

ARTICLE 10

Expropriation

1. A Party may not nationalize or expropriate a covered investment either directly or indirectly through measures having an effect equivalent to nationalization or expropriation (“expropriation”), except for a public purpose, in accordance with due process of law, in a non-discriminatory manner and on payment of compensation in accordance with paragraphs 2 and 3. For greater certainty, this paragraph shall be interpreted in accordance with Annex I (Expropriation).
2. The compensation referred to in paragraph 1 must be equivalent to the fair market value of the expropriated investment immediately before the expropriation took place (“date of expropriation”), and must not reflect a change in value occurring because the intended expropriation had become known earlier. Valuation criteria must include going concern value, asset value including the declared tax value of tangible property, and other criteria, including non-economic criteria, to determine fair market value.
3. Compensation shall be paid expeditiously and shall be fully realizable and freely transferable. Compensation shall be paid in a freely convertible currency and shall include interest at a commercially reasonable rate for that currency accrued from the date of expropriation until the date of payment.
4. The affected investor shall have a right under the law of the expropriating Party to prompt review of its case and of the valuation of its investment by a judicial or other independent authority of that Party in accordance with the principles set out in this Article.
5. This Article does not apply to the issuance of a compulsory licence granted in relation to intellectual property rights, or to the revocation, limitation or creation of an intellectual property rights, to the extent that the issuance, revocation, limitation or creation is consistent with the WTO Agreement.

ARTICLE 11

Transfers

1. Each Party shall permit all transfers relating to a covered investment to be made freely, and without delay, into and out of its territory. Those transfers include:
 - (a) contributions to capital;
 - (b) profits, dividends, interest, capital gains, royalty payments, management fees, technical assistance and other fees, returns in kind and other amounts derived from the covered investment;
 - (c) proceeds from the sale of all or part of the covered investment or from the partial or complete liquidation of the covered investment;
 - (d) payments made under a contract entered into by the investor or the covered investment, including payments made pursuant to a loan agreement;
 - (e) payments made under Articles 7 (Compensation for Losses) and 10 (Expropriation); and