



## WTO STRUCTURED DISCUSSIONS ON INVESTMENT FACILITATION FOR DEVELOPMENT

### WORKING DOCUMENT

1. As requested by participating Members in the "stock-taking and next steps" meeting of the Structured Discussions on Investment Facilitation for Development held on 18 July 2019, the following working document has been prepared and circulated by the Coordinator under his responsibility. The purpose of this document is to build on the latest version of the Compendium of text-based examples (INF/IFD/RD/5/Rev.3) and help Members further develop the elements of the multilateral framework on investment facilitation for development.<sup>1</sup> As such, this working document is a tool intended to continue facilitating open, transparent and inclusive discussions. The structure, content and wording of this document do not, in any way, prejudice the position or views of Members on any of the issues under discussion. Reflecting this, the whole document is in between double brackets. It constitutes a 'living document' that will be updated and complemented in light of Members' inputs and suggestions.

2. Following the guidance provided by Members at the 18 July meeting, this working document focuses on the areas of convergence emerging from the example-based discussions held over the period January-June 2019.<sup>2</sup> The document aims at enhancing Members' understanding of the issues under discussion and helping them to identify more easily the areas of convergence, the areas of common interest, and the areas where further consideration is needed. The possible elements of the framework have been organized along seven sections, with the aim of allowing Members to better visualize the possible structure of the framework.

3. The following criteria have been used to prepare the document:

- a. Within each element, only the issues in the Compendium that attracted more than one example have been included in the working document. Consequently, issues addressed by only one example and issues for which no example was submitted have been omitted.
- b. Wherever possible, in the case of issues where most or all examples illustrate the same provision on the basis of similar or very similar language, the texts of those examples have been merged into one single text.
- c. If the language used in the various examples illustrating the same provision differs and cannot be merged, different options have been provided within the pertinent paragraphs through the use of square brackets.
- d. In the case of issues for which more than one example were submitted, but where those examples illustrate entirely different provisions or differ significantly in their content, different 'alternatives' – have been provided in the text (e.g. "Alternative 1", "Alternative 2"). The order (numbering) of the alternatives is random and does not carry any meaning, nor does it imply any judgement regarding the degree of support for each of them.

---

<sup>1</sup> The Joint Ministerial Statement on Investment Facilitation for Development (WT/MIN(17)/59 dated 13 December 2017), provides in its fourth paragraph that the structured discussions "shall seek to identify and develop the elements of a framework for facilitating foreign direct investments...".

<sup>2</sup> See the Schedule of Meetings for the period January-July 2019 (INF/IFD/W/3/Rev.1) for further information on the elements addressed during the discussions.

- e. In cases where examples submitted by Members drew from non-investment text (e.g. services chapters in bilateral/plurilateral regional trade agreements or WTO text), the language has been adapted, as far as possible, to an investment facilitation context and harmonized across the document for ease of use. Therefore, the document makes reference to *inter alia* "relevant competent authorities", "measures", "investment" (or "investments"), and "investors". For ease of reference, these adaptations appear both in *italics* and between square brackets. These terms are without prejudice to the views and positions of Members on the pertinent provisions. If any of these terms already appeared in the examples submitted (e.g. "measures", "investment"), they have been left unchanged and do not appear in *italics* and square brackets.
  - f. References to "Party" and "Parties" in the examples were replaced by "Member" and "Members", respectively, while references to "Agreement" have been replaced by "framework. These adaptations have been neither italicized nor bracketed.
4. Square brackets have been used in the following cases:
- a. To signal language that results from adaptation to an investment facilitation context (see paragraph 1.3.e above);
  - b. To illustrate different wordings coming from the examples within a given provision or paragraph (see paragraph 1.3.c above);
  - c. To signal expressions that might need further adaptation to an investment facilitation context (this is the case, for example, in Article 1 "Scope", "Alternative 3", paragraph 1.1);
  - d. To signal language borrowed from another example and used as adaptation (this is the case, for instance, in Section VI, Article 25, Alternative 1, paragraph 25.3.b);
  - e. To signal language used by one Member only within an element/issue addressed by several examples, which do not constitute alternatives in the sense of 1.3.d above (e.g. the paragraphs in Section VII, Article 29 "Final Provisions");
  - f. To include a cross-reference to another provision or section of the framework. This is the case, for instance, in Section I, Article 1 "Scope", "Alternative 2", paragraph 1.4(a) as well as paragraph 1.6;
  - g. To signal the text of footnotes included in the examples submitted by Members;
  - h. To signal a placeholder for electronic searchable notification mechanisms in Section II, and the end of Article 4 ("Notification to the WTO").
-

