

## ANNEX B.10

### Expropriation

The Parties confirm their shared understanding that:

- (a) indirect expropriation results from a measure or series of measures of a Party that has an effect equivalent to direct expropriation without formal transfer of title or outright seizure;
- (b) the determination of whether a measure or series of measures of a Party constitutes an indirect expropriation requires a case-by-case, fact-based inquiry that considers, among other factors:
  - (i) the economic impact of the measure or series of measures, although the sole fact that a measure or series of measures of a Party has an adverse effect on the economic value of an investment does not establish that an indirect expropriation has occurred;
  - (ii) the extent to which the measure or series of measures interferes with distinct, reasonable investment-backed expectations; and
  - (iii) the character of the measure or series of measures.
- (c) except in rare circumstances, such as when a measure or series of measures are so severe in the light of their purpose that they cannot be reasonably viewed as having been adopted and applied in good faith, non-discriminatory measures of a Party that are designed and applied to protect legitimate public welfare objectives, such as health, safety and the environment, do not constitute indirect expropriation.