

for government today produces a vicious circle that makes government worse.

I am well aware of the problems we have today in government, but I am also impressed with the miracle of our constitutional structure. It is a commonplace observation to praise the wisdom of the founding fathers, but it is also necessary for us to continually appreciate the remarkable system they put together. The representative democracy envisioned by our Constitution is strong enough to preserve the fragile union, strong enough to promote the general welfare, and strong enough to ward off the power of the special interests.

I do not want to see a federal government that is crippled or incapable of playing a significant role in the life of this country. Government should be able to provide for the national security, help address social problems, protect the environment, and to do the many other things we have come to expect it to do. Sometimes government gets in our way, but other times it can be helpful to ordinary people in their effort to succeed, to have opportunity, and to correct instances of oppression and injustice.

#### CONFIDENCE IN GOVERNMENT

Our country has seen major changes in recent years—the globalization of our economy, the federal deficit constraining government's ability to deal with problems, the end of the Cold War and the less coherent framework for international relations, and the shift of many Americans toward individual freedom and consumption and away from restraint and sense of duty. All of this change has brought formidable challenges to policymakers, and government has not always performed well. Confidence in government has declined.

Government has lost so much respect in recent years that it threatens the ability to make good policy. If we are to have effective government and effective public policy then we must improve the confidence of the people in government. Several steps would be helpful. I believe we need more of what the politicians call "retail politics"—direct contact between the elected representative and the people. Today too much of our politics is based on the work of consulting firms, pollsters, and media advisors, and voters have difficulty feeling real ties to the people they elect to govern them. We will strengthen the confidence of the people in government if we can engage them more in the process. Elected officials can also help restore confidence in government by promising less and producing more, focussing better on what the citizens want, working together across party and ideological lines for shared goals, and restoring greater civility to the political debate.

But perhaps the most important step is to improve public understanding of what government has done and can do. Those of us who see important reasons for government to act must be willing not just to criticize government and point out its faults, but also to make clear what government has been able to accomplish—from preserving our security and building the interstate highway system to setting up the national parks and sharply reducing poverty among older persons through Social Security. It is important that all of us have an understanding of the limits of government but also an understanding that government works well in many areas. I simply do not see how it is possible to deal with many of our problems without a minimal public confidence in government.

#### CONCLUSION

I know there are a lot of voices today saying that representative democracy in this country just doesn't work very well. And it's certainly not difficult to point to instances

when it does not. But on the other hand, given the number and complexity of the problems we confront, my view is that our representative democracy works reasonably well. I do not for a moment agree with those who think that the American system has failed or that the future of the country is bleak.

#### PERSONAL EXPLANATION

##### HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1997

Mr. ORTIZ. Mr. Speaker, on rollcall Nos. 398 and 399. I was unavoidably absent. Had I been present, I would have voted "aye" on both accounts.

#### UPDATE ON MULTILATERAL AGREEMENT ON INVESTMENT

##### HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 17, 1997

Mr. NEAL of Massachusetts. Mr. Speaker, over the last several years, the United States has led an effort in the Organization for Economic Cooperation and Development [OECD] to develop a binding and comprehensive agreement on investment. In May 1995, the OECD Ministers launched the negotiation of a Multilateral Agreement on Investment [MAI]. At the OECD ministerial meeting in May 1997, the OECD Ministers agreed to extend the negotiations until May 1998. Negotiating sessions are scheduled every 6 weeks beginning the week of September 15.

Recently, Dr. Witherell, Director for Financial Fiscal and Enterprise Affairs of the OECD gave a speech entitled "The Multilateral Agreement Investment (MAI) Negotiations: The State of Play and Implications for the Asia Pacific Region." Issues involved in the agreement are complex and time consuming. Dr. Witherell's speech presented a clear and objective analysis of the issues.

I suggest that interested Members review extracts from Dr. Witherell's speech. His speech presented the issues of the MAI and discussed which issues need to be resolved in order to conclude a successful MAI.

I request that a copy of extracts from Dr. Witherell's speech dated September 1, 1997, be printed in the CONGRESSIONAL RECORD.

#### EXTRACTS FROM MAI SPEECH BY WILLIAM WITHERELL, SYDNEY, SEPTEMBER 1, 1997

One of the central objectives of the OECD since its creation in 1961 has been the development of a liberal environment for international investment. A very important step was taken at the OECD Ministerial meeting of May '95 when the governments of the 29 OECD Member countries' decided to commence negotiations on a Multilateral Agreement on Investment (the MAI). The private business sector was a strong advocate for developing a comprehensive legal framework for foreign direct investment which would consolidate and extend the present system of bilateral, regional and sectoral agreements. While the negotiations are between the OECD Member countries and the European Commission, the resulting agreement is to

be a free standing treaty, open to any country willing and able to assume the obligations of the agreement.\*

The OECD Ministers initially targeted the completion of the negotiations for May of this year; but that proved to be too optimistic despite the strong commitment and political will of our Member countries and a very intensive schedule. The issues are complex and time-consuming; and some, especially those of a more "political nature," might not be resolved until the liberalization commitments among the participating countries are fully agreed. So a modest extension of the timetable until next April has been set. This extra time will ensure that the result is indeed a high standard agreement with a satisfactory balance of commitments by all parties. Extra time also has opened up the possibility for non-OECD countries to be involved more closely. Indeed, some may even become founding members of the Agreement.

We now have—in almost final form—the main building blocks of this Agreement. Of course, there remain a number of outstanding issues—the inclusion of a special clause for regional economic integration agreements such as the EU, the coverage of sub-national measures, the treatment of cultural measures, the issue of conflicting jurisdiction and the treatment of labor and environment matters, to name some. Some, especially the more politically sensitive ones, are likely to remain unsettled until the last minute. This is to be expected in such a negotiation. But the ground has been prepared for a successful outcome in the coming months. A satisfactory agreement for all concerned—including interested non-OECD countries—is clearly within our reach.

#### WHAT WILL THE MAI LOOK LIKE?

The MAI will be the first multilateral agreement to include disciplines in three key areas of investment rule-making: investment protection, investment liberalization and binding dispute settlement. As such, it is undoubtedly the most complex multilateral negotiation on investment ever undertaken.

The MAI aims to provide a "level playing field" for international investors by eliminating distortions to investment flows and facilitating a more efficient allocation of capital. This will contribute to the ultimate objectives of economic growth and development. In the MAI contracting parties will undertake obligations aimed at reducing barriers and discriminatory treatment of FDI (investment liberalization) and increasing legal security for international investment and investors (investment protection). These obligations will be legally enforceable through provisions for settling disputes—including investor-to-state as well as state-to-state disputes. In all of these areas, the negotiators are seeking to incorporate high standards.

The MAI will bind the Contracting Parties to a set of fundamental rules governing the treatment of MAI investors and investments. The non-discrimination principles of National Treatment and most-favored nation treatment (MFN) will be the norms for all phases of investment from the entry of the investor and its investments to the treatment of the investor and its investments after they are established. These central principles will assure foreign investors non-discriminatory access to a sector and equitable treatment after they are established.

Some who are not familiar with the negotiations have misunderstood these provisions as requiring a wholesale dismantling of governmental regulations. The clearly is not the case. The MAI will not deprive national authorities of their sovereign right to promote

\*Footnotes appear at end of speech.