



APEC-UNCTAD REGIONAL TRAINING COURSE ON THE CORE ELEMENTS OF INTERNATIONAL INVESTMENT AGREEMENTS IN THE APEC REGION

Presentations

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**APEC-UNCTAD Regional Training Course on the
Core Elements of International Investment
Agreements in the APEC Region**

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**TRANSFER OF FUNDS
SELECTED TEXTS**

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BIT BETWEEN BELGIUM-LUXEMBOURG AND THAILAND

ARTICLE 6 TRANSFER OF INVESTMENTS AND RETURNS

1. Each Contracting Party shall guarantee to the investors of the other Contracting Party the free transfer of the capital and of all the returns relating to their investments after the payments of usual taxes and costs.

2. The earnings of nationals of either Contracting Party who are allowed to work in connection with an investment in the territory of the other Contracting Party shall also be freely transferred in freely usable currency.

3. Transfers shall be made in a freely usable currency at the rate applicable on the day transfers are made.

4. The guarantees referred to in this Article shall at least be equal to those granted to the investors of the most favoured nation.

NAFTA - CHAPTER 11

Article 1109: Transfers

1. Each Party shall permit all transfers relating to an investment of an investor of another Party in the territory of the Party to be made freely and without delay. Such transfers include:

- (a) profits, dividends, interest, capital gains, royalty payments, management fees, technical assistance and other fees, returns in kind and other amounts derived from the investment;
- (b) proceeds from the sale of all or any part of the investment or from the partial or complete liquidation of the investment;
- (c) payments made under a contract entered into by the investor, or its investment, including payments made pursuant to a loan agreement;
- (d) payments made pursuant to Article 1110; and
- (e) payments arising under Section B.

2. Each Party shall permit transfers to be made in a freely usable currency at the market rate of exchange prevailing on the date of transfer with respect to spot transactions in the currency to be transferred.

3. No Party may require its investors to transfer, or penalize its investors that fail to transfer, the income, earnings, profits or other amounts derived from, or attributable to, investments in the territory of another Party.

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

- (a) bankruptcy, insolvency or the protection of the rights of creditors;
- (b) issuing, trading or dealing in securities;
- (c) criminal or penal offenses;
- (d) reports of transfers of currency or other monetary instruments; or
- (e) ensuring the satisfaction of judgments in adjudicatory proceedings.

5. Paragraph 3 shall not be construed to prevent a 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 (a) through (e) of paragraph 4.

6. Notwithstanding paragraph 1, a Party may restrict transfers of returns in kind in circumstances where it could otherwise restrict such transfers under this Agreement, including as set out in paragraph 4.

GENERAL AGREEMENT ON TRADE IN SERVICES

Article XI

Payments and Transfers

1. Except under the circumstances envisaged in Article XII, a Member shall not apply restrictions on international transfers and payments for **current transactions** relating to its specific commitments.
2. Nothing in this Agreement shall affect the rights and obligations of the members of the International Monetary Fund under the Articles of Agreement of the Fund, including the use of exchange actions which are in conformity with the Articles of Agreement, provided that a Member shall not impose restrictions on **any capital transactions** inconsistently with its specific commitments regarding such transactions, except under Article XII or at the request of the Fund.

Article XII

Restrictions to Safeguard the Balance of Payments

1. In the event of serious balance-of-payments and external financial difficulties or threat thereof, a Member may adopt or maintain restrictions on trade in services on which it has undertaken specific commitments, including on payments or transfers for transactions related to such commitments. It is recognized that particular pressures on the balance of payments of a Member in the process of economic development or economic transition may necessitate the use of restrictions to ensure, *inter alia*, the maintenance of a level of financial reserves adequate for the implementation of its programme of economic development or economic transition.
2. The restrictions referred to in paragraph 1:
 - (a) shall not discriminate among Members;
 - (b) shall be consistent with the Articles of Agreement of the International Monetary Fund;
 - (c) shall avoid unnecessary damage to the commercial, economic and financial interests of any other Member;
 - (d) shall not exceed those necessary to deal with the circumstances described in paragraph 1;
 - (e) shall be temporary and be phased out progressively as the situation specified in paragraph 1 improves.

ECONOMIC PARTNERSHIP AGREEMENT
BETWEEN THE CARIFORUM STATES
OF THE ONE PART
AND
THE EUROPEAN COMMUNITY
AND ITS MEMBER STATES
OF THE OTHER PART

TITLE III
CURRENT PAYMENTS AND CAPITAL MOVEMENT

ARTICLE 122
Current payments

Subject to the provisions of Article 124, the Signatory CARIFORUM States and the EC Party undertake to impose no restrictions on and to allow all payments for current transactions between residents of the EC Party and of the CARIFORUM States to be made in freely convertible currency.

ARTICLE 123
Capital movements

1. With regard to transactions on the capital account of balance of payments, the Signatory CARIFORUM States and the EC Party undertake to impose no restrictions on the free movement of capital relating to direct investments made in accordance with the laws of the host country and investments established in accordance with the provisions of Title II, and the liquidation and repatriation of these capitals and of any profit stemming therefrom.
2. The Parties shall consult each other with a view to facilitating the movement of capital between them in order to promote the objectives of this Agreement.

ARTICLE 124
Safeguard measures

1. Where, in exceptional circumstances, payments and capital movements between the Parties cause or threaten to cause serious difficulties for the operation of monetary policy or exchange rate policy in one or more CARIFORUM States or one or more Member States of the European Union, safeguard measures with

regard to capital movements that are strictly necessary may be taken by the EC Party or the concerned Signatory CARIFORUM State or States for a period not exceeding six months.

2. The Joint CARIFORUM-EC Council shall be informed forthwith of the adoption of any safeguard measure and, as soon as possible, of a time schedule for its removal.