



**MULTILATERAL TREATY  
FOR THE ENCOURAGEMENT OF INVESTMENT  
IN  
CLIMATE CHANGE MITIGATION AND ADAPTATION**

Contribution from the Think Tank 30 – the Young Club of Rome to the  
Stockholm Treaty Lab

Silke Noa Elrifai<sup>1</sup>, Maya Hennerkes<sup>2</sup>, Hans Rusinek<sup>3</sup>, Simon R. Sinsel<sup>4</sup>

<sup>1</sup> *Counsel at Gnosis and AMERELLER, Berlin/Dubai,*

<sup>2</sup> *Lead Environmental and Social Officer at IDB Invest (Inter-American Development Bank), Washington, DC*

<sup>3</sup> *Senior Strategy Consultant at BrightHouse (Boston Consulting Group), Berlin*

<sup>4</sup> *Research Associate at the Swiss Federal Institute of Technology Zurich (ETH Zurich)*

## CONTENTS

PART I DEFINITIONS AND SCOPE .....	5
1. Objective .....	5
2. Definitions .....	5
3. Scope .....	10
4. Relations between the Contracting States .....	10
PART 2 INVESTMENT ESTABLISHMENT .....	11
5. Market Access.....	11
6. Prohibition of Performance Requirements .....	12
PART 3 INVESTMENT PROTECTION.....	13
7. National Treatment.....	13
8. Most-favoured-Nation Treatment .....	13
9. Standard of Treatment .....	13
10. Compensation for Expropriation .....	14
11. Compensation for Losses .....	15
12. Compensation for Strife .....	15
13. Free Transfers .....	16
14. Principle of Subrogation .....	17
15. Conversion of Host Contracting Party Subsidies.....	17
16. Compensation for Default of Off-Taker.....	17
17. Access To Financial Support For Investments and Capacity Building .....	18
18. Other Contracting Party Obligations .....	20
PART 4 RESERVATIONS AND RIGHT TO REGULATE .....	20
19. Exceptions and Reservations .....	20
20. Right to Regulate.....	21
PART 5 DISPUTE SETTLEMENT .....	21
21. Settlement of Disputes between the Contracting Parties .....	21
22. Settlement of Disputes between a Contracting Party and Investor(s) of other Contracting Parties.....	22
23. Consolidation.....	24
24. Claims manifestly without Legal Merit .....	26
25. Claims unfounded as a Matter of Law .....	27
26. Mediation .....	27
27. Third Party Funding .....	28
PART 6 OPTIONAL MULTILATERAL ARBITRATION AGREEMENT.....	28
28. Multilateral Arbitration Agreement .....	28
PART 7 INSTITUTIONAL MATTERS .....	29

29.	Stockholm Ledger.....	29
31.	Contracting Party National Authorities.....	30
PART 8 FINAL PROVISIONS.....		31
32.	Amendment.....	31
33.	Annexes.....	31
34.	Entry into Force.....	31
35.	Withdrawal.....	31
36.	Authentic Text.....	32
37.	Depositary.....	32
ANNEX 1 Requirements for the Acceptance of Certificates of Origin.....		33
ANNEX 2 Verification of Compliance with Host Contracting Party NDC.....		34
ANNEX 3 Further Elements of FET standard agreed by Contracting Parties.....		35
ANNEX 4 Contracting Parties opting into Article 18.2 (Umbrella Clause).....		36
ANNEX 5 Reservations for Maintained Non-Conforming Measures.....		37
ANNEX 6 List of Contracting Parties opting into Multilateral Arbitration Agreement.....		38
ANNEX 7 List of National Authorities reporting to the Treaty Committee.....		39

## **THE PARTIES,**

Emphasizing the urgent need to combat climate change,

Aware of the intrinsic link between climate impacts, environmental protection and sustainable economic development of national and global economies,

Recognizing the need for a substantive increase in climate change mitigation and adaptation finance from public and private sources to meet future energy demand and foster sustainable economic, environmental and social development,

Convinced of the crucial role investment protection plays in furthering private sector investments in climate change mitigation and adaptation technologies, particularly in mid- and low-income economies,

Aware of the importance for the private sector to operate within a transparent and equitable legal framework,

Recognizing the value of international arbitration as a method of settling disputes that may arise in the context of international investment,

Recognizing the specific needs, circumstances and climate vulnerabilities of emerging and developing countries and the principle of common but differentiated responsibilities,

Affirming their commitment to the United Nation's Sustainable Development Goals,

Also affirming their commitment to the Paris Agreement and its long-term goal of keeping the increase in global average temperature to well below 2°C above pre-industrial levels and strengthening societies' ability to deal with the impacts of climate change,

Convinced that distributed ledger technology may be used to facilitate meeting the financing, monetization, reporting, accountability and transparency goals of the Paris Agreement through climate-related standardized data collection, storage, analysis and comparison,

Further convinced that smart contract deployment on a decentralized distributed ledger has the potential to reduce the cost of climate finance,

**HAVE AGREED THE FOLLOWING:**

**PART I**  
**DEFINITIONS AND SCOPE**

---

**1. OBJECTIVE**

- 1.1. The objective of this treaty (the “**TREATY**”) is to promote foreign investment in climate change mitigation and adaptation in accordance with the PARIS AGREEMENT and the SUSTAINABLE DEVELOPMENT GOALS.

**2. DEFINITIONS**

- 2.1. For purposes of this TREATY:

“**ADAPTATION**” means the process of adjustment to actual or expected climate and its effects, whereby in human systems, adaptation seeks to moderate or avoid harm or exploit beneficial opportunities, and in some natural systems, human intervention may facilitate adjustment to expected climate and its effects.

“**APPOINTING AUTHORITY**” has the meaning assigned to it in Article 23.

“**ANNEX I PARTIES**” has the meaning assigned to it under the UNFCCC.

“**ARBITRAL TRIBUNAL**” has the meaning assigned to it in Article 22.

“**CLIMATE CHANGE**” means a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods.

“**CERTIFICATES OF ORIGIN**” means certificates that attest climate-friendly environmental attributes of its generating resource and comply with the provisions in Annex 1.

“**CONSOLIDATION NOTICE**” has the meaning assigned to it in Article 23.

“**CONSOLIDATION ORDER**” has the meaning assigned to it in Article 23.

“**CONSOLIDATION REQUEST**” has the meaning assigned to it in Article 23.

“**CONSOLIDATION TRIBUNAL**” has the meaning assigned to it in Article 23.

“**CONTRACTING PARTY**” means a contracting party to this Treaty.

“**CONTRACTING PARTY DISPUTE**” has the meaning assigned to it in Article 21.

“**DEPOSITORY**” has the meaning assigned to it in Article 37.

“**DISPUTING PARTIES**” and “**DISPUTING PARTY**” has the meaning assigned to it in Articles 22 and 23, as the case may be.

“**EXPROPRIATION**” has a meaning assigned to it in Article 10.

“**FUNDING GAP**” means the gap between an INVESTMENT’s cost with and without concessional finance.

**“GREEN CLIMATE FUND”** or **“GCF”** means the global fund set up by the Conference of the Parties to the UNFCCC in 2010 and 2011 as part of the UNFCCC’s financial mechanism to support the efforts of developing countries to respond to climate change.

**“GREEN CLIMATE STOCKHOLM FACILITY”** or **“STOCKHOLM FACILITY”** has the meaning assigned to it in Article 17.

**“HOME CONTRACTING PARTY”** means the CONTRACTING PARTY from which the INVESTOR hails in accordance with the Treaty.

**“HOST CONTRACTING PARTY”** means the CONTRACTING PARTY in whose TERRITORY an INVESTMENT is made.

**“IFC’S PERFORMANCE STANDARDS”** means the Performance Standards on Environmental and Social Sustainability by the International Finance Corporation as in effect at the time of the investment.

**“INVESTOR”** with respect to a CONTRACTING PARTY means:

- (a) a natural person who, within the meaning of the law of that CONTRACTING PARTY, is considered to be a national;
- (b) legal entities, including companies, corporations, business associations and other organisations, which are constituted or otherwise duly organised under the law of that CONTRACTING PARTY and have their seat, together with substantial business activities, in the TERRITORY of that CONTRACTING PARTY; or
- (c) legal entities not established under the law of that CONTRACTING PARTY but effectively controlled by natural persons as defined in (a) above or by legal entities as defined in (b) above.

