

**PREPARATIONS FOR THE 1999 MINISTERIAL CONFERENCE**

Negotiations Relating to a Multilateral Framework for Investment

Paragraph 9(b) of the Geneva Ministerial Declaration

*Communication from Costa Rica*

The following communications, dated 22 July 1999, has been received from the Permanent Mission of Costa Rica.

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Costa Rica is submitting this proposal in order that it may be considered by the Members of the WTO in the context of the process of preparation for the Third Ministerial Conference.

**1. Proposal**

A multilateral framework for regulating investment should be developed in the next trade negotiations to be conducted within the WTO. A multilateral agreement of this kind should be based on the fundamental principle of non-discrimination so as to guarantee a more predictable and stable climate for worldwide investment, which would be of benefit both to international investors and to the host States. A greater degree of stability and predictability for investors and their investments would not only encourage investment but would certainly also contribute to the growth and development of the world economy.

**2. Reasons**

The WTO is a suitable multilateral forum for the development of a set of principles which would govern, broadly and comprehensively, the question of investment. There are already WTO agreements which incorporate certain rules and disciplines applicable to investment, such as the General Agreement on Trade in Services and the Agreement on Trade-Related Investment Measures. However, a number of questions of great importance developed in other international instruments for the promotion and protection of investment are not covered by the existing rules. Moreover, a multilateral framework for investment established by the WTO could ensure that the interests and objectives of both developed and developing countries are taken into account.

The existence of numerous bilateral agreements for the promotion and protection of investment bears witness to high levels of convergence at world level. Similarly, it also reflects the interest of many countries in guaranteeing investors greater stability through the establishment of clear and transparent rules governing the treatment accorded to foreign investment. However, this proliferation of bilateral agreements has helped to create a multiplicity of regimes for the treatment of

investment in a world whose economy is becoming increasingly globalized. This is leading to uncertainty, a lack of transparency and the overlapping of rules and disciplines. A multilateral agreement on investment would eliminate these problems and provide basic guarantees for investment and the investor, while promoting increased foreign investment and benefiting both the host States and the net exporters of capital.

Since a multilateral agreement on investment should be based on the principle of non-discrimination, guarantees of most-favoured-nation treatment and national treatment should be two of its fundamental features. The coverage of the agreement and the use of a broad or narrow concept of investment are factors which also need to be very carefully considered. Other aspects which should be developed in an agreement of this kind include: performance requirements, investment incentives and dispute settlement.

The development of multilateral investment disciplines should take into consideration the different interests of all the Members of the WTO and should provide for flexibility with regard to the level and coverage of the commitments to be assumed.

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