past three years to address issues related to the negotiations. The federal-provincial Trade Ministerial meeting of February 19, 1998 allowed for a thorough discussion of Canada's objectives and bottom lines.

The Government agrees to consult further with the Parliamentary Committee on the negotiations towards a potential agreement. The Government will also continue to make public new versions of the MAI consolidation of draft working texts as they become available from the negotiating process.

Recommendation 12 - Core labour standards in the text of the agreement

Canada recognizes that the International Labour Organisation (ILO) is the proper forum for advancing international labour law, but, like other countries in the MAI negotiations, fully supports inclusion in an agreement of references to the principles underlying ILO core labour standards and the association of the Organization for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises.

The core principles of non-discrimination on which the MAI rests will not limit the ability of governments to maintain or, indeed, promote labour standards. The Government is committed to ensuring that the MAI does not inadvertently threaten labour standards, whether in Canada or globally.

Recommendation 13 - Introduction of effective environmental standards

The Government is committed to advancing environmental protection and sustainable development. Canada will not accept obligations that would infringe on the right of governments to regulate or take appropriate measures in the interests of protecting the environment or promoting sustainable development.

Canada is currently working with other countries to introduce language into the agreement that would stipulate clearly that the MAI does not prevent countries from maintaining, introducing or enforcing environmental measures of general application.

Recommendation 14 - That Canada achieve an adequate and effective cultural exemption

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-US Free Trade Agreement (FTA), the Canada-Chile FTA, the General Agreement on Trade in Services (GATS) and Canada's Foreign Investment Protection Agreements (FIPAs).

Recommendation 16 - That Canada achieve an unbound reservation for health, education and social services

The Government is on record for its commitment to preserving its full freedom of action, at both the federal and the provincial levels, with no standstill or rollback, in key areas such as health, education, social services and programs for Aboriginal Peoples 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.

April 23, 1998

Canada

STATEMENT BY CANADA ON THE MULTILATERAL AGREEMENT ON INVESTMENT (MAI) ISSUED BY THE HONOURABLE SERGIO MARCHI, MINISTER FOR INTERNATIONAL TRADE, OECD MINISTERIAL MEETING

PARIS, France

April 27, 1998

1. Canada: Trade and Investment

- Canada remains committed to the development of open and fair multilateral rules on investment to complement the beneficial rules we already enjoy on international trade of goods and services.

Today, trade and investment are key engines of economic growth. The contribution of investment to world prosperity in recent years is impressive. The past decade has seen global investment increase at an exponential rate, reaching \$4.2 trillion in 1996 — more than four times what it was in 1985. In fact, in recent years, investment flows have grown twice as fast as world merchandise trade.

While the link between trade, economic growth and jobs is well understood, the same is not true for the flip side of trade — investment. Foreign investment has played a central role in Canada's development as a nation and remains essential to securing Canada's continued development and prosperity. It has its foundation in our national experience and aspirations.

Foreign direct investment in Canada has almost doubled since 1986, reaching \$188 billion in 1997, and contributing significantly to job creation and greater prosperity. Foreign firms established in Canada employ 10 percent of the Canadian labour force. Moreover, of all new direct investment made annually in Canada, 10 percent is made by foreign-owned firms.

Outward Canadian investment is making an increasingly vital contribution to our economic prosperity. Since 1986, total Canadian investment abroad has exceeded foreign direct investment in Canada. In 1997, Canadian direct investment abroad totalled \$194 billion, a threefold increase since 1986. This increase in outward investment has included a new focus on emerging markets. Canadian firms are meeting the challenge of the global economy and enhancing their market access opportunities by building strategic alliances with global partners and by establishing an international presence. By investing abroad, Canadian companies become more competitive, access new technologies, and then create more jobs and R&D activities back home. Some of our companies (Bombardier, McCain, BCE) have become world leaders in their sectors. Moreover, our small and medium-sized enterprises (Hockey Injection Molding Systems Ltd., Tokman Furniture Systems) are advancing their strategic market interests through investing abroad. The best way to help these companies thrive is to create a fair and stable international investment climate.





98/31

STATEMENT BY CANADA ON THE MULTILATERAL AGREEMENT ON INVESTMENT [MAI] ISSUED BY THE HONOURABLE SERGIO MARCHI, MINISTER FOR INTERNATIONAL TRADE, OECD MINISTERIAL MEETING

PARIS, France
April 27, 1998

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I. Canada: Trade and Investment

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Trade and investment are key engines of economic growth. The contribution of investment to world progress in recent years is impressive. The past decade has seen global investment increase at an exponential rate, reaching \$3.2 trillion in 1992 — more than four times what it was in 1982. In fact, in recent years, investment flows have grown twice as fast as world merchandise trade.

