

- (f) payments arising under Section C (Settlement of Disputes between an Investor and the Host Party).

2. Each Party shall permit transfers relating to a covered investment to be made in the convertible currency in which the capital was originally invested, or in another convertible currency agreed to by the investor and the Party concerned. Unless otherwise agreed by the investor, transfers shall be made at the market rate of exchange in effect on the date of transfer.

3. Notwithstanding paragraphs 1 and 2, a Party may prevent a transfer through the equitable, non-discriminatory and good faith application of its domestic law relating to:

- (a) bankruptcy, insolvency or the protection of the rights of a creditor;
- (b) issuing, trading or dealing in securities;
- (c) criminal or penal offences;
- (d) financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities; or
- (e) ensuring compliance with an order or judgment in judicial or administrative proceedings.

4. A Party may not require one of its investors to transfer, or penalize one of its investors for failing to transfer, the income, earnings, profits or other amounts derived from, or attributable to, an investment in the territory of the other Party.

5. Paragraph 4 does not prevent a Party from imposing a measure through the equitable, non-discriminatory and good faith application of its domestic law relating to the matters in subparagraphs 3(a) through 3(e).

6. Notwithstanding the provisions of paragraphs 1, 2 and 4, and without limiting the applicability of paragraph 5, a Party may prevent or limit transfers by a financial institution to, or for the benefit of, an affiliate of or person related to that institution, through the equitable, non-discriminatory and good faith application of a measure relating to maintenance of the safety, soundness, integrity or financial responsibility of financial institutions.

7. Notwithstanding paragraph 1, a Party may restrict transfers of returns in kind in circumstances where it could otherwise restrict those transfers under the WTO Agreement and as set out in paragraph 3.

8. Nothing in this Agreement shall be construed to prevent a Party from adopting or maintaining measures<sup>2</sup> that restrict transfers if the Party experiences serious balance of payments difficulties, or the threat thereof, provided that those measures:

- (a) are in effect for a period not exceeding 18 months, and if exceptional circumstances arise such that a Party seeks to extend those measures, that Party shall coordinate in advance with the other Party concerning the implementation of any proposed extension;
- (b) are not confiscatory;
- (c) do not constitute a dual or multiple exchange rate practice;

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<sup>2</sup> However, each Party shall endeavour to provide that these measures are price-based.