

## Article 12 Expropriation and Compensation

1. A Party shall not nationalise or expropriate covered investments of an investor of any other Party, either directly or through measures equivalent to expropriation or nationalisation (referred hereto as “expropriation”), except:
  - (a) for public purpose<sup>15</sup>
  - (b) in accordance with due process of law;
  - (c) on a non-discriminatory basis; and
  - (d) upon payment of prompt, adequate and effective compensation.
  
2. For the purpose of paragraph 1(d), compensation shall:
  - (a) be equivalent to the fair market value of the expropriated investment at the time when the

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<sup>15</sup> For the avoidance of doubt, where Malaysia is the expropriating Party, any measure of expropriation relating to land shall be for the purposes as set out in the domestic laws and regulations relating to land acquisition.

expropriation was publicly announced<sup>16</sup>, or when the expropriation occurred, whichever is applicable;

- (b) not reflect any change in value occurring because the intended expropriation had become known earlier;
- (c) be settled and paid without undue delay<sup>17</sup>; and
- (d) be effectively realisable and freely transferable between the territories of the Parties.

3. The compensation referred to in paragraph 1(d) shall include appropriate interest. The compensation, including any accrued interest, shall be payable either in the currency of the expropriating Party, or if requested by the investor, in a freely usable currency.

4. Notwithstanding paragraphs 1, 2 and 3, in the case of the Republic of Singapore and the Socialist Republic of Viet Nam, any measure of expropriation relating to land shall be as defined in their respective domestic laws, regulations and any amendment thereto and shall be, for the purposes of and upon payment of compensation, in accordance with the aforesaid laws and regulations.

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<sup>16</sup> In the case of the Republic of the Philippines, the time when or immediately before the expropriation was publicly announced refers to the date of filing of the Petition for Expropriation.

<sup>17</sup> The Parties understand that there may be legal and administrative processes that need to be observed before payment can be made.

5. This Article does not apply to the issuance of compulsory licences granted in relation to intellectual property rights under the TRIPS Agreement.