

ARTICLE 12

Compensation for Losses

1. Each Party shall accord to investors of another Party, and to covered investments, non-discriminatory treatment with respect to measures it adopts or maintains relating to losses suffered by investments in its territory owing to armed conflict, civil strife or a natural disaster.
2. Paragraph 1 shall not apply to existing measures relating to subsidies or grants that would be inconsistent with Article 3 but for Article 9(5)(b).

ARTICLE 13⁷

Expropriation

1. Neither Party shall nationalize or expropriate a covered investment either directly, or indirectly through measures having an effect equivalent to nationalization or expropriation (hereinafter referred to as "expropriation"), except for a public purpose⁸, in accordance with due process of law, in a non-discriminatory manner and on prompt, adequate and effective compensation.
2. Such compensation shall be equivalent to the fair market value of the expropriated investment immediately before the expropriation took place ("date of expropriation"), and shall not reflect any change in value occurring because the intended expropriation had become known earlier. Valuation criteria shall include going concern value, asset value including declared tax value of tangible property, and other criteria, as appropriate, to determine fair market value.
3. Compensation shall be paid without delay and shall be fully realizable and freely transferable. Compensation shall be payable in a freely convertible currency and shall include interest at a commercially reasonable rate for that currency from the date of expropriation until date of payment.

⁷ For greater certainty, Article 13(1) shall be interpreted in accordance with Annex B.13(1) on the clarification of indirect expropriation.

⁸ The term "public purpose" is a treaty term to be interpreted in accordance with international law. It is not meant to create any inconsistency with the same or similar concepts in the domestic law of the Parties.