

Annex 9
referred to in Chapter 8

Expropriation

The Parties confirm their shared understanding that paragraph 1 of Article 82 addresses the following two situations:

- (a) the first situation is direct expropriation, where an investment is nationalized or otherwise directly expropriated through formal transfer of title or outright seizure; and
- (b) the second situation is indirect expropriation, where an action or a series of actions by a Party has an effect equivalent to direct expropriation without formal transfer of title or outright seizure. The determination of whether an action or a series of actions by a Party, in a specific fact situation, constitutes an indirect expropriation requires a case-by-case, fact-based inquiry that considers, among other factors:
 - (i) the economic impact of the government action, although the fact that such action has an adverse effect on the economic value of an investment, standing alone, does not establish that an indirect expropriation has occurred;
 - (ii) the extent to which the government action interferes with distinct, reasonable expectations arising out of investment;
 - (iii) the character of the government action, including whether such action is non-discriminatory; and
 - (iv) the objectives of the government action, including whether such action is taken for legitimate public objectives.