3. The treatment, as set forth in paragraphs 1 and 2, shall not include:

   (a) any preferential treatment accorded to investors and/or their investments under any existing bilateral, regional and/or international agreements or any forms of economic or regional cooperation with any non-Party; and

   (b) any existing or future preferential treatment accorded to investors and/or their investments in any agreement or arrangement between or among ASEAN Member Countries.

4. Notwithstanding paragraphs 1 and 2, if a Party accords more favourable treatment to investors of any other Party or a non-Party or their investments by virtue of any future agreements or arrangements to which the Party is a party, it shall not be obliged to accord such treatment to investors of any other Party or their investments. However, upon request from any other Party, it shall accord adequate opportunity to negotiate the benefits granted therein.

Article 5
General Treatment of Investment

1. Each Party shall accord to covered investments of investors of any other Party fair and equitable treatment and full protection and security.

2. For greater certainty:

   (a) fair and equitable treatment requires each Party not to deny justice in any legal or administrative proceedings;
(b) full protection and security requires each Party to take such measures as may be reasonably necessary to ensure the protection and security of the covered investments; and

(c) the concepts of "fair and equitable treatment" and "full protection and security" do not require treatment in addition to or beyond that which is provided under the customary international law and do not create additional substantive rights.\(^9\)

3. A determination that there has been a breach of another provision of this Agreement, or of a separate international agreement, does not establish that there has been a breach of this Article.

**Article 6**

**Performance Requirements\(^{10}\)**

The provisions of the WTO Agreement on Trade-related Investments Measures (TRIMs), which are not specifically mentioned in or modified by this Agreement, shall apply, *mutatis mutandis*, to this Agreement unless the context otherwise requires.

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\(^9\) In the case of the Republic of Indonesia, paragraph 2(c) does not apply.

\(^{10}\) The application of this Article is subject to Article 27 (Work Programme).