Annex III
Expropriation

1. The Contracting Parties confirm their shared understanding that paragraph 1 of Article 16 is intended to reflect customary international law concerning the obligation of States with respect to expropriation.

2. A measure or a series of measures by a Contracting Party cannot constitute an expropriation unless it interferes with a tangible or intangible, movable or immovable property, or property interests in an investment.

3. Paragraph 1 of Article 16 addresses the following two (2) situations:

(a) the first situation is direct expropriation, where investments are nationalized or otherwise directly expropriated through formal transfer of title or outright seizure; and

(b) the second situation is indirect expropriation, where a measure or a series of measures of a Contracting Party has an effect equivalent to direct expropriation without formal transfer of title or outright seizure.

4. The determination of whether a government measure or a series of government measures of a Contracting Party, in a specific fact 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 measure or series of government measures, although the fact that such measure or series of such measures has an adverse effect on the economic value of investments, standing alone, does not establish that an indirect expropriation has occurred;

(b) the extent to which the government measure or series of government measures interferes with distinct and reasonable expectations arising out of investments; and

(c) the character of the government measure, including its objectives.

5. Except in rare circumstances, such as when a measure or a series of measures by a Contracting Party is extremely severe or disproportionate in light of its purpose, non-discriminatory regulatory actions adopted by the 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.

Annex IV
Financial Services

1. Notwithstanding any other provisions of this Agreement, a Contracting Party shall not be prevented from taking measures relating to financial services for prudential reasons, including measures for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by an enterprise supplying financial services, or to ensure the integrity, and stability, of its financial system.

Note: It is understood that the term "prudential reasons" includes the maintenance of the safety, integrity, or stability of individual financial institutions.

2. Without prejudice to paragraph 3, a Contracting Party shall not be prevented from taking non-discriminatory measures of general application in pursuit of monetary and exchange policies.

3. Where the measures taken by a Contracting Party pursuant to paragraphs 1 and 2 do not conform with this Agreement, they shall not be used as a means of avoiding the obligations of the Contracting Party under this Agreement.

4. With regard to disputes relating to financial services, Article 20 only applies to disputes regarding matters that affect the operation, management, maintenance, use, enjoyment and sale or other disposal of investments or the investments of investors of a Contracting Party already established, acquired or expanded in the Area of the other Contracting Party in accordance with its laws and regulations.

5. With regard to investment disputes with respect to investments or investment activities of a disputing investor relating to financial services, Article 21 only applies to investment disputes regarding investments already established, acquired or expanded in the Area of the disputing Party in accordance with its laws and regulations, as well as the investment activities associated with such investments.

6. The arbitration board established under Article 20 or the arbitral tribunal established under Article 21 for disputes arising under this Annex shall be composed entirely of arbitrators who have expertise or experience in financial services law or practice, which may include the laws and regulations of financial institutions.