

ANNEX FOR VIET NAM

SOE SECTION

1. This Section shall not apply to the adoption, enforcement or implementation of the privatization, equitization, restructuring or divestment of assets owned or controlled by the Government of Viet Nam.
2. This Section shall not apply to measures by the Government of Viet Nam related to the ensuring of economic stability in the territory of Viet Nam. In achieving this policy objective, the Government may require or direct a state-owned enterprise or a designated monopoly to sell or purchase at a regulated price, quantity or other terms and conditions than that enterprise could decide on commercial consideration basis, subject to its laws, regulations, or a governmental measure.
3. For greater certainty, this Section shall not apply to measures by the Government of Viet Nam aiming at development issues in the territory of Viet Nam, such as income security and insurance, social security, social welfare, social development, social housing, poverty reduction, public education, public training, public health, and childcare, promoting the welfare and employment of ethnic minorities and people living in disadvantaged areas, provided that the activities to implement such measures do not circumvent the application of Article 4 to the commercial activities of the enterprises.
4. Pursuant to a law, regulation or governmental measure, Article 4 (Non-discriminatory and commercial considerations) shall not apply to the purchase of goods or services of a state-owned enterprise or a designated monopoly from Vietnamese small and medium enterprises as defined by Viet Nam's laws and regulations.
5. Article 4 (Non-discriminatory and commercial considerations) and Article 8 (Transparency) shall not apply with respect to the following enterprises, their subsidiaries and successors, pursuing the same public mandate, engaged in and limited to the activities as described below:

5.1. Viet Nam Oil and Gas Group (PETROVIETNAM)

Activities: Prospecting, exploration and exploitation of oil and gas¹ and flight operation services for oil and gas activities

5.2. Viet Nam Electricity (EVN) and any enterprise

Activities: Power generation by hydropower, nuclear power and security-related power generators, transmission, distribution of all types of electricity, power and alternative or substitute of electricity

5.3. Viet Nam National Coal – Minerals Holding Corporation Limited (Vinacomin)

Activities: Sale of coal and minerals, pursuant to laws and regulations of Viet Nam

5.4. State Capital Investment Corporation (SCIC)²

Activities: Asset management, investment and related activities, using financial assets of the Government of Vietnam

5.5. Debt and Asset Trading Corporation (DATC)

Activities related to the restructuring of debts pursuant to a law, regulation or governmental measure limited to the fulfilment of a public purpose or a mandate.

5.6. Airport Corporation of Vietnam

Activities: Ground handling services

5.7. SOEs in the printing, publishing, mass communication, and audio-visual services sectors

Activities: Any activities in the mass-communication, printing and publishing sector; sale and purchase of audio-visual productions and distribution services

² For greater certainty, the carve-outs do not include SCIC's portfolio investments. Within 5 years after the entry into force of this Agreement, SCIC shall endeavour to become a member of the International Forum of Sovereign Wealth Funds or endorse the Generally Accepted Principles and Practices ("Santiago Principles") issued by the International Working Group of Sovereign Wealth Funds, October 2008, or such other principles and practices as may be agreed to by the Parties.