(d) in accordance with its laws and regulations and international standard of due process of law.

2. (a) The Contracting Parties confirm their shared understanding that paragraph 1 addresses the following two situations:

(i) the first situation is direct expropriation, where an investment is nationalised or otherwise directly expropriated through formal transfer of title or outright seizure; and

(ii) the second situation is indirect expropriation, where an action or a series of actions by a Contracting 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 Contracting Party, in a specific situation, constitutes an indirect expropriation requires a case-by-case, fact-based inquiry that considers, among other factors:

(A) the economic impact of the government action, although the fact that an action or a series of actions by a Contracting Party has an adverse effect on the economic value of an investment, standing alone, does not establish that an indirect expropriation has occurred;

(B) the extent to which the government action interferes with distinct, reasonable investment-backed expectation; and

Note: For greater certainty, whether an investor's investment-backed expectations are reasonable depends, to the extent relevant, on factors such as whether the government provided the investor with binding written assurances and the nature and extent of government regulation or the potential for government regulation in the relevant sector.

(C) the character of the government action.

(b) Non-discriminatory regulatory actions by a Contracting Party that are designed and applied to protect legitimate public welfare objectives, such as public health, safety and the environment, do not constitute indirect expropriations, except in rare circumstances.

Note: For greater certainty and without limiting the scope of this subparagraph, regulatory actions to protect public health include, among others, such measures with respect to the regulation, pricing and supply of, and reimbursement for, pharmaceuticals (including biological products), diagnostics, vaccines, medical devices, gene therapies and technologies, health-related aids and appliances and blood and blood-related products.

3. The compensation shall be equivalent to the fair market value of the expropriated investments at the time when the expropriation was publicly announced or when the expropriation occurred, whichever is earlier. The fair market value shall not reflect any change in value occurring because the expropriation had become publicly known earlier.

4. The compensation shall be paid without undue delay, shall include interest at a commercially reasonable rate, accrued from the date of expropriation until the date of payment, and shall be effectively realisable and freely transferable.

5. If payment is made in a freely usable currency, the compensation paid shall include interest at a commercially reasonable rate for that currency, accrued from the date of expropriation until the date of payment.

6. If a Contracting Party elects to pay in a currency other than a freely usable currency, the compensation paid shall be no less than the sum of the following, converted into the currency of payment at the market rate of exchange prevailing on the date of payment:

(a) the fair market value on the date of expropriation, converted into a freely usable currency at the market rate of exchange prevailing on that date; and