**“INVESTMENT”**, with respect to a CONTRACTING PARTY, means any asset that an INVESTOR owns or controls, directly or indirectly, that

- (a) has the characteristics of an investment, which includes a certain duration or other characteristics such as the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk; and
- (b) is made in the TERRITORY of the HOST CONTRACTING PARTY in accordance with its law at the time the investment is made; and
- (c) is in accordance with the NDC of the HOST CONTRACTING PARTY, as outlined in Annex 2, and any national legislation promulgated thereunder, if any, at the time of making the investment; and
- (d) in accordance with the PARIS AGREEMENT:
  - i. supports the pathway towards low greenhouse gas emissions and climate-resilient development through, including but not limited to, renewable energy production, energy storage,

- inland waterways, rail networks, mass light and bus rapid transit and non-motorized transport infrastructure, gas-fired power plants, energy transmission and distribution infrastructure, sustainable transport infrastructure, and climate-friendly agriculture, forestry, waste and land-use, or
- ii. is made in accordance with the STOCKHOLM INVESTOR'S PRINCIPLES FOR CLIMATE CHANGE ADAPTATION ACTIVITIES and consists of a stand-alone measure or component of a larger investment, for which
    - 1. a climate risk assessment has been carried out, and
    - 2. the link between climate risk, impact and financed activity has been clearly established; and
- (e) is managed in accordance with internationally recognized environmental and social standards, including the IFC's PERFORMANCE STANDARDS or those comparable of regional development banks; and
- (f) is, upon the STOCKHOLM LEDGER's establishment, duly registered thereon.

Forms that an Investment may include:

- (1) shares, stocks or other forms of equity participation in an enterprise, and rights derived therefrom, or
- (2) bonds, debentures, loans and other forms of debt and rights derived therefrom, or
- (3) rights under contracts, including turnkey, construction, management, production or revenue-sharing; or
- (4) contracts, or
- (5) claims to money and claims to performance, or
- (6) intellectual property rights, or
- (7) rights conferred pursuant to law or contract such as concessions, licenses, or
- (8) authorisations, and permits, or
- (9) any other tangible and intangible, movable and immovable property, and any related property rights, such as leases, mortgages, liens and pledges,

but INVESTMENT does not mean claims to money that arise solely from commercial contracts for the sale of goods or services by a natural person or enterprise in the TERRITORY of a HOST CONTRACTING PARTY to a natural person or enterprise in the TERRITORY of another CONTRACTING PARTY or the domestic financing of such contracts.

**"INVESTMENT DISPUTE"** has the meaning assigned to it in Article 22.

“**INVESTMENT GRANT**” is a monetary grant for the establishment or expansion of INVESTMENTS furthering climate change mitigation and adaptation that is paid by the HOST CONTRACTING PARTY at the time of making the INVESTMENT.

“**LEDGER DATA**” has the meaning assigned to it in Article 29.

“**MINIMUM CONCESSIONALITY**” means the minimum amount of concessional finance needed to make an INVESTMENT financially viable, whereby:

- (a) “**CONCESSIONAL**” means that the financing is extended on terms substantially more generous than market conditions, such as at a lower interest rate, with a longer tenor or grace period, or including grant elements or debt subordination, and
- (b) **MINIMUM CONCESSIONALITY** must be demonstrated by either of the following methodologies:
  - i. an investment comparison analysis identifying the financial indicator, such as internal rate of return or return on equity, to show how the proposed concessional financing reduces the cost of an Investment to an acceptable market standard level; or
  - ii. via a barrier and gap analysis identifying the barrier(s) and describing how the proposed concessional finance tranche overcomes the risk barrier(s) and allows the project to attract sufficient finance, and
- (c) the amount of the **CONCESSIONAL** tranche needs to be justified through a quantitative analysis of the **FUNDING GAP**.

“**Mitigation**” means a human intervention to reduce the sources or enhance the sinks of greenhouse gases, also comprising those which reduce the sources of other substances and contribute directly or indirectly to limiting **CLIMATE CHANGE**, including, but not limited to, the reduction of particulate matter emissions, which can directly alter the radiation balance, or measures which control emissions of carbon monoxide, nitrogen oxides, volatile organic compounds and other pollutants that can alter the concentration of tropospheric ozone having an indirect effect on the climate.

“**MRVM**” has the meaning assigned to it in Article 29.

“**NATIONAL**” means in relation to a **CONTRACTING PARTY**:

- (a) a natural person who, within the meaning of the law of that **CONTRACTING PARTY**, is considered to be a national; or
- (b) legal entities, such as companies, corporations, business associations and other organisations including governmental authorities, which are constituted or otherwise duly organised under the law of that **CONTRACTING PARTY**.

“**NATIONAL AUTHORITIES**” has the meaning assigned to it in Article 31.



**“NATIONALLY DETERMINED CONTRIBUTION”** or **“NDC”** means the efforts of a CONTRACTING PARTY pursuant to the PARIS AGREEMENT to reduce national emissions and adapt to the impacts of climate change as documented and registered with the UNFCCC secretariat.

**“NEGOTIATED RESTRUCTURING”** means the restructuring or rescheduling of debt of a CONTRACTING PARTY that has been effected through:

- (a) a modification or amendment of debt instruments, as provided for under their terms, including their governing law, or
- (b) a debt exchange or other similar process in which the holders of no less than 75 per cent of the aggregate principal amount of the outstanding debt subject to restructuring have consented to such debt exchange or other process; and governing law of a debt instrument means a jurisdiction's laws applicable to that debt instrument.

**“NON-ANNEX I PARTIES”** has the meaning assigned to it under the UNFCCC.

**“OFF-TAKER”** means any legal entities, such as companies, corporations, business associations and other organisations including governmental authorities, which are constituted or otherwise duly organised under the law of a HOST CONTRACTING PARTY, and which purchase an INVESTMENT's production or services on the basis of a contractual agreement over a specified period of time.

**“ORACLES”** has the meaning assigned to it in Article 29.

**“PARIS AGREEMENT”** means the Paris Agreement adopted on 12 December 2015 and entered into force on 4 November 2016 within the UNFCCC.

**“PCA ARBITRATION RULES”** means Permanent Court of Arbitration Arbitration Rules.

**“PROTOCOL”** has the meaning assigned to it in Article 29.

**“SMART CONTRACT”** means a computer code running on top of a distributed ledger containing a set of rules under which the parties to that smart contract agree to interact with each other. If and when the pre-defined rules are met, the smart contract is automatically enforced. The smart contract code facilitates, verifies, and enforces the negotiation or performance of a contract or transaction.

**“STOCKHOLM INVESTOR'S PRINCIPLES FOR CLIMATE CHANGE ADAPTATION ACTIVITIES”** means activities which:

- (a) help investors cope with changing climate conditions, and
- (b) address one or several specific current or future climate vulnerabilities that would have a material effect on the investment, and

- (c) are identified for the specific local context; and
- (d) are disaggregated from non-adaptation activities and/or components.

“**STOCKHOLM LEDGER**” has the meaning assigned to it in Article 29.

“**SUBSIDIES**” mean monetary payments or tax reductions made directly or indirectly, which are granted by a CONTRACTING PARTY with the objective of encouraging INVESTMENT in CLIMATE CHANGE MITIGATION and ADAPTATION.

“**SUSTAINABLE DEVELOPMENT GOALS**” means the set of 17 goals set out in the outcome document entitled “Transforming our World: the 2030 Agenda for Sustainable Development” as adopted by the United Nations General Assembly in Resolution A/RES/70/1 of 25 September 2015.

“**TERRITORY**” means with respect to a CONTRACTING PARTY:

- (a) the territory under its sovereignty, including land, internal waters and the territorial sea; and
- (b) subject to and in accordance with the international law of the sea, the sea, sea-bed and its subsoil with regard to which that CONTRACTING PARTY exercises sovereign rights and jurisdiction, or
- (c) that is a regional economic integration organisation, the territory of the member states of such organisation, under the provisions contained in the agreement establishing that organisation.

“**TREATY COMMITTEE**” has the meaning assigned to it in Article 30.

“**UNCITRAL TRANSPARENCY RULES**” means the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration, as in force at the time an INVESTMENT DISPUTE is referred to international arbitration pursuant to Article 22.2.

“**UNFCCC**” means United Nations Framework Convention on Climate Change adopted on 9 May 1992 and entered into force on 21 March 1994 to address climate change.

### **3. SCOPE**

- 3.1. This TREATY shall apply to measures adopted or maintained by a CONTRACTING PARTY, after the entry into force of this TREATY, relating to INVESTORS of another CONTRACTING PARTY or to INVESTMENTS of INVESTORS of another CONTRACTING PARTY.
- 3.2. This TREATY applies to INVESTMENTS made prior to or after its entry into force.

