What can be said with confidence however is that a staggering variety of causes of action are arguably within the scope of Article 26 [of the Energy Charter Treaty]. As has been seen, Article 26 may be invoked in relation to any alleged breach of Part III of the Treaty. Part III provides notably for the following:

- Non-discriminatory and national treatment of investments;
- Minimum standards under international law (including treaties);
- Eschewing barriers such as domestic-content requirements, export-related import quotas, and restrictions on access to foreign exchange;
- Entry and work permits for "key personnel"; compensation for requisitioned assets or assets destroyed by use of excessive force in the event of armed conflict or disturbance;

"Prompt, adequate and effective" compensation in the event of expropriation;\(^3\) repatriation of capital, profits, and contract payments in convertible currency.

\(^3\) Readers familiar with the international law of responsibility of States will recognize this formulation as the one originally expressed by U.S. Secretary of State Cordell Hull in a Note of 21 July 1938 to the Mexican Government. It has been supported by western governments and jurists ever since, but in the 1970s, and 1980s its strength was eroded by a vigorous challenge from non-western officials and lawyers who felt that the application of the "prompt, adequate and effective" standard favored foreign capitalists while tying the hands of policy makers in capital-importing countries. See, e.g., Sornarajah, supra note 9 [The International Law on Foreign Investments (1994)], at 359 et seq. Its reappearance in the Energy Charter Treaty is a remarkable turn of events.

**Referring Principles:**

- XI.1 - Compensation for expropriation