

- (i) a loan to or debt security issued by a financial institution is an investment only where it is treated as regulatory capital by the Party in which the financial institution is located; and
 - (ii) a loan granted by or debt security owned by a financial institution, other than a loan to or debt security of a financial institution referred to in subparagraph (i) above, is not an investment;
- for greater certainty,
- (iii) a loan to, or debt security issued by, a Party or a state enterprise thereof is not an investment; and
 - (iv) a loan granted by or debt security owned by a cross-border financial service supplier, other than a loan to or debt security issued by a financial institution referred to in subparagraph (i) above, is an investment under Chapter 7 if such loan or debt security meets the criteria for investments set out in Article 96;
- (g) the term "investor of a Party" means a Party or state enterprise thereof, or a person of that Party, that seeks to make, makes, or has made an investment; and
 - (h) the term "public entity" means a central bank or a monetary authority of a Party, or any financial institution owned or controlled by a Party.

Chapter 10
Entry and Temporary Stay of Nationals for Business Purposes

Article 113
General Principles

1. This Chapter reflects the preferential trading relationship between the Parties, the desirability of facilitating entry and temporary stay on a reciprocal basis and of establishing transparent criteria and procedures for entry and temporary stay, and the need to ensure border security and to protect the domestic labor force and permanent employment in either Party.

2. Each Party shall apply its measures relating to the provisions of this Chapter in accordance with paragraph 1 above, and in particular, shall apply expeditiously those measures so as to avoid unduly impairing or delaying trade in goods or services or conduct of investment activities under this Agreement.

Article 114 Scope and Coverage

1. This Chapter shall apply to measures affecting the entry and temporary stay of nationals of a Party who enter into the other Party for business purposes.

2. This Chapter shall not apply to measures affecting nationals seeking access to the employment market of the Parties, nor shall it apply to measures regarding nationality or citizenship, or residence or employment on a permanent basis.

3. This Chapter shall not prevent a Party from applying measures to regulate the entry of nationals of the other Party into, or their temporary stay in, the former Party, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across, its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to the other Party under the terms of the categories in Annex 10.

Note: The sole fact of requiring a visa for natural persons of a certain nationality and not for those of others shall not be regarded as nullifying or impairing benefits under a specific category.

Article 115 Grant of Entry and Temporary Stay

1. Each Party shall grant entry and temporary stay to nationals of the other Party in accordance with this Chapter including the terms of the categories in Annex 10.

2. Each Party shall ensure that fees charged by its competent authorities for processing applications for entry and temporary stay of nationals of the other Party for business purposes have regard to the administrative costs involved.

Article 116
Provision of Information

1. Further to Article 160, each Party shall:
 - (a) provide to the other Party such materials as will enable that other Party to become acquainted with its measures relating to this Chapter; and
 - (b) prepare, publish and make publicly available in the Parties, explanatory material in a consolidated document regarding the requirements for entry and temporary stay under this Chapter, no later than one year after the date of entry into force of this Agreement.
2. From the entry into force of this Agreement, each Party shall, to the extent possible, collect, maintain and make available to the other Party, data respecting the granting of entry and temporary stay under this Chapter to nationals of the other Party.

Article 117
Sub-Committee on Entry and Temporary Stay

1. For the purposes of the effective implementation and operation of this Chapter, a Sub-Committee on Entry and Temporary Stay (hereinafter referred to in this Article as "the Sub-Committee") shall be established pursuant to Article 165.
2. The functions of the Sub-Committee shall be:
 - (a) reviewing the implementation and operation of this Chapter;
 - (b) considering the development of measures to further facilitate entry and temporary stay of nationals on a reciprocal basis;
 - (c) enhancing mutual understanding between the Parties on credentials and other qualifications relevant to entry and temporary stay of nationals under this Chapter;
 - (d) reporting the findings of the Sub-Committee and making recommendations to the Joint Committee; and

- (e) carrying out other functions which may be delegated by the Joint Committee pursuant to Article 165. Such functions may include reporting to the Joint Committee on options for possible modifications or additions to this Chapter.

Article 118 Dispute Settlement

1. Notwithstanding the provisions of Article 152, a Party may not request consultations with the other Party regarding refusal to grant entry and temporary stay under this Chapter unless:

- (a) the matter involves a pattern of practice; and
- (b) the nationals concerned have exhausted the administrative remedies, where available, regarding the particular matter.

2. The remedies referred to in subparagraph 1(b) above shall be deemed to be exhausted if a final determination in the matter has not been issued by the competent authority of a Party within one year after the date of the institution of an administrative remedy, and the failure to issue a determination is not attributable to delay caused by the nationals concerned.

Chapter 11 Government Procurement

Article 119 Scope and Coverage

1. This Chapter shall apply to any measures adopted or maintained by a Party relating to government procurement:

- (a) by entities specified in Annex 11;
- (b) of goods specified in Annex 12, services specified in Annex 13, or construction services specified in Annex 14; and
- (c) where the value of the contracts to be awarded is estimated to be not less than the thresholds specified in Annex 15 at the time of publication of an invitation to participate for procurement.

2. Paragraph 1 above is subject to the General Notes set out in Annex 16.