### **4. RELATIONS BETWEEN THE CONTRACTING STATES**

- 4.1. This TREATY shall be in force irrespective of whether or not diplomatic or consular relations exist between CONTRACTING PARTIES.

**PART 2**  
**INVESTMENT ESTABLISHMENT**

---

**5. MARKET ACCESS**

5.1. A CONTRACTING PARTY shall not adopt or maintain with respect to market access for an INVESTMENT by an INVESTOR of another CONTRACTING PARTY through establishment, a measure that:

(a) imposes limitations on:

- i. the number of enterprises that may carry out a specific economic activity whether in the form of numerical quotas, monopolies, exclusive suppliers or the requirement of an economic needs test;
- ii. the total value of transactions or assets in the form of numerical quotas or the requirement of an economic needs test;
- iii. the total number of operations or the total quantity of output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;
- iv. the participation of foreign capital in terms of a maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment; or
- v. the total number of natural persons that may be employed in a particular sector or that an enterprise may employ and who are necessary for, and directly related to, the performance of economic activity in the form of numerical quotas or the requirement of an economic needs test; or

(b) restricts or requires specific types of legal entity or joint venture through which an enterprise may carry out an economic activity.

5.2. For greater certainty, the following are consistent with Article 5.1:

- (a) a measure concerning zoning and planning regulations affecting the development or use of land, or another analogous measure;
- (b) a measure requiring the separation of the ownership of infrastructure from the ownership of the goods or services provided through that infrastructure to ensure fair competition, for example in the fields of energy, transportation and telecommunications;
- (c) a measure restricting the concentration of ownership to ensure fair competition;
- (d) a measure seeking to ensure the conservation and protection of natural resources and the environment, including a limitation on the

availability, number and scope of concessions granted, and the imposition of a moratorium or ban;

- (e) a measure limiting the number of authorisations granted because of technical or physical constraints, for example telecommunications spectrum and frequencies; or
- (f) a measure requiring that a certain percentage of the shareholders, owners, partners, or directors of an enterprise be qualified or practice a certain profession such as lawyers or accountants.

## **6. PROHIBITION OF PERFORMANCE REQUIREMENTS**

6.1. Save for the requirement that INVESTMENTS are managed in accordance with internationally recognized environmental and social standards, including the IFC PERFORMANCE STANDARDS, in accordance with Article 2.1, a CONTRACTING PARTY shall not impose, or enforce the following requirements, or enforce a commitment or undertaking, in connection with the establishment, acquisition, expansion, conduct, operation, and management of any INVESTMENTS by an INVESTOR in its TERRITORY to:

- (a) export a given level or percentage of a good or service;
- (b) purchase, use or accord a preference to a good produced or service provided in its TERRITORY, or to purchase a good or service from natural persons or enterprises in its TERRITORY;
- (c) relate the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with that INVESTMENT;
- (d) restrict sales of a good or service in its TERRITORY that the INVESTMENT produces or provides by relating those sales to the volume or value of its exports or foreign exchange earnings; or
- (e) supply exclusively from the TERRITORY of the CONTRACTING PARTY a good produced or a service provided by the INVESTMENT to a specific regional or world market.

6.2. A CONTRACTING PARTY shall not condition the receipt or continued receipt of an advantage, in connection with the establishment, acquisition, expansion, management, conduct or operation of any INVESTMENTS in its TERRITORY, on compliance with any of the following requirements:

- (a) to purchase, use or accord a preference to a good produced in its TERRITORY, or to purchase a good from a producer in its TERRITORY;
- (b) to relate the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with that INVESTMENT; or

(c) to restrict sales of a good or service in its TERRITORY that the INVESTMENT produces or provides by relating those sales to the volume or value of its exports or foreign exchange earnings.

- 6.3. Article 6.2 does not prevent a CONTRACTING PARTY from conditioning the receipt or continued receipt of an advantage, in connection with an INVESTMENT in its TERRITORY, on compliance with a requirement to locate production, provide a service, train or employ workers, construct or expand particular facilities, or carry out research and development in its TERRITORY.

### **PART 3 INVESTMENT PROTECTION**

---

#### **7. NATIONAL TREATMENT**

- 7.1. Each CONTRACTING PARTY shall accord to INVESTORS of another CONTRACTING PARTY and to its INVESTMENT, treatment no less favourable than the treatment it accords in like circumstances to its own investors and their investments, in relation to the establishment, acquisition, expansion, conduct, operation, management, maintenance, use, enjoyment and sale or disposal of their investments in its TERRITORY.

#### **8. MOST-FAVOURED-NATION TREATMENT**

- 8.1. Each Contracting Party shall accord to an INVESTOR of another CONTRACTING PARTY and to its INVESTMENT, treatment no less favourable than the treatment it accords in like situations, to investors of a third country and to their investments with respect to the establishment, acquisition, expansion, conduct, operation, management, maintenance, use, enjoyment and sale or disposal of their investments in its TERRITORY.
- 8.2. For greater certainty, treatment referred to in Article 8.1 does not encompass the dispute settlement provisions contained in Article 22 of this TREATY and in other investment or trade agreements. Substantive obligations in other international investment treaties and other trade agreements do not in themselves constitute "treatment", and thus cannot give rise to a breach of this Article 8, absent measures adopted or maintained by a HOST CONTRACTING PARTY pursuant to those obligations.

#### **9. STANDARD OF TREATMENT**

- 9.1. Each CONTRACTING PARTY shall accord in its TERRITORY to INVESTMENTS of another CONTRACTING PARTY and to INVESTORS with respect to their INVESTMENTS fair and equitable treatment and full protection and security in accordance with Articles 9.2 - 9.7.

- 9.2. A CONTRACTING PARTY breaches the obligation of fair and equitable treatment referenced in Article 9.1 with respect to an INVESTMENT, if a measure or series of measures constitutes:
- (a) denial of justice in judicial or administrative proceedings;
  - (b) fundamental breach of due process, including a fundamental breach of transparency, in judicial and administrative proceedings;
  - (c) manifest arbitrariness;
  - (d) targeted discrimination on manifestly wrongful grounds, including but not limited to gender, race or religious belief;
  - (e) abusive treatment of Investors, such as coercion, duress and harassment; or
  - (f) a breach of any further elements of the fair and equitable treatment obligation explicitly adopted by the HOST CONTRACTING PARTY and HOME CONTRACTING PARTY under this TREATY as agreed in Annex 3.
- 9.3. When applying the above fair and equitable treatment obligation, the ARBITRAL TRIBUNAL may take into account whether a CONTRACTING PARTY made a specific representation to an INVESTOR to induce a specific INVESTMENT, that created a legitimate expectation, and upon which the INVESTOR relied in deciding to make or maintain the INVESTMENT, but that the HOST CONTRACTING PARTY subsequently frustrated.
- 9.4. For greater certainty, "full protection and security" refers to a CONTRACTING PARTY's obligations relating to the physical security of INVESTORS and INVESTMENTS.
- 9.5. For greater certainty, a breach of another provision of this TREATY, or of a separate international agreement does not establish a breach of this Article 9.
- 9.6. For greater certainty, the fact that a measure breaches domestic law does not, in and of itself, establish a breach of this Article 9. In order to ascertain whether the measure breaches this Article 9, the Tribunal must consider whether a CONTRACTING PARTY has acted inconsistently with the obligations in Article 9.1.

## **10. COMPENSATION FOR EXPROPRIATION**

- 10.1. INVESTMENTS by INVESTORS of a CONTRACTING STATE may not directly or indirectly be expropriated, nationalized or subjected to any other measure, the effects of which would be tantamount to expropriation or nationalization (an "**EXPROPRIATION**") in the TERRITORY of the other CONTRACTING STATE except for the public benefit and against compensation.
- 10.2. Such compensation must be equivalent to the market value of the expropriated INVESTMENT immediately before the date on which the actual or threatened EXPROPRIATION became publicly known. The compensation must be paid

without delay and shall carry the usual bank interest until the time of payment and must be effectively realizable and freely transferable.

