(v) Agreement on Investment under the Framework Agreement on Comprehensive Economic Cooperation between the Association of Southeast Asian Nations and the Republic of India, done at Nay Pyi Taw, 12 November 2014; and

(vi) Agreement on Investment among the Governments of the Hong Kong Special Administrative Region of the People's Republic of China and the Member States of the Association of Southeast Asian Nations, done at Ha Noi, 18 May 2018.

8. Articles 51.5 and 51.6 shall not apply until the date of entry into force of the Schedules of Reservations referred to in paragraph 3.

9. The Parties shall also enter into discussions with a view to agreeing on the application of Most-Favoured-Nation treatment to this Chapter, including the Schedules of Reservations.

10. The Parties shall also enter into consultations to seek agreement on the application of Articles 51.9 and 51.13 to taxation measures that constitute expropriation.

Annex A to Chapter 7
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 51.9 addresses two situations:

(a) the first situation is direct expropriation, where a covered investment is nationalised 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 subparagraph 2(b) 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 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 government action breaches the government's prior binding written commitment to the investor, whether by contract, licence or any other legal document; and

(c) the character of the government action, including its objective and whether such action is disproportionate to the public purpose.

4. Non-discriminatory regulatory actions by a Party that are designed and applied to achieve legitimate public welfare objectives such as the protection of public health, safety and the environment do not constitute expropriation of the type referred to in subparagraph 2(b).”