

Annex I

EXPROPRIATION AND COMPENSATION

1. An action or a series of related actions by a Party cannot constitute an expropriation unless it interferes with a tangible or intangible property right or property interest in a covered investment.
2. Article 7 (Expropriation and Compensation) addresses two situations:
 - (a) the first situation is direct expropriation, where a covered investment is nationalized or otherwise directly expropriated through formal transfer of title or outright seizure; and
 - (b) the second situation is where an action or a series of related actions by a Party that has an effect equivalent to direct expropriation without formal transfer of title or outright seizure.
3. The determination of whether an action or series of related actions by a Party, in a specific fact situation, constitutes an expropriation of the type referred to in paragraph 2, subparagraph (b) requires a case-by-case, fact-based inquiry that considers, among other factors:
 - (a) the economic impact of the action, although the fact that such action or series of related actions by a Party has an adverse effect on the economic value of an investment, standing alone, does not establish that such an expropriation has occurred;
 - (b) whether the action breaches the Party's prior binding written commitment to the investor, whether by contract, license, or other legal documents; and
 - (c) the character of the action, including its objective and whether such action is disproportionate to the public purpose.