- 10.3. Provision must have been made in an appropriate manner at or prior to the time of EXPROPRIATION for the determination and payment of such compensation. The legality of any such EXPROPRIATION and the amount of compensation must be subject to review by due process of law.
- 10.4. Where Articles 10.2 and 10.3 have not been complied with, compensation for the EXPROPRIATION is to be determined in accordance with the customary international law standard, subject to compliance with Article 10.5 below. Where an ARBITRAL TRIBUNAL determines that an EXPROPRIATION was illegal and awards compensation, an additional payment of 3% above the awarded compensation is to be paid by the CONTRACTING PARTY into and used in accordance with the terms of the STOCKHOLM FACILITY.
- 10.5. The compensation under Articles 10.2 and 10.4 must be paid without delay and shall carry the usual bank interest until the time of payment, and must be effectively realizable and freely transferable.

## **11. COMPENSATION FOR LOSSES**

- 11.1. Where pursuant to arbitration proceedings under Article 22.2, it is found that an INVESTOR sustained loss arising out or in connection with an INVESTMENT due to a CONTRACTING PARTY's breach of Articles 7, 8, 9, compensation shall be awarded in accordance with the customary international law standard wiping out all the consequences of the breach and re-establishing the situation which would, in all probability, have existed if that act had not been committed.
- 11.2. An additional payment of 3% above the awarded compensation is to be paid by the CONTRACTING PARTY into and used in accordance with the terms of the STOCKHOLM FACILITY.
- 11.3. The compensation under Articles 11.1 must be paid without delay and shall carry the usual bank interest until the time of payment, and must be effectively realizable and freely transferable.

## **12. COMPENSATION FOR STRIFE**

- 12.1. INVESTORS of a CONTRACTING STATE whose INVESTMENTS suffer losses in the TERRITORY of another CONTRACTING STATE owing to war or other armed conflict, revolution, a state of emergency, or revolt or natural disaster, shall be accorded treatment no less favourable by such other CONTRACTING STATE than that CONTRACTING STATE accords to its own investors as regards restitution, indemnification, compensation or other settlement. Such payments must be effectively realizable and freely transferable.

12.2. Without prejudice to Article 12.1, an INVESTOR of a CONTRACTING PARTY who, in any of the situations referred to in that Article, suffers a loss in the area of another CONTRACTING PARTY resulting from:

- (a) requisitioning of its Investment or part thereof by the latter's forces or authorities, or
- (b) destruction of its Investment or part thereof by the latter's forces or authorities,

which was not required by the necessity of the situation, shall be accorded restitution or compensation at the fair market value immediately prior to the requisitioning or destruction.

### **13. FREE TRANSFERS**

13.1. Each CONTRACTING PARTY shall ensure that all payments relating to an INVESTMENT of an INVESTOR of another CONTRACTING PARTY may be freely transferred into and out of its TERRITORY without delay. Such transfers shall include, in particular, though not exclusively:

- (a) the initial capital and additional amounts to maintain or increase an INVESTMENT;
- (b) profits, interest, dividends, capital gains, royalties, fees, certificates of origin and returns in kind;
- (c) payments made under a contract including a loan agreement;
- (d) proceeds from the sale or liquidation of all or any part of an INVESTMENT;
- (e) earnings and other remuneration of personnel engaged from abroad in connection with an INVESTMENT.

13.2. Each CONTRACTING PARTY shall further ensure that such transfers may be made in a freely convertible currency. Freely convertible currency means a currency that is widely traded in international foreign exchange markets and widely used in international transactions.

13.3. Transfers shall be made at the market rate of exchange prevailing on the date of transfer.

13.4. Articles 13.1-13.3 are without prejudice to the equitable, non-discriminatory and good faith application of measures:

- (a) to protect the rights of creditors,
- (b) relating to or ensuring compliance with laws and regulations
  - i. on the issuing, trading and dealing of securities, futures and derivatives,
  - ii. concerning reports or records of transfers,
  - iii. concerning the payment of contributions or penalties; or



- iv. concerning financial security or any other equivalent regarding the prevention and remedying of environmental damage, and
- (c) in connection with criminal offences and orders or judgments in judicial or administrative proceedings.

#### **14. PRINCIPLE OF SUBROGATION**

- 14.1. If an INVESTOR of a CONTRACTING PARTY receives payment, pursuant to an insurance contract against non-commercial risks, from an insurer constituted or organized under the law of that CONTRACTING PARTY, the other CONTRACTING PARTY shall recognize the assignment of any right or claim of the INVESTOR to the insurer, and the right of the insurer to exercise such right or claim.

#### **15. CONVERSION OF HOST CONTRACTING PARTY SUBSIDIES**

- 15.1. If the HOST CONTRACTING PARTY grants SUBSIDIES for INVESTMENTS, the INVESTOR may choose at that point in time whether these SUBSIDIES shall be granted as per the HOST CONTRACTING PARTY's laws or whether the SUBSIDIES should be converted to an INVESTMENT GRANT as per Articles 15.2 - 15.4.
- 15.2. The INVESTMENT GRANT amounts to the inflation-adjusted value of the HOST CONTRACTING PARTY's subsidies over fifteen years of operation to a maximum of 60 % of the INVESTMENT value, of which 40 % will be granted in the first year of operation and 5 % in the consecutive 4 years by the HOST CONTRACTING PARTY. The inflation adjustment shall be made using the average inflation of the HOST CONTRACTING PARTY's currency over the preceding five years.
- 15.3. If SUBSIDIES for an INVESTMENT are granted based on the performance of the INVESTMENT, SUBSIDIES will be converted based on a performance estimate at the time of operation. Actual performance shall be verified with the performance recorded on the STOCKHOLM LEDGER in year 2 of operation and the INVESTMENT GRANT will be adjusted accordingly.
- 15.4. The intent to convert HOST CONTRACTING PARTY SUBSIDIES shall be announced to the NATIONAL AUTHORITY of the HOST CONTRACTING PARTY and to that effect recorded on the STOCKHOLM LEDGER at least 6 calendar months prior to initial payment of the INVESTMENT GRANT. The amount of the INVESTMENT GRANT shall be agreed between INVESTOR and NATIONAL AUTHORITY within 2 calendar months.

#### **16. COMPENSATION FOR DEFAULT OF OFF-TAKER**

- 16.1. Articles 16.2 – 16.5 apply if the HOST CONTRACTING PARTY directly or indirectly controls the OFF-TAKER or holds a majority of the OFF-TAKER's equity.
- 16.2. An OFF-TAKER default occurs when payments agreed between the INVESTOR and the OFF-TAKER are delayed by more than 3 calendar months. If the amount of payments is dependent on the performance of the INVESTMENT, then the

amount of payments will be verified with the performance recorded on the STOCKHOLM LEDGER in the preceding calendar month.

- 16.3. In case of a default, the INVESTOR shall send a notice of default setting out the period that payments are past-due, the amount of payments due, documented proof for the request of these payments from the OFF-TAKER, as well as proof of registration on the STOCKHOLM LEDGER to the HOST CONTRACTING PARTY, who shall advance the payment on behalf of its OFF-TAKER.
- 16.4. If within 2 calendar months, the HOST CONTRACTING PARTY fails to make the payment to the INVESTOR, the INVESTOR shall register the default on the STOCKHOLM LEDGER, triggering advance payment to be made out of the STOCKHOLM FACILITY on behalf of the HOST CONTRACTING PARTY as executed by a SMART CONTRACT in accordance with the PROTOCOL, but only if, at that point in time, the targeted capitalization of the STOCKHOLM FACILITY under Article 17 has been attained.
- 16.5. In the case an advanced payment was made from the STOCKHOLM FACILITY to the INVESTOR under this Article 16, the HOST CONTRACTING PARTY shall replenish the STOCKHOLM FACILITY for the amount payable plus interest at the Euro Interbank Offered Rate plus 2% within 2 calendar months.
- 16.6. Where the HOST CONTRACTING PARTY fails to replenish the STOCKHOLM FACILITY under Article 16.5, future payments benefitting the defaulting HOST CONTRACTING PARTY under the STOCKHOLM FACILITY shall be reduced proportionally.

