

CHAPTER 10

ESTABLISHMENT

Article 10.1

Definitions

For the purposes of this Chapter:

establishment means:

- (a) the constitution, acquisition or maintenance of a juridical person; or
- (b) the creation or maintenance of a branch or a representative office,

within the Area of a Party for the purpose of performing an economic activity; and

juridical person of the other Party means a juridical person constituted or otherwise organised under the domestic laws and regulations of that Party and engaged in substantive business operations in either Party.

Article 10.2

Scope

This Chapter shall apply to establishment in all sectors with the exception of sectors covered by Chapter 11 (Trade in Services).^{7,8}

⁷ For greater certainty, services and obligations specifically excluded from the scope of Chapter 11 (Trade in Services) do not fall under the scope of this Chapter.

⁸ For greater certainty, nothing in this Chapter shall be construed to impose any obligation in relation to measures in respect of: (a) expropriation; (b) full protection and security; (c) compensation for losses owing to a war or any other armed conflict, revolution, state of national emergency, revolt, insurrection or riot; or (d) subrogation. Notwithstanding this, the foregoing does not preclude the domestic laws and regulations of either Party from providing measures in respect of any of these matters.

Article 10.3

National Treatment

In the sectors inscribed in Annex 10.3, and subject to any conditions and qualifications set out therein, with respect to establishment, each Party shall grant to juridical and natural persons of the other Party treatment no less favourable than that it accords, in like circumstances, to its own juridical and natural persons.

Article 10.4

Right to Regulate

Subject to Article 10.3, each Party may regulate, with respect to establishment, juridical and natural persons.