While the link between trade, economic growth and jobs is well understood, the same is not true for the flip side of the coin — investment. Foreign investment has played a central role in Canada's development as a nation and remains essential to securing Canada's continued development and prosperity. It has its foundation in our national experience and aspirations.

Foreign direct investment in Canada has almost doubled since 1986, reaching \$188 billion in 1992, and contributing significantly to job creation and greater prosperity. Foreign firms established in Canada employ 16 percent of the Canadian labour force. Moreover, of all new direct investment made annually in Canada, 10 percent is made by foreign-owned firms.

Outward Canadian investment is making an increasingly vital contribution to our economic prosperity. Since 1986, total Canadian investment abroad has exceeded foreign direct investment in Canada. In 1992, Canadian direct investment abroad totalled \$196 billion, a fivefold increase since 1986. This investment in outward investment has included a new focus on emerging markets. Canadian firms are meeting the challenge of the global economy and enhancing their market access opportunities by building strategic alliances with global partners and by establishing an international presence. By investing abroad, Canadian companies become more competitive, access new technologies, and then create more jobs and R&D activities back home. Some of our companies (Bombardier, MacGill, BCE) have become world leaders in their sectors. Moreover, our small and medium-sized enterprises (SMEs) are advancing their growth through investing abroad. The best way to help these companies thrive is to create a fair and stable investment and development climate.

Canada lives by trade. We know firsthand the value of rules that ensure Canadians a fair basis for participating in an increasingly global marketplace of goods and ideas. That is why Canada has always been at the forefront of the development of a world trading system based on rules rather than on power.

2. Bottom Lines not Arbitrary Deadlines

- **In the ongoing negotiations towards a possible Multilateral Agreement on Investment [MAI], we should address the outstanding issues, not impose arbitrary deadlines. Canada strongly opposes any new deadlines. We must all take the time to negotiate rules that will serve our national values and interests. Clearly, Canada will only sign the right agreement at the right time — in other words, when Canadian interests are met.**

Canada brings to the negotiating table valuable experience in terms of investment rules. Together with our partners, we have negotiated the North American Free Trade Agreement [NAFTA], an agreement recognized as incorporating the most comprehensive set of investment rules. We have also negotiated bilateral investment treaties with some 24 developing countries, enhancing our trade and investment partnerships and providing welcome assurances of fair treatment for Canadian investments abroad. Canada wants to secure the same quality of rights and obligations within a multilateral agreement.

We are all committed to ensuring that the MAI is developed on a solid framework of first principles — non-discrimination and protection — supported by an effective dispute-settlement mechanism. In addition, Canada believes that the extraterritoriality issue raised by the U.S. Helms-Burton and Iran-Libya sanction acts must be addressed in the context of the MAI negotiations.

The only satisfactory MAI for Canada is one that will serve Canada's interests and support Canadian values. Throughout the negotiations, we stated clearly our positions on key issues. Canada will only accept an MAI with the following elements:

- a) a narrow interpretation of "expropriation" that makes it entirely clear that legislative or regulatory action by government in the public interest is not expropriation requiring compensation, even if it has adverse profitability consequences for companies or investors;
- b) ironclad reservations that would fully preserve Canada's freedom of action, at both the federal and provincial levels, in key areas including health care, social programs, education, Aboriginal matters and programs for minority groups, and no standstill or rollback requirements in any of these areas. In other words, no restriction on our freedom to pass future laws in these areas, and no commitment to gradually move our policies into conformity with MAI obligations;
- c) the continued ability of the Government to preserve and promote Canadian culture and Canadian cultural industries. Simply put, Canada's culture is not negotiable;
- d) the continued ability of Canada to maintain its current measures relating to areas such as transportation and financial services, business services industries, communications, the auto industry, land and real estate, energy, fisheries, investment review, privatization practices, government finance, agriculture, the supply management regime, and the management of natural resources.

For Canada, country-specific reservations are intrinsic to ensuring that our respective national interests are addressed within the text of the proposed MAI. The reservations would have equal legal status with the text of the Agreement and together would determine what each of us will obtain from our partners and

what we will undertake in return.

No country is committed to any text at this stage, since nothing can be agreed upon until the entire Agreement is agreed upon. Canada, like other countries, retains the full right to add or amend reservations as the negotiations progress.

3. Engaging Civil Society

- **Recognizing the legitimate concerns that have been raised throughout the community of the Organization for Economic Co-operation and Development [OECD] regarding the pace of globalization, it would be valuable to pause and reflect on the lessons learned from the last three years of MAI negotiations. The OECD member governments must continue to communicate and consult with all our citizens and put in place — directly and through the OECD Secretariat — a heightened and ongoing process of dialogue to respond to these concerns.**

The challenge of negotiating trade and investment agreements for the global economy is matched by the need for transparency and engagement with civil society. In all our countries, there exists apprehension over the pace of economic change, the proliferation of the "bigger is best" competitors forged by international mergers and acquisitions, and the often baffling, diverse forces affecting our economies.