## **17. ACCESS TO FINANCIAL SUPPORT FOR INVESTMENTS AND CAPACITY BUILDING**

- 17.1. The CONTRACTING PARTIES will establish the “GREEN CLIMATE STOCKHOLM FACILITY” (the “**STOCKHOLM FACILITY**”) which shall be housed at the **GCF**, subject to the latter’s approval, whereby the GCF’s trustee shall act as the trustee of the STOCKHOLM FACILITY. The STOCKHOLM FACILITY shall provide incentive measures supporting INVESTMENTS under this TREATY in the TERRITORY of NON-ANNEX I PARTIES to the UNFCCC in accordance with paragraphs 17.2-17.7 below.
- 17.2. Measures to be funded from the STOCKHOLM FACILITY include, but are not limited to:
  - (a) Concessional loans and loan tranches, with concessional terms such as lower interest rates than available in the markets, longer tenors or grace periods or debt subordination,
  - (b) Guarantees to local currency loans, corporate bond issuances, securitizations, green project bond issuances and similar; and risk sharing facilities and performance guarantees, including default guarantees to mitigate off-taker risks,
  - (c) Equity, quasi-equity and mezzanine financing,

- (d) Political risk insurance guarantees for non-commercial risks,
  - (e) Currency hedges,
  - (f) Non-reimbursable grants and technical cooperation, including for technical feasibility studies, or
  - (g) Capacity building and knowledge transfer.
- 17.3. Host CONTRACTING PARTIES that are NON-ANNEX I PARTIES can apply for funding under the STOCKHOLM FACILITY for capacity building and knowledge transfer measures, as well as for non-reimbursable grants and technical cooperation to support INVESTMENTS. Such assistance may include, but shall not be limited to:
- (a) capacity building with respect to host state agencies and programs on INVESTMENT promotion and facilitation,
  - (b) insurance programs based on commercial principles,
  - (c) direct financial assistance in support of the INVESTMENT or of feasibility studies prior to the INVESTMENT being established,
  - (d) technical or financial support for environmental and social impact assessments of a potential INVESTMENT,
  - (e) technology transfer, and/or
  - (f) periodic trade missions, support for joint business councils and other cooperative efforts to promote sustainable INVESTMENTS.
- 17.4. Irrespective of Article 17.3, INVESTORS planning to undertake an INVESTMENT can apply for any of the financing mechanisms listed in Article 17.1.
- 17.5. Funding shall be awarded on a rolling basis and shall adhere to the principle of MINIMUM CONCESSIONALITY.
- 17.6. Subject to agreement by the GCF, the GCF shall manage the STOCKHOLM FACILITY under delegated authority from the TREATY COMMITTEE with costs to be borne out of the STOCKHOLM FACILITY. The GCF will create an executive committee which will make the funding decisions, including representatives from the Trustee, GCF Management, GCF Board of Directors, and the Treaty Committee.
- 17.7. The GCF shall establish a short procedure for application and approval of funding aligned with the needs and speed of private sector business, while seeking equitable geographical distribution of funds for INVESTMENTS in CONTRACTING PARTY states that are NON-ANNEX I PARTIES.
- 17.8. The STOCKHOLM FACILITY shall have an initial capitalization of EUR 1 billion. CONTRACTING PARTIES that are ANNEX I PARTIES, will jointly commit EUR 500 million of paid-in capital and EUR 500 million of callable capital. A review of the usage of funds will be carried out after 5 years of implementation of the STOCKHOLM FACILITY by the TREATY COMMITTEE. The STOCKHOLM FACILITY will be replenished on a rolling basis by CONTRACTING PARTIES that are ANNEX I

PARTIES who will destine an amount higher or equal to 0.5 per cent of the total project cost for each INVESTMENT made under this Treaty by INVESTORS from the respective HOME CONTRACTING PARTIES. The Annex I Contracting Party has thereafter 2 years to deposit the funds with the STOCKHOLM FACILITY. The HOME CONTRACTING PARTY of INVESTORS and value of INVESTMENTS made will be verified over the STOCKHOLM LEDGER. The TREATY COMMITTEE may decide to initiate a recapitalization exercise when it deems it necessary and when fund usage justifies such an exercise. The TREATY COMMITTEE may authorize the GCF to raise funding in the markets through the issuance of green bonds to fund the STOCKHOLM FACILITY.

- 17.9. Sums paid into the STOCKHOLM FACILITY in accordance with Articles 10.4 and 11.2 will be integrated with the remaining funds of the STOCKHOLM FACILITY.
- 17.10. All funding proposals financed under the STOCKHOLM FACILITY will be disclosed on the GCF's webpage a minimum of 60 calendar days before their approval. The proposal disclosure will include:
- (a) a summary of the proposed investment,
  - (b) an Environmental and Social Impact Assessment,
  - (c) a quantification of the expected positive mitigation or adaptation impact, and
  - (d) proof that the investment and its investor meet the definition of Investor and Investment under the Treaty.

## **18. OTHER CONTRACTING PARTY OBLIGATIONS**

- 18.1. If the legislation of a CONTRACTING PARTY or international obligations, existing at present or established hereafter between a CONTRACTING PARTY and another in addition to this TREATY, contain any provisions, whether general or specific, entitling INVESTMENTS by INVESTORS of the other CONTRACTING PARTY to a treatment more favourable than is provided for by this TREATY, such provisions shall prevail over this TREATY to the extent that they are more favourable.
- 18.2. Each of the CONTRACTING PARTIES listed in Annex 4 shall observe any obligation it has explicitly assumed with regard to an INVESTMENT in its TERRITORY by an INVESTOR of another CONTRACTING PARTY listed in Annex 4 in the exercise of its sovereign authority, which the INVESTOR could rely on in good faith when making or modifying the INVESTMENT.

## **PART 4 RESERVATIONS AND RIGHT TO REGULATE**

### **19. EXCEPTIONS AND RESERVATIONS**

- 19.1. Articles 5 through 8 do not apply to:

- (a) an existing non-conforming measure that is maintained by a CONTRACTING PARTY as set out in Annex 5,
- (b) the continuation or prompt renewal of a non-conforming measure referred to in paragraph (a), or
- (c) an amendment to a non-conforming measure referred to in paragraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles 5 through 8.

## **20. RIGHT TO REGULATE**

- 20.1. Subject to Article 20.4 below, nothing in this TREATY shall be construed to prevent a CONTRACTING PARTY from adopting, maintaining or enforcing any measure consistent with this TREATY that is in the public interest, such as measures to meet health, safety, labour or environmental concerns or reasonable measures for prudential purposes.
- 20.2. The adoption, maintenance or enforcement of such measures is subject to the requirement that they are not applied in an arbitrary or unjustifiable manner or do not constitute a disguised restriction on INVESTMENTS of INVESTORS of another CONTRACTING PARTY.
- 20.3. For greater certainty, the mere fact that a CONTRACTING PARTY regulates, including through a modification to its laws, in a manner which negatively affects an INVESTMENT or interferes with an INVESTOR's expectations, including its expectations of profits, does not on its own amount to a breach of an obligation under this Article 20.
- 20.4. For greater certainty, regulatory measures that prevent the achievement of targets set forth in the NDC of one of the CONTRACTING PARTIES without their replacement by more suitable, equivalent or more stringent measures shall not be protected by this Article 20.

## **PART 5 DISPUTE SETTLEMENT**

---

### **21. SETTLEMENT OF DISPUTES BETWEEN THE CONTRACTING PARTIES**

- 21.1. A dispute between CONTRACTING PARTIES concerning the interpretation, application or performance of this TREATY, including disputes arising out or connected with its existence, validity or withdrawal, the STOCKHOLM FACILITY or the STOCKHOLM LEDGER (the "**CONTRACTING PARTY DISPUTE**"), should as far as possible be settled by the disputing CONTRACTING PARTIES (the "**DISPUTING CONTRACTING PARTIES**").
- 21.2. If a CONTRACTING PARTY DISPUTE cannot thus be settled within 6 calendar months from notification of the dispute from one CONTRACTING PARTY to another

CONTRACTING PARTY, either DISPUTING CONTRACTING PARTY may submit the dispute to final and binding arbitration in accordance with the PCA ARBITRATION RULES in effect on the date of such request for arbitration. The number of arbitrators shall be three. The languages to be used in the arbitral proceedings shall be English. The appointing authority shall be the Secretary-General of the Permanent Court of Arbitration. The seat of arbitration shall be The Hague, the Netherlands.

**22. SETTLEMENT OF DISPUTES BETWEEN A CONTRACTING PARTY AND INVESTOR(S) OF OTHER CONTRACTING PARTIES**

22.1. Disputes between a CONTRACTING PARTY and an INVESTOR of another CONTRACTING PARTY (together, the “**DISPUTING PARTIES**”) regarding an INVESTMENT of the latter made in the TERRITORY of the former, which are based on an alleged breach of obligations under this TREATY that caused loss or damage to the INVESTOR of another CONTRACTING PARTY (the “**INVESTMENT DISPUTE**”), shall be, to the extent possible, settled amicably through consultations.