---

**Contents**

<b>PREAMBLE</b> .....	<b>5</b>
<b>SECTION I: SCOPE AND GENERAL PRINCIPLES</b> .....	<b>6</b>
<b>1 SCOPE</b> .....	<b>6</b>
<b>2 NON-DISCRIMINATION</b> .....	<b>7</b>
<b>SECTION II: TRANSPARENCY AND PREDICTABILITY OF INVESTMENT MEASURES</b> .....	<b>8</b>
<b>3 PUBLICATION AND AVAILABILITY OF MEASURES AND INFORMATION</b> .....	<b>8</b>
3.1 Publication and availability of measures.....	8
3.2 Publication and availability of information / Information to be published when an authorization is required to invest in a country .....	8
3.3 Information available through the Internet .....	9
3.4 Publication in advance and opportunity to comment on proposed measures.....	9
<b>4 NOTIFICATION TO THE WTO</b> .....	<b>10</b>
<b>5 ENQUIRY POINTS</b> .....	<b>10</b>
<b>6 SPECIFIC EXCEPTIONS APPLICABLE TO TRANSPARENCY REQUIREMENTS</b> .....	<b>11</b>
6.1 Disclosure of Confidential Information .....	11
6.2 Treatment of Confidential Information.....	11
6.3 Special Formalities and Information Requirements.....	11
<b>SECTION III: STREAMLINING AND SPEEDING UP ADMINISTRATIVE PROCEDURES AND REQUIREMENTS</b> .....	<b>12</b>
<b>7 CONSISTENT, REASONABLE, OBJECTIVE AND IMPARTIAL ADMINISTRATION OF MEASURES</b> .....	<b>12</b>
<b>8 REDUCTION AND SIMPLIFICATION OF ADMINISTRATIVE PROCEDURES AND DOCUMENTATION REQUIREMENTS</b> .....	<b>12</b>
<b>9 CLEAR CRITERIA AND REQUIREMENTS FOR ADMINISTRATIVE PROCEDURES</b> .....	<b>13</b>
<b>10 [AUTHORIZATION] [APPROVAL] PROCEDURES</b> .....	<b>14</b>
10.1 Application timeframes and periods.....	14
10.2 Acceptance of copies in lieu of original documents .....	14
10.3 Establish time-frame for processing, initiate processing, ascertain completeness and complete processing of an application within a reasonable period of time/without undue delay/promptly .....	14
10.4 [Authorization] [approval] to enter into effect without delay .....	15
<b>11 TREATMENT OF INCOMPLETE AND REJECTION OF APPLICATIONS</b> .....	<b>15</b>
<b>12 FEES AND CHARGES</b> .....	<b>15</b>
<b>13 PERIODIC REVIEW OF ADMINISTRATIVE PROCEDURES AND REQUIREMENTS</b> .....	<b>16</b>
<b>14 USE OF ICT/E-GOVERNMENT INCLUDING ELECTRONIC APPLICATIONS</b> .....	<b>16</b>
14.1 Submission of applications online, use of electronic forms, documents and copies.....	16
14.2 Payment of fees and charges online .....	17
<b>15 ONE-STOP SHOP/SINGLE WINDOW-TYPES OF MECHANISMS</b> .....	<b>17</b>
<b>16 INDEPENDENCE OF COMPETENT AUTHORITIES</b> .....	<b>18</b>
<b>17 APPEAL AND REVIEW</b> .....	<b>18</b>