We, the OECD community — employing the full resources of the OECD Secretariat — must respond to these valid concerns with a full, sustained and open dialogue. By addressing them straight on and taking the time to do it right, we should be able to obtain the best rules possible. Setting arbitrary deadlines will accomplish nothing.

Again, the OECD community must better communicate the importance of investment for our economies. That is why the OECD's report on the benefits of trade and investment liberalization is such a positive initiative, and must be widely disseminated for public discussion. In addition, consultations with business and labour groups, and with diverse non-governmental organizations, must be a consistent part of the process. Transparency of our process and engagement of our citizens are essential to our success in developing a good set of investment rules for our countries.

In both the purpose and the process of negotiations we cannot lose sight of practical, day-to-day public concerns. Nor can we overlook the intrinsic partnerships of the marketplace. The OECD Guidelines for Multinational Enterprises helped define the responsibilities of corporations in the countries where they invest. We must go further. Both labour and environmental matters must be adequately addressed to prevent a race to the bottom. Protection of the sovereign right of governments to regulate in the best interests of their societies, whether or not such regulation affects the value of investment, must be secured.

Our efforts to ensure full national engagement in the development of new trade and investment rules, and to advance transparency of process, must be directed as well to emerging and developing economies. This is especially important for Canada as our export-oriented Canadian companies will increasingly need to be able to invest and expand with confidence if they are to continue to grow and create jobs back home. Canada has always supported the dialogue established with non-OECD countries within the context of the MAI negotiations. We have been strong advocates for the acceptance of developing countries as observers and full participants in the negotiations. For Canada, an MAI restricted to the 29 OECD countries is of limited value. We want truly multilateral rules on investment that would help expand the benefits of responsible foreign investment to all countries, including developing nations.

what we will undertake in return.

The country is committed to any level of trade talks that can be agreed upon until the end of the year. It is agreed upon. Canada like other countries retains the right to add or amend reservations as the negotiations progress.

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We, the OECD community — employing the leadership of the OECD Secretariat — must respond to these valid concerns with a full, sustained and open dialogue. By addressing them straight on and taking the time to do it right, we should be able to obtain the best rules possible. Strong advisory bodies will accomplish nothing.

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4. A Proper Home: The World Trade Organization [WTO]

- **To be effective and beneficial, any eventual investment rules must be truly multilateral. Consequently, the MAI process at the OECD must remain open to non-OECD members, and, more importantly, the MAI's ultimate home should be the WTO.**

This year marks the 50th anniversary of the General Agreement on Tariffs and Trade [GATT]. Fifty years ago, we embarked on an ambitious effort to construct a new international order, based on open markets for trade. Since then, we have witnessed an orderly expansion of the rules of fair and open trade to other countries, which has led to uninterrupted growth in exports. We have benefited from the emergence of an international trading system marked by vastly improved access for goods and services in a truly global marketplace.

This is not abstract policy making; today, the 132 members of the WTO engage in a world market for goods, services and technology that sustains economic well-being and provides the means to realize our national ambitions. Some \$5.2 trillion in goods are now exchanged annually around the globe. Trade in services represents an increasingly dynamic component of national and global economic activity. In 1994, we succeeded in securing a comprehensive set of rules on trade in services in the WTO.

The importance of investment to our national economic experience and aspirations is unique neither to Canada nor to OECD countries. Although OECD countries currently generate and receive the bulk of foreign direct investment, developing countries are increasingly realizing the benefits of foreign investment. A multilateral rules-based framework for investment must reflect the national values, interests and priorities of the broadest possible membership of nations.

We all agree that multilateral rules on investment are a natural and necessary complement to rules of trade in goods and trade in services. As was the case for these trade rules, getting the right rules for investment will take time and effort.

At the last WTO ministerial meeting in Singapore in 1996, Canada championed the formation of a WTO working group on trade and investment. Canada values the progress achieved to date in the working group, and remains committed to securing WTO engagement in multilateral investment negotiations.

Our negotiations at the OECD offer the prospect that we should advance this objective and create the basis for global rules. The MAI would be a first step, but our common objective must remain the development of open and fair global rules on investment. Canada believes that the WTO is the logical destination, and most effective home, for any MAI.

5. Conclusion

- **Canada maintains its commitment to the pursuit of multilateral negotiations on investment, and to ensuring a transparent process. An agreement on investment would complement the rules we already have on trade in goods and services. These trade rules have created a stable international environment, where trade has been able to grow and contribute to our common prosperity. In seeking rules on investment, we need to address the concerns of our citizens. That is why Canada believes we must all take the time to negotiate rules that will serve our national values and interests. Canada will only sign the right agreement at the right time. We believe that ultimately, such an agreement belongs in the WTO, where its benefits can be shared by the full family of nations.**

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