22.2. Only if these consultations do not result in a resolution within a three calendar months’ period (the “**COOLING-OFF PERIOD**”) from the date of a written request for consultations, the INVESTOR may submit the INVESTMENT DISPUTE either to the courts or the administrative tribunals of the HOST CONTRACTING PARTY or to international arbitration. In the event of the latter, the INVESTOR has the choice between either of the following:

(a) Arbitration pursuant to the Convention on the Settlement of Investment Disputes between States and Nationals of other States, opened for signature in Washington, on March 18, 1965 (hereinafter the “**ICSID CONVENTION**”);

(b) an *ad-hoc* arbitration in accordance with the arbitration rules of the United Nations Commission on International Trade Law (“**UNCITRAL**”) in effect on the date of request for arbitration; or

(c) arbitration in accordance with the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce in effect on the date of the request for arbitration.

22.3. Each Contracting Parties hereby consents to the submission of an INVESTMENT DISPUTE to international arbitration in accordance with this Article 22.

22.4. The UNCITRAL RULES ON TRANSPARENCY IN TREATY-BASED INVESTOR-STATE Arbitration shall apply to any arbitration proceedings instituted between the DISPUTING PARTIES under Article 22.2.

22.5. No INVESTMENT DISPUTE may be submitted to international arbitration under Article 22.2, if more than six years have elapsed from the date on which the

INVESTOR first acquired, or should have first acquired, knowledge of the alleged breach and the loss or damage that the latter has allegedly incurred.

- 22.6. No INVESTMENT DISPUTE may be submitted to international arbitration under Article 22.2 if the INVESTMENT has been made through fraudulent misrepresentation, concealment, corruption, or conduct amounting to an abuse of process. For greater certainty, conduct amounting to an abuse of process is to be presumed by the arbitral tribunal constituted pursuant to Article 22.2 (the “**ARBITRAL TRIBUNAL**”) if an INVESTOR effected to restructure its operations to ensure that its INVESTMENT is covered by this TREATY after an INVESTMENT DISPUTE has already arisen. Corporate restructuring prior to an INVESTMENT DISPUTE having arisen shall not be presumed to amount to an abuse of process.
- 22.7. No claim that a restructuring of debt issued by a CONTRACTING PARTY, including any debt instrument of any level of government of that CONTRACTING PARTY, breaches Part 3 (Investment Protection) of this TREATY may be submitted to international arbitration under Article 22.2, or if already submitted, continue thereunder, if the restructuring is a NEGOTIATED RESTRUCTURING at the time of submission, or becomes a NEGOTIATED RESTRUCTURING after such submission, except for a claim that the restructuring violates Articles 7 (National Treatment) or 8 (Most-Favoured Nation Treatment). For greater certainty, the mandatory COOLING-OFF PERIOD prescribed in Article 22.2 must be maintained in any event.
- 22.8. An organization which has been constituted or otherwise duly organised under the law of a CONTRACTING PARTY, which immediately before a dispute arose was under effective control of INVESTORS of another CONTRACTING PARTY, shall be treated as an organization of that latter CONTRACTING PARTY.
- 22.9. The respondent CONTRACTING PARTY shall at no time whatsoever during the process assert as a defence its immunity or the fact that the INVESTOR has received, by virtue of an insurance contract, a compensation covering the whole or part of the incurred damage.
- 22.10. No CONTRACTING PARTY shall pursue through diplomatic channels an INVESTMENT DISPUTE submitted to international arbitration unless another CONTRACTING PARTY concerned does not abide by and comply with the arbitral award rendered pursuant to arbitral proceedings instituted in accordance with Articles 22.2 or 23.13 (the “**ARBITRAL AWARD**”).
- 22.11. An ARBITRAL AWARD shall order that the costs of the proceedings be borne by the unsuccessful DISPUTING PARTY. In exceptional circumstances, costs of the proceedings may be apportioned between the DISPUTING PARTIES if the ARBITRAL TRIBUNAL determines that apportionment is appropriate in the circumstances of the INVESTMENT DISPUTE. Other reasonable costs, including costs of legal representation and assistance, shall be borne by the unsuccessful DISPUTING PARTY, unless the ARBITRAL TRIBUNAL determines that such

apportionment is unreasonable in the circumstances. If only parts of the claims have been successful, the costs shall be adjusted, proportionately, to the number or extent of the successful parts of the claims.

22.12. The ARBITRAL AWARD shall be final and binding for the DISPUTING PARTIES and shall be executed without delay according to the law of the CONTRACTING PARTY concerned.

### **23. CONSOLIDATION**

23.1. When two or more claims, which have been submitted separately to international arbitration pursuant to Article 22.2, have a question of law or fact in common and arise out of the same events or circumstances, a **DISPUTING PARTY** or the DISPUTING PARTIES, jointly, may make a request for consolidation ("**CONSOLIDATION REQUEST**") to an arbitral tribunal (the "**CONSOLIDATION TRIBUNAL**") to issue a Consolidation Order ("**CONSOLIDATION ORDER**") in accordance with this Article 23.

23.2. The DISPUTING PARTY seeking a CONSOLIDATION ORDER shall first deliver a notice (the "**CONSOLIDATION NOTICE**") to the DISPUTING PARTIES it seeks to be covered by this order.

23.3. If the DISPUTING PARTIES notified pursuant to Article 23.2 have reached an agreement on the "**CONSOLIDATION REQUEST**" to be sought and the relevant appointing authority (the "**APPOINTING AUTHORITY**") under Article 22.2(a)(b) or (c) to be called upon, they may make a joint request to such APPOINTING AUTHORITY for the establishment of a CONSOLIDATION TRIBUNAL to issue a CONSOLIDATION ORDER pursuant to this Article 23.

23.4. If the DISPUTING PARTIES notified pursuant to Article 23.2 have not reached agreement on the CONSOLIDATION ORDER and/or the APPOINTING AUTHORITY within 30 calendar days of the CONSOLIDATION NOTICE, a DISPUTING PARTY may make a CONSOLIDATION REQUEST pursuant to this Article to the Secretary General of the Permanent Court of Arbitration to constitute a CONSOLIDATION TRIBUNAL.

23.5. The CONSOLIDATION REQUEST shall be in writing and be delivered to all the DISPUTING PARTIES sought to be covered by the CONSOLIDATION ORDER and, where Article 23.3 applies, to the chosen APPOINTING AUTHORITY, where Article 23.4 applies, to the Secretary General of the Permanent Court of Arbitration, and shall specify:

- (a) the names and addresses of the disputing parties sought to be covered by the order;
- (b) the claims, or parts thereof, sought to be covered by the order; and
- (c) the grounds for the order sought.



- 23.6. A CONSOLIDATION REQUEST involving more than one respondent CONTRACTING PARTY shall require the agreement of all such respondent CONTRACTING PARTIES.
- 23.7. The rules applicable to the proceedings under this Article [23] are determined as follows:
- (a) if all of the claims, for which a CONSOLIDATION ORDER is sought, have been submitted to international arbitration under the same rules pursuant to Article 22.2, those rules shall apply;
  - (b) if the claims for which a CONSOLIDATION ORDER is sought have not been submitted to international arbitration under the same rules:
    - i. the INVESTORS may collectively agree on either of the rules under Article 22.2; or
    - ii. if the INVESTORS cannot agree on the applicable rules within 30 calendar days of the CONSOLIDATION TRIBUNAL receiving the request for consolidation, the PCA ARBITRATION RULES in effect at the time of the CONSOLIDATION NOTICE shall apply.
- 23.8. The CONSOLIDATION TRIBUNAL shall in accordance with the requirements of this Article 23 decide on the CONSOLIDATION REQUEST.
- 23.9. After hearing the DISPUTING PARTIES, the CONSOLIDATION TRIBUNAL may, by CONSOLIDATION ORDER, decide to consolidate the claims in whole or in part, if it is satisfied that claims submitted to international arbitration under Article 22.2:
- (a) have a question of law or fact in common and arise out of the same events or circumstances, and
  - (b) consolidation would best serve the interests of fair and efficient resolution of the claims including the interest of consistency of awards.
- 23.10. If a CONSOLIDATION TRIBUNAL has assumed jurisdiction pursuant to Article 23.8 to decide on a CONSOLIDATION ORDER, an INVESTOR that has submitted a claim pursuant to Article 22.2 and whose claim has not been consolidated may make a written request to the CONSOLIDATION TRIBUNAL that it be included in the CONSOLIDATION ORDER provided that the request complies with the requirements set out in Article 23.5. The CONSOLIDATION TRIBUNAL shall grant such request where it is satisfied that the conditions of Article 23.9 are met and that granting the request would not unduly burden or unfairly prejudice the DISPUTING PARTIES or unduly disrupt the proceedings. Before the CONSOLIDATION TRIBUNAL issues that order, it shall consult with the DISPUTING PARTIES.
- 23.11. On application of a DISPUTING PARTY, the CONSOLIDATION TRIBUNAL established under this Article 23, pending its decision under Article 23.9, may order that the proceedings of any other ARBITRAL TRIBUNAL appointed pursuant to Article 22.2

in relation to the claims be stayed, unless such ARBITRAL TRIBUNAL has already adjourned its proceedings.