---

<b>SECTION IV: CONTACT POINTS/FOCAL POINT/OMBUDSPERSON -TYPES OF MECHANISMS, ARRANGEMENTS TO ENHANCE DOMESTIC COORDINATION AND CROSS-BORDER COOPERATION ON INVESTMENT FACILITATION .....</b>	<b>20</b>
<b>18 CONTACT POINT/FOCAL POINT/OMBUDSPERSON TYPES OF MECHANISMS .....</b>	<b>20</b>
<b>19 DOMESTIC COORDINATION.....</b>	<b>20</b>
<b>20 NATIONAL COMMITTEE ON INVESTMENT FACILITATION .....</b>	<b>21</b>
<b>21 CROSS-BORDER CO-OPERATION ON INVESTMENT FACILITATION .....</b>	<b>21</b>
<b>SECTION V: SPECIAL AND DIFFERENTIAL TREATMENT FOR DEVELOPING AND LEAST DEVELOPED COUNTRY MEMBERS .....</b>	<b>22</b>
<b>22 GENERAL PRINCIPLES.....</b>	<b>22</b>
<b>23 IMPLEMENTATION.....</b>	<b>22</b>
<b>24 TECHNICAL ASSISTANCE AND CAPACITY BUILDING .....</b>	<b>23</b>
24.1 General Principles .....	23
24.2 Cooperation with other international organizations.....	24
24.3 Investment Facilitation Facility .....	24
<b>SECTION VI: CROSS-CUTTING ISSUES .....</b>	<b>25</b>
<b>25 MICRO, SMALL AND MEDIUM ENTERPRISES (MSMES).....</b>	<b>25</b>
<b>26 CORPORATE SOCIAL RESPONSIBILITY.....</b>	<b>26</b>
<b>27 [MEASURES AGAINST CORRUPTION] [ANTI-CORRUPTION].....</b>	<b>27</b>
<b>SECTION VII: INSTITUTIONAL ARRANGEMENTS AND FINAL PROVISIONS .....</b>	<b>29</b>
<b>28 WTO COMMITTEE ON INVESTMENT FACILITATION .....</b>	<b>29</b>
<b>29 FINAL PROVISIONS.....</b>	<b>30</b>

---

**PREAMBLE<sup>3</sup>**

[[Members,

Recognizing the importance of investment in the promotion of sustainable development, economic growth, poverty reduction, job creation, expansion of productive capacity and trade;

Desiring to facilitate the increasing participation of developing countries in investment flows including, inter alia, through the strengthening of their domestic investment environment and its efficiency;

Recognizing the impact that the regulatory environment may have on trade and investment between the Members, and aiming to provide investors, especially small and medium-sized enterprises, with a transparent and predictable regulatory environment, as well as with efficient procedures;

Recognizing the right of Members to regulate in the public interest and to introduce new regulations within their territories so as to achieve legitimate public policy objectives;

Considering the particular needs of developing and especially least developed country Members and desiring to enhance assistance and support for capacity building in this area;

Aiming to increase investment, including investment in and by micro, small and medium enterprises;

Recognizing that economic development, social development and environmental protection are interdependent and mutually reinforcing components of sustainable development, and reaffirming their commitment to promoting the development of foreign direct investment in such a way as to contribute to the objective of sustainable development, for the welfare of present and future generations;

[Acknowledging the importance of good corporate governance and corporate social responsibility for sustainable development, and affirming their aim to encourage enterprises to observe and adhere to internationally recognized guidelines and principles in this respect, such as the UN Global Compact] [Recognizing the importance of voluntary corporate social responsibility principles and standards for investors];

Affirming their commitment to prevent and combat corruption in international trade and investment and to promote the principles of transparency and good public governance;

Reaffirming the importance of the 2030 Agenda for Sustainable Development of the United Nations;

(...)

Hereby agree as follows:]

---

<sup>3</sup> The Preamble comprises those examples from the Compendium that include preambular language or have been characterized as such at the meetings.

---

**SECTION I: SCOPE AND GENERAL PRINCIPLES****1 SCOPE<sup>4</sup>**Alternative 1:

1.1. This framework applies to facilitation measures adopted or maintained by Members related to foreign direct investment [in all sectors].

1.2. (...)

Alternative 2:

1.1. This framework applies to facilitation measures adopted or maintained by Members affecting the admission, establishment, acquisition and expansion [...] of investments in services and non-services sectors.

1.2. Facilitation measures by Members include those of general application and sector-specific that affect investors and their investment.

1.3. This framework does not apply to:

- a. government procurement;
- b. public concessions and the conditions thereby established, provided that the framework applies to investments made as a result of concessions. In case of inconsistencies between this framework and the terms of the concession, the latter shall prevail; and
- c. market access and right to establish, provided that nothing in this framework shall be construed as to modify Members' obligations and commitments under the General Agreement on Trade in Services (GATS) in that regard.

1.4. This framework does not cover:

- a. any dispute resolution procedure not foreseen under the Dispute Settlement Understanding, [according to Article XX of this framework]; and
- b. investment protection rules.

