

- (b) subparagraphs 1(b), (c), (f) and (g), and 3(a) and (b), do not apply to procurement by a Party or a State enterprise; and
- (c) subparagraphs 3(a) and (b) do not apply to a requirement imposed by an importing Party relating to the content of a good necessary to qualify for a preferential tariff or preferential quota.

ARTICLE 10

Expropriation

1. A Party shall not nationalize or expropriate covered investments either directly or indirectly through measures having an effect equivalent to nationalization or expropriation (hereinafter referred to as "expropriation") except for a purpose which is in the public interest, in accordance with due process of law, in a non-discriminatory manner and on payment of 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 the declared tax value of tangible property, and other criteria 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.
4. The investor affected 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.