- 23.12. All ARBITRAL TRIBUNALS appointed under Article 22.2 shall cede jurisdiction in relation to the claims, or parts thereof, over which a CONSOLIDATION TRIBUNAL under this Article 23 has assumed jurisdiction.
- 23.13. The award of a CONSOLIDATION TRIBUNAL established under this Article in relation to those claims, or parts thereof, over which it has assumed jurisdiction is binding on any other ARBITRAL TRIBUNAL(S) appointed under Article 22.2, as regards those claims, or parts thereof.
- 23.14. An INVESTOR may withdraw a claim that is subject to consolidation and such claim shall not be resubmitted to international arbitration under Article 22.2. If the INVESTOR does so no later than 20 calendar days after receipt of the CONSOLIDATION NOTICE, its earlier submission of the claim shall not prevent the INVESTOR's recourse to other modes of dispute settlement mentioned under Article 22.2 with the exception of international arbitration.
- 23.15. At the request of an INVESTOR, a CONSOLIDATION TRIBUNAL may take such measures as it sees fit in order to preserve the confidential or protected information of that INVESTOR in relation to other INVESTORS. Those measures may include the submission of redacted versions of documents containing confidential or protected information to the other INVESTORS or arrangements to hold parts of the hearing in private.

#### **24. CLAIMS MANIFESTLY WITHOUT LEGAL MERIT**

- 24.1. The respondent CONTRACTING PARTY may, no later than 30 calendar days after the constitution of the ARBITRAL TRIBUNAL, and in any event before its first session, file an objection that a claim is manifestly without legal merit.
- 24.2. An objection shall not be submitted under Article 24.1 if the respondent CONTRACTING PARTY has filed an objection pursuant to Article 25.
- 24.3. The respondent CONTRACTING PARTY shall specify as precisely as possible the basis for the objection.
- 24.4. On receipt of an objection pursuant to this Article 24, the ARBITRAL TRIBUNAL shall suspend the proceedings on the merits and establish a schedule for considering such an objection consistent with its schedule for considering any other preliminary question.
- 24.5. The ARBITRAL TRIBUNAL, after giving the DISPUTING PARTIES an opportunity to present their observations, shall at its first session or promptly thereafter, issue a decision or ARBITRAL AWARD stating the grounds therefor. In doing so, the ARBITRAL TRIBUNAL shall assume the alleged facts to be true. The decision of the ARBITRAL TRIBUNAL shall issue the decision or ARBITRAL AWARD within 4 calendar months from the objection having been filed.

24.6. This Article shall be without prejudice to the ARBITRAL TRIBUNAL's authority to address other objections as a preliminary question or to the right of the respondent CONTRACTING PARTY to object, in the course of the proceeding, that a claim lacks legal merit.

## **25. CLAIMS UNFOUNDED AS A MATTER OF LAW**

25.1. Without prejudice to the ARBITRAL TRIBUNAL's authority to address other objections as a preliminary question or to a respondent CONTRACTING PARTY's right to raise any such objections at an appropriate time, the ARBITRAL TRIBUNAL shall address and decide as a preliminary question any objection by the respondent CONTRACTING PARTY that, as a matter of law, a claim, or any part thereof, submitted by the INVESTOR is not a claim for which an award in favour of the INVESTOR may be made under this Article 25, even if the facts alleged were assumed to be true.

25.2. An objection under Article 25.1 shall be submitted to the ARBITRAL TRIBUNAL no later than the date the ARBITRAL TRIBUNAL fixes for the respondent CONTRACTING PARTY to submit its counter-memorial.

25.3. If an objection has been submitted pursuant to Article 24, the ARBITRAL TRIBUNAL may, taking into account the circumstances of that objection, decline to address, under the procedures set out in this Article, an objection submitted pursuant to Article 25.1.

25.4. On receipt of an objection under Article 25.1, and, if appropriate, after rendering a decision pursuant to Article 25.3, the ARBITRAL TRIBUNAL shall suspend any proceedings on the merits, establish a schedule for considering the objection consistent with any schedule it has established for considering any other preliminary question, and issue a decision or ARBITRAL AWARD on the objection stating the grounds therefor within 3 calendar months from the objection having been filed.

## **26. MEDIATION**

26.1. The DISPUTING PARTIES or DISPUTING CONTRACTING PARTIES may at any time agree to have recourse to mediation.

26.2. Recourse to mediation is without prejudice to the legal position or rights of each DISPUTING PARTY or DISPUTING CONTRACTING PARTY.

26.3. Any mediation agreed between the DISPUTING PARTIES or DISPUTING CONTRACTING PARTIES shall be governed by the Mediation Rules of the Arbitration Institute of the Stockholm Chamber of Commerce or under any other rules consensually agreed.

26.4. The mediator is appointed by agreement of the DISPUTING PARTIES or DISPUTING CONTRACTING PARTIES. The DISPUTING PARTIES or DISPUTING CONTRACTING

PARTIES may also request that the Secretary General of the Arbitration Institute of the Stockholm Chamber of Commerce appoint the mediator.

- 26.5. The DISPUTING PARTIES or DISPUTING CONTRACTING PARTIES shall endeavour to reach a resolution of the dispute within 60 calendar days from the appointment of the mediator.
- 26.6. If the DISPUTING PARTIES agree to have recourse to mediation, the limitation period under Article 22.5 shall be suspended from the date on which the DISPUTING PARTIES agreed to have recourse to mediation, to the date on which either DISPUTING PARTY decides to terminate the mediation.
- 26.7. A decision by a DISPUTING PARTY or DISPUTING CONTRACTING PARTIES to terminate the mediation shall be transmitted by way of a letter to the mediator and the other DISPUTING PARTY or DISPUTING CONTRACTING PARTIES, respectively.

## **27. THIRD PARTY FUNDING**

- 27.1. Where there is third party funding, the disputing INVESTOR benefiting from it shall disclose to the disputing CONTRACTING PARTY and to the ARBITRAL TRIBUNAL the name and address of the third-party funder.
- 27.2. The disclosure shall be made at the time of the submission of a claim, or, if the financing agreement is concluded or the donation or grant is made after the submission of a claim, without delay as soon as the agreement is concluded, or the donation or grant is made.

## **PART 6**

### **OPTIONAL MULTILATERAL ARBITRATION AGREEMENT**

---

## **28. MULTILATERAL ARBITRATION AGREEMENT**

- 28.1. The CONTRACTING PARTIES listed in Annex 6 agree that all commercial disputes, but not INVESTMENT DISPUTES under this TREATY, concerning or arising out of an INVESTMENT between an INVESTOR from a listed CONTRACTING PARTY and a NATIONAL of the listed HOST CONTRACTING PARTY, may, at the unilateral option of either NATIONAL or INVESTOR, be resolved by international commercial arbitration under the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce, even in the absence of a respective arbitration agreement between the NATIONAL and the INVESTOR, but subject to any contrary agreement between the INVESTOR and the NATIONAL evidenced by explicit exclusion of the application of this Article to their commercial relationship.
- 28.2. Consumer, employment disputes and any other category of non-commercial disputes arising out of or in connection with the INVESTMENT, which are

considered non-arbitrable under the laws of the HOST CONTRACTING PARTY, do not fall under this Article 28.

- 28.3. For greater certainty, the INVESTOR may not rely in any such commercial arbitration proceedings with the NATIONAL on the protections granted in Part 3, 4 and 7 under this TREATY.

