

ARTICLE 10.59

Denial of benefits

A Party may deny the benefits of this Chapter to:

- (a) the supply of a service, if it establishes that the service is supplied from or in the territory of a third country; or
- (b) a juridical person, if it establishes that it is a juridical person of a third country.

CHAPTER 11

TRANSFERS OR PAYMENTS FOR CURRENT ACCOUNT TRANSACTIONS, CAPITAL MOVEMENTS AND TEMPORARY SAFEGUARD MEASURES

ARTICLE 11.1

Capital account

With regard to transactions on the capital and financial account of the balance of payments, each Party shall allow the free movement of capital for the purposes of establishment of direct investments as provided for in Chapter 10. Such movements shall include the liquidation or repatriation of such capital.

ARTICLE 11.2

Current account

Each Party shall allow, in a freely convertible currency and in accordance with the Articles of Agreement of the International Monetary Fund adopted at the United Nations Monetary and Financial Conference, in Bretton Woods, New Hampshire, on 22 July 1944 (hereinafter referred to as "Agreement of the International Monetary Fund"), any payments and transfers with respect to transactions on the current account of the balance of payments that fall within the scope of this Agreement.

ARTICLE 11.3

Application of laws and regulations relating to transfers or payments for current account transactions and capital movements

Nothing in Articles 11.1 and 11.2 shall be construed as preventing a Party from applying in an equitable and non-discriminatory manner, and in a way that would not constitute a disguised restriction on transfers or payments for current account transactions or on capital movements its laws and regulations relating to:

- (a) bankruptcy, insolvency or the protection of the rights of creditors;
- (b) issuing, trading or dealing in securities;

- (c) criminal or penal offences¹;
- (d) financial reporting or record keeping of transfers if necessary to assist law enforcement or financial regulatory authorities; or
- (e) the satisfaction of judgments in adjudicatory proceedings.

ARTICLE 11.4

Temporary safeguard measures

If, in exceptional circumstances, transfers or payments for current account transactions or capital movements cause or threaten to cause serious difficulties for the operation of the Economic and Monetary Union of the European Union, the European Union may adopt safeguard measures that are strictly necessary to address those difficulties or the threat thereof for a period not exceeding 6 (six) months.

¹ For greater certainty, this includes laws and regulations on anti-money laundering and combating the financing of terrorism.

ARTICLE 11.5

Restrictions to safeguard the balance of payments

1. If, in exceptional circumstances, a Party experiences serious balance-of-payments difficulties including with regard to the operation of monetary policy or exchange rate policy, or external financial difficulties or the threat thereof, it may adopt or maintain restrictive measures with regard to transfers or payments for current account transactions or capital movements.

2. The measures referred to in paragraph 1 shall:

- (a) be non-discriminatory compared to those applied to a third country in like situations;
- (b) be consistent with the Articles of Agreement of the International Monetary Fund, as applicable;
- (c) avoid unnecessary damage to the commercial, economic and financial interests of the other Party; and
- (d) be temporary, proportional and strictly necessary to address the difficulties and be phased out progressively as the situation referred to in paragraph 1 improves. If extremely exceptional circumstances arise such that a Party seeks to extend those measures beyond a period of 1 (one) year, it shall notify the other Party that it will introduce such an extension.

ARTICLE 11.6

Final provisions

1. Nothing in this Chapter shall be construed as limiting the rights of economic operators of the Parties to benefit from any more favourable treatment that may be provided for in any existing bilateral or multilateral agreement to which a Party is party.
2. The Parties shall consult each other with a view to facilitating the movement of capital falling within the scope of this Agreement between them in order to promote the objectives of this Agreement.

CHAPTER 12

GOVERNMENT PROCUREMENT

ARTICLE 12.1

Objectives

The Parties recognise the contribution of transparent, competitive and open tendering to economic development and set as their objective the effective opening of their respective procurement markets.