ASSOCIATION
OF SOUTHEAST
ASIAN NATIONS

The ASEAN Secretariat
70 A Jl. Sisingamangaraja
Jakarta 12110
Indonesia

Phone: (62-21) 726 2991
(62-21) 724 3372
Fax: (62-21) 739 8234
(62-21) 724 3504

public@asean.org
www.asean.org

CERTIFYING STATEMENT

Second Protocol to Amend the ASEAN Comprehensive Investment Agreement

I, THE UNDERSIGNED Deputy Secretary-General of ASEAN for Community and Corporate Affairs, hereby certify that the attached text is **a true and complete copy** of the Second Protocol to Amend the ASEAN Comprehensive Investment Agreement, signed on 21 September 2017 in Ha Noi, Viet Nam, the original of which has been deposited with the Secretary-General of ASEAN.

Jakarta, 13 October 2017

AKP Mochtan
Deputy Secretary-General of ASEAN
Community and Corporate Affairs
Department
The ASEAN Secretariat

ASEAN 50
2017

SECOND PROTOCOL TO AMEND THE ASEAN COMPREHENSIVE INVESTMENT AGREEMENT

The Governments of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Republic of the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand, and the Socialist Republic of Viet Nam, Member States of the Association of Southeast Asian Nations ("ASEAN"), hereinafter collectively referred to as "Member States" or singularly as "Member State";

RECALLING the ASEAN Comprehensive Investment Agreement (hereinafter referred to as the "ACIA") signed on 26 February 2009 and which entered into force on 29 March 2012, which aims to create a free and open investment regime in ASEAN in order to achieve the end goal of economic integration under the ASEAN Economic Community ("AEC");

RECOGNISING the different regimes of each Member State on the treatment of permanent residents under the ACIA;

CONSIDERING the developments on the World Trade Organization ("WTO") membership of Member States and the outcome of the joint assessment on performance requirements pursuant to Article 7 (Prohibition of Performance Requirements) of ACIA;

RECALLING the decisions made during the ASEAN Economic Ministers – 18th ASEAN Investment Area Council Meeting on 22 August 2015 in Kuala Lumpur, Malaysia on the treatment of permanent residents and Prohibition of Performance Requirements under the ACIA built-in agenda; and

CERTIFIED COPY
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT

NOTING that Article 46 (Amendments) of the ACIA provides that the provisions of the ACIA may be modified through amendments mutually agreed upon in writing by the Member States,

HAVE AGREED AS FOLLOWS:

Article 1
Amendment to the Definition of "Natural Person"

1. Subparagraph (g) of Article 4 (Definitions) shall be replaced as follows:

> *"(g) "**natural person**" means a natural person who under the law of that Member State:*
>
> *(i) is a national or citizen of that Member State; or*
>
> *(ii) has the right of permanent residence in that Member State, where both that Member State and the Member State in which the person is making or has made an investment recognise permanent residents and accord substantially the same treatment to their respective permanent residents as they accord to their respective nationals in respect of measures affecting investment."*

2. Pursuant to the amendment of the definition of "natural person" as in paragraph 1, paragraph 6 of the ACIA Headnote for the List of Reservations shall be deleted.

CERTIFIED COPY asean DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT

3. Succeeding paragraphs in the ACIA Headnote shall be renumbered accordingly.

Article 2
Amendments to Article 7
(Prohibition of Performance Requirements)

1. Paragraph 2 shall be replaced as follows:

"2. Member States shall undertake assessment and review of their existing performance requirements and consider additional commitments under this Article, as the need arises."

2. Paragraph 3 as provided below shall be deleted:

"3. Non-WTO Members of ASEAN shall abide by the WTO provisions in accordance with their accession commitments to the WTO."

Article 3
Final Provisions

1. This Protocol shall form an integral part of the ACIA and shall enter into force after all Member States have notified the completion of their respective internal procedures for the entry into force of this Protocol to, or, where necessary, deposited instruments of ratification or acceptance with, the Secretary-General of ASEAN.

2. The Secretary-General of ASEAN shall promptly notify all Member States of the notifications or deposit of each instrument of ratification or acceptance referred to in paragraph 1.



3. This Protocol shall be deposited with the Secretary-General of ASEAN, who shall promptly furnish a certified copy thereof to each Member State.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Protocol to Amend the ASEAN Comprehensive Investment Agreement.

DONE at Ha Noi, Viet Nam this Twenty-First day of September in the Year Two Thousand and Seventeen, in a single original copy in the English language.

For Brunei Darussalam:

LIM JOCK SENG
Minister at the Prime Minister's Office and
Second Minister of Foreign Affairs and Trade

For the Kingdom of Cambodia:

PAN SORASAK
Minister of Commerce

CERTIFIED COPY
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT
asean

For the Republic of Indonesia:

ENGGARTIASTO LUKITA
Minister of Trade

For the Lao People's Democratic Republic:

KHEMMANI PHOLSENA
Minister of Industry and Commerce

For Malaysia:

MUSTAPA MOHAMED
Minister of International Trade and Industry

For the Republic of the Union of Myanmar:

KYAW WIN
Union Minister for Planning and Finance

CERTIFIED COPY
ASEAN
OFFICE OF THE SECRETARY GENERAL, THE ASEAN SECRETARIAT

For the Republic of the Philippines:

RAMON M. LOPEZ
Secretary of Trade and Industry

For the Republic of Singapore:

LIM HNG KIANG
Minister for Trade and Industry (Trade)

For the Kingdom of Thailand:

APIRADI TANTRAPORN
Minister of Commerce

For the Socialist Republic of Viet Nam:

TRAN TUAN ANH
Minister of Industry and Trade

CERTIFIED COPY
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT
asean