

traders and investors, whose job duties are supervisory or executive in nature or whose skills are essential to the efficient operation of the enterprise, may also qualify.

GENERAL QUALIFYING CRITERIA – TRADERS

When applying for trader status you must demonstrate that:

- you are a citizen of a member country;
- the enterprise has the nationality of a member country;
- your predominant activity is to carry on substantial trade in goods or services principally between your present country of residence and the country to which you are seeking entry;
- the capacity in which you will be acting is executive or supervisory in nature or involves essential skills; and
- you otherwise meet existing immigration requirements for temporary entry.

TERMS

“**Nationality**” of an enterprise is determined by the citizenship of those person(s) who own(s) a minimum of 50 per cent of the enterprise.

“**Trade**” means the exchange, purchase, or sale of goods and/or services.

“**Goods**” are tangible commodities or merchandise having intrinsic value, excluding money, securities and negotiable instruments.

“**Services**” are economic activities with outputs other than tangible goods. Such activities include, but are not limited to, banking, insurance, transportation, communications and data processing, advertising, accounting, design and engineering, management consulting and tourism.

“**Substantial trade**” is determined by the volume of trade conducted as well as the monetary value of the transactions.

GENERAL QUALIFYING CRITERIA – INVESTORS

When applying for investor status you must demonstrate that:

- you are a citizen of a member country;
- the enterprise has the nationality of a member country;
- substantial investment has been or is being made;
- the investment is more than a marginal one;
- the enterprise is a real and operating commercial enterprise that operates on a continuing basis to produce some service or commodity for profit;
- you are in a position to “develop and direct” the enter-

prise or, if an employee of an investor, you are in a position that is executive, supervisory or involves essential skills; and

- you comply with existing immigration requirements for temporary entry.

TERMS

“**Substantiality**” is determined by using a “proportionality” test in which the amount invested is weighed against either the total value of the particular enterprise in question, or the amount normally considered necessary to establish a viable enterprise of the nature contemplated. Only the amount already invested or irrevocably committed for investment can be considered in determining substantiality, and this amount should make up at least 50 per cent of the total investment required. Documentation may be required to show that funds have been either invested or irrevocably committed, and to give evidence of the various forms of investment utilized, e.g., cash, equipment, purchases, inventory, indebtedness, lease/rent payments, etc. Mere intent to invest or prospective investment arrangements entailing no current commitment of funds will not suffice. You must also demonstrate prior or present possession and control of the funds or other capital assets.

“**Real and operating commercial enterprise**” can best be demonstrated by presenting a business plan describing the investment, expansion, and/or development related to the enterprise.

“**Marginal**” investment will result in maintaining or expanding local job opportunities. Passive investment in developed or undeveloped real estate does not qualify.

“**Develop and Direct**” means that you have controlling interest in the enterprise. If you have less than 50-per-cent controlling interest in the enterprise, you must be able to demonstrate how, in effect, operational control will be achieved.

CANADIAN TRADERS AND INVESTORS ENTERING THE UNITED STATES

Before seeking entry into the United States, traders and investors must complete Form OF-156E, available at a U.S. embassy or consulate, and pay a US\$75 processing fee. On approval of the application, you will need to demonstrate that you comply with the “General Qualifying Criteria” listed above before being issued a record of entry document (I-94) indicating the classification code E-1 (trader) or E-2 (investor) at the U.S. port of entry. The I-94 serves as an employment authorization document, and