

- (d) reports of transfers of currency or other monetary instruments;
or
- (e) ensuring the satisfaction of judgments in adjudicatory proceedings.

4. Neither Contracting Party may require its investors to transfer, or penalize its investors that fail to transfer, the returns attributable to investments in the territory of the other Contracting Party.

5. Paragraph 4 shall not be construed to prevent a Contracting Party from imposing any measure through the equitable, non-discriminatory and good faith application of its laws relating to the matters set out in subparagraphs 3(a) through 3(e).

6. Notwithstanding paragraph 1, a Contracting Party may restrict transfers of returns in kind in circumstances where it could otherwise restrict such transfers under the *Marrakesh Agreement Establishing the World Trade Organization* (hereinafter referred to as the "WTO Agreement") and as set out in paragraph 3.

ARTICLE X

Subrogation

1. If a Contracting Party or any agency thereof makes a payment to any of its investors under a guarantee or a contract of insurance it has entered into in respect of an investment, the other Contracting Party shall recognize the validity of the subrogation in favour of such Contracting Party or agency thereof to any right or title held by the investor.

2. A Contracting Party or any agency thereof, which is subrogated to the rights of an investor in accordance with paragraph 1 of this Article, shall be entitled in all circumstances to the same rights as those of the investor in respect of the investment concerned and its related returns. Such rights may be exercised by the Contracting Party or any agency thereof or by the investor if the Contracting Party or any agency thereof so authorizes.