## **PART 7 INSTITUTIONAL MATTERS**

---

### **29. STOCKHOLM LEDGER**

- 29.1. Within 12 calendar months of the TREATY coming into force, the TREATY COMMITTEE shall establish a ledger application (the “**STOCKHOLM LEDGER**”) to serve as a robust measurement, reporting, verification and monetization (“**MRVM**”) tool to mobilize INVESTMENTS under the TREATY, and if applicable, as means to provide CERTIFICATES OF ORIGIN.
- 29.2. The STOCKHOLM LEDGER shall be determined or created following decision by the TREATY COMMITTEE, but must be built on a scalable, decentralized, trustless and distributed ledger protocol (the “**PROTOCOL**”), with a special focus on avoiding large-scale energy consumption.
- 29.3. The CONTRACTING PARTIES agree to identify existing, or support the creation of new neutral third-party standardized data feed services (the “**ORACLES**”) that verify and provide standardized data as agreed for MRVM purposes under the STOCKHOLM LEDGER, including, but not limited to, the disbursements under the STOCKHOLM FACILITY in accordance with Articles 15, 16 and 17.
- 29.4. Upon establishment of the STOCKHOLM LEDGER, the TREATY COMMITTEE shall adopt a decision stipulating the data necessary to be entered onto the STOCKHOLM LEDGER by INVESTORS and verified by ORACLES in relation to their INVESTMENTS (the “**LEDGER DATA**”). The LEDGER DATA decision is to be added as an Annex to this TREATY.
- 29.5. All CONTRACTING PARTIES agree to accept CERTIFICATES OF ORIGIN from HOST CONTRACTING PARTIES, so long as they comply with the standardization outlined in Annex 1.
- 29.6. The TREATY COMMITTEE shall make appropriate transitional arrangements, including a transitional period for INVESTMENT registration on the STOCKHOLM LEDGER.
- 29.7. INVESTMENTS made shall be registered on the STOCKHOLM LEDGER at the time of making the INVESTMENT or within the determined transitional period upon the STOCKHOLM LEDGER’s establishment.

### **30. TREATY COMMITTEE**

- 30.1. The TREATY COMMITTEE shall be the governing body of the TREATY and shall consist of representatives of the NATIONAL AUTHORITIES, whereby all CONTRACTING PARTIES shall have an equal voice.
- 30.2. The TREATY COMMITTEE shall meet within one year of the TREATY coming into force, and once every year after that.
- 30.3. Decisions by the TREATY COMMITTEE shall be taken by consensus. Where no consensus is deemed possible by the chair of a meeting, a decision may be taken by three-quarters of the CONTRACTING PARTIES present and voting.
- 30.4. The TREATY COMMITTEE shall adopt at its first meeting rules of procedure and financial rules for itself and any subsidiary bodies, if any, financial provisions governing the functioning of TREATY COMMITTEE and instruct the establishment and parameters of the STOCKHOLM LEDGER and PROTOCOL.
- 30.5. The TREATY COMMITTEE shall perform the tasks assigned by the TREATY and such additional tasks as it deems appropriate for the fulfilment of the purposes of the TREATY. It shall provide a forum for the CONTRACTING PARTIES to consult on issues related to this TREATY, including:
  - (a) difficulties which may arise in the TREATY's implementation and its effectiveness,
  - (b) possible improvements of the TREATY in the light of experiences and developments in other international fora and under the CONTRACTING PARTIES' other international agreements.
- 30.6. The TREATY COMMITTEE may, on agreement of the CONTRACTING PARTIES, and after completion of their respective internal requirements and procedures:
  - (a) adopt any instruments required of it in other Articles of this TREATY;
  - (b) adopt interpretations of this TREATY, which shall be binding on any ARBITRAL TRIBUNAL constituted under Articles 21, 22 and 23, unless specified otherwise; and
  - (c) amend the TREATY.

### **31. CONTRACTING PARTY NATIONAL AUTHORITIES**

- 31.1. Each CONTRACTING PARTY assigns the national authority named in Annex 7 as a contact point for purposes related to the Treaty (the "**NATIONAL AUTHORITIES**"), which shall report to the TREATY COMMITTEE.
- 31.2. The functions of each NATIONAL AUTHORITY shall include:
  - (a) requesting or transmitting information from or to another CONTRACTING PARTY;
  - (b) providing a contact for assistance in INVESTMENT promotion and facilitation;

- (c) maintaining statistics about inward and outward INVESTMENT of the CONTRACTING PARTY;
- (d) handling enquiries in relation to the conduct of INVESTMENTS or INVESTORS of the CONTRACTING PARTY;
- (e) investigating and seeking to resolve concerns or conflicts raised by individuals or civil society groups in relation to the conduct of INVESTORS or INVESTMENTS;
- (f) reporting on any matters dealt with under Paragraph (e);
- (g) aid in the process of permitting and licensing, such as in relation to environmental and building licenses; and
- (h) any other functions a CONTRACTING PARTY incorporates into its work.

## **PART 8 FINAL PROVISIONS**

---

### **32. AMENDMENT**

- 32.1. The TREATY COMMITTEE may agree on any modification of, or addition to, this TREATY.
- 32.2. When so agreed by the TREATY COMMITTEE pursuant to Article 30.6, and approved in accordance with the applicable legal procedures of the CONTRACTING PARTY, a modification or addition to the TREATY shall constitute an integral part of this TREATY for those CONTRACTING PARTIES that become party to the amendment.

### **33. ANNEXES**

- 33.1. The Annexes to this TREATY constitute an integral part of this TREATY.

### **34. ENTRY INTO FORCE**

- 34.1. This Treaty shall enter into force 90 calendar days after the receipt by the Depository of the third instrument of ratification or accession to this TREATY.

### **35. WITHDRAWAL**

- 35.1. Any CONTRACTING PARTY may withdraw from this TREATY by written notification to the TREATY COMMITTEE. This Treaty shall expire for the withdrawing CONTRACTING PARTY 180 calendar days after the date of such notification. Any such withdrawal shall not affect the TREATY's validity with respect to the other CONTRACTING PARTIES.
- 35.2. Notwithstanding Article 35.1, the rights and obligations of INVESTORS and INVESTMENTS and HOST CONTRACTING PARTIES and HOME CONTRACTING PARTIES in relation to that INVESTMENT or INVESTOR, shall continue to be effective for a further period of ten years for INVESTMENTS made before the date of withdrawal

with respect to the withdrawing CONTRACTING PARTY. The 10-year period shall be extended to the full period of any INVESTMENT contract, agreement or authorization if one is in existence at the time of the withdrawal.

**36. AUTHENTIC TEXT**

36.1. The English language text of this TREATY shall be its authentic language.

**37. DEPOSITARY**

37.1. The depositary of this TREATY shall be the Secretary-General of the United Nations (the "**DEPOSITARY**").



**ANNEX 1**  
**Requirements for the Acceptance of Certificates of Origin**

CONTRACTING PARTIES shall accept CERTIFICATES OF ORIGIN if they are directly recorded in an automated way on the STOCKHOLM LEDGER and include the following data:

- (a) A unique identification number;
- (b) A standardized unit of production;
- (c) Date and time stamp of production;
- (d) The type of production resource;
- (e) The location of the production resource;
- (f) Vintage of production resource; and
- (g) Greenhouse gas emissions of the production resource.

## ANNEX 2

### Verification of Compliance with Host Contracting Party NDC

Compliance of an INVESTMENT with the NDC of a HOST CONTRACTING PARTY needs to be verified in the following way:

- (a) If not provided within the NDC of a HOST CONTRACTING PARTY, the greenhouse gas emission reduction target of the NDC needs to be broken down into sectors (i.e. electricity production, heat production, transport, buildings, industry, agriculture, forestry and land use) in order to determine the sector-specific emission intensity per year under which the NDC target will be reached.
- (b) The sector-specific emission intensity per year shall then be compared to the emission intensity of the INVESTMENT over its projected INVESTMENT life time.
- (c) If the INVESTMENT requires additional infrastructure to operate in an economically desired way, such as reserve capacity for variable renewable energy generators, an adequate share of the emissions of the additional infrastructure shall be added to the emissions of the INVESTMENT.
- (d) The additional infrastructure shall thereby have the sector-specific emission intensity as per the NDC.
- (e) Compliance to the HOST CONTRACTING PARTY NDC is verified if the INVESTMENTS emission intensity is continuously lower than the sector-specific emission intensity of the HOST CONTRACTING PARTY's NDC.

**ANNEX 3**  
**Further Elements of FET standard agreed by Contracting Parties**

**ANNEX 4**  
**Contracting Parties opting into Article 18.2 (Umbrella Clause)**

**ANNEX 5**  
**Reservations for Maintained Non-Conforming Measures**

**ANNEX 6**

**List of Contracting Parties opting into Multilateral Arbitration Agreement**

**ANNEX 7**

**List of National Authorities reporting to the Treaty Committee**