(1) The term "investments" means every kind of asset owned or controlled, directly or indirectly, by an investor, which has the characteristics of an investment, such as the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk, including:

(a) an enterprise and a branch of an enterprise;

(b) shares, stocks or other forms of equity participation in an enterprise, including rights derived therefrom;

(c) bonds, debentures, loans and other forms of debt, including rights derived therefrom:

(i) where an enterprise which owes such debt is affiliated with the investor; or

(ii) where the original maturity of such debt is at least 12 months,

but does not include a debt of, regardless of original maturity, a Contracting Party or a state enterprise.

Note: Notwithstanding subparagraph (c):

(A) a loan to or debt instrument issued by a financial institution is an investment only where it is treated as regulatory capital by a Contracting Party in whose Area the financial institution is located; and

(B) a loan granted by or debt instrument owned by a financial institution, other than a loan to or debt instrument of a financial institution referred to in (A), is not an investment;

for greater certainty:

(C) a loan to, or debt instrument issued by, a Contracting Party or a state enterprise thereof is not an investment; and

(D) a loan granted by or debt instrument owned by a cross-border financial service supplier, other than a loan to or debt instrument issued by a financial institution referred to in (A), is an investment if such loan or debt instrument meets the criteria for investments set out elsewhere in this subparagraph.

(d) rights under contracts, including turnkey, construction, management, production or revenue-sharing contracts;

(e) claims to money and to any performance under contract having a financial value;

(f) intellectual property rights, including copy rights and related rights, patent rights and rights relating to utility models, trademarks, industrial designs, layout-designs of integrated circuits, new varieties of plants, trade names, indications of source or geographical indications and undisclosed information;

(g) rights conferred pursuant to laws and regulations or contracts such as concessions, licenses, authorisations and permits, including those for the exploration and exploitation of natural resources; and

(h) any other tangible and intangible, movable and immovable property, and any related property rights, such as leases, mortgages, liens and pledges.

Investments include the amounts yielded by investments, in particular, profit, interest, capital gains, dividends, royalties and fees. A change in the form in which assets are invested does not affect their character as investments;

but investments do not mean,

(i) claims to money that arise solely from:

(i) commercial contracts for the sale of goods or services by a national or enterprise in the Area of a Contracting Party to an enterprise in the Area of the other Contracting Party; or