1.5. A Member's obligations under this framework shall apply to measures adopted or maintained by:

- a. the national government of that Member; and
- b. any entity, including a national state enterprise or any other national body, when it exercises any governmental authority delegated to it by the central government of that Member.

1.6. In fulfilling its obligations and commitments under the framework, each Member shall take such reasonable measures as may be available to it to ensure their observance by regional and local governments and authorities, including any entity referred to in paragraph [1.5(b)].

1.7. Regional and local governments and authorities are encouraged to comply with the measures of this framework.

---

<sup>4</sup> Pursuant to the Joint Ministerial Statement on Investment Facilitation for Development (WT/MIN(17)/59 of 13 December 2017), this framework does not cover market access, investment protection, and Investor-State Dispute Settlement.

Alternative 3:

1.1. This framework applies to a measure adopted or maintained by a Member relating to [licensing requirements, licensing procedures, qualification requirements, or qualification procedures] [...] that affect:

- a. the supply of a service or pursuit of any other economic activity, through commercial presence in the territory of another Member, including the establishment of such commercial presence; and (...)

1.2. This framework does not apply to [licensing requirements, licensing procedures, qualification requirements, or qualification procedures] [...]:

- a. [pursuant to an existing non-conforming measure maintained by a Member as set out in its [Schedule to Annex I]; or
- b. relating to one of the following sectors or activities: (...)]

## 2 NON-DISCRIMINATION

Alternative 1:

2.1. With respect to the implementation of this framework, each Member shall accord immediately and unconditionally to investors of any other Member and their investments treatment no less favourable than that it accords to investors of any Member and their investments.

2.2. The provisions of this framework shall not be construed as to prevent any Member from conferring or according advantages to investors of any other Member and their investments in the context of setting a common market or other forms of economic integration.

2.3. This framework does not replace and does not add to nor detract from existing rights and obligations of Members under bilateral or plurilateral investment frameworks.

Alternative 2:

2.1. Investments of investors of each Member shall at all times be accorded [...] treatment in the [*territory*] of any other Member. Neither Member shall in any way impair by unreasonable or discriminatory measures [the management, maintenance, use, enjoyment, sale or other disposal of investments] [...] in its [*territory*] of investors of other Members.

---

## SECTION II: TRANSPARENCY AND PREDICTABILITY OF INVESTMENT MEASURES

### 3 PUBLICATION AND AVAILABILITY OF MEASURES AND INFORMATION

#### 3.1 Publication and availability of measures

3.1. Each Member shall ensure that [laws, regulations, procedures, [judicial decisions] and administrative rulings] [measures] of general application<sup>5</sup> [as well as international agreements] [with respect to any matter covered by this framework] [that may have an impact on any matter covered by this framework] [that pertain to or affect the operation of this framework] [affecting investments] are promptly published or otherwise made available [in a manner that enables interested persons and the other Members to become acquainted with them].

3.2. To the extent [possible] [practicable] each Member shall endeavour to [provide a reasonable period between the date when such *measures* are made publicly available and the date when they enter into force] [publish such *measures* as early as possible before their entry into force].

3.3. Each Member shall, with respect to a [*measure*] of general application [adopted by its central level of government] that is published in accordance with paragraph [3.1]:

- a. promptly publish the [*measure*] in an official journal of national circulation [or on a single official website] [when possible, in electronic format] [where feasible, by electronic means, such as a website in English];
- b. [if appropriate] [to the extent possible] include with the publication an explanation of the purpose of and rationale for the [*measure*].

#### 3.2 Publication and availability of information / Information to be published when an authorization is required to invest in a country

##### Alternative 1 (for the chapeau):

3.4. Each Member shall promptly publish the following information in a non-discriminatory and easily accessible manner [and, to the extent possible, in one of the languages of the WTO] in order to enable governments, investors, and other interested parties to become acquainted with them:

##### Alternative 2 (for the chapeau):

3.4. [Where] [If] a Member requires authorization [for the admission, establishment, acquisition and expansion of investments] [*to invest in its territory*] the Member shall promptly publish [or otherwise make publicly available in writing] the information necessary for the investor to comply with the requirements and procedures for obtaining, maintaining, amending and renewing such authorization. Such information shall include, inter alia, where it exists:

- a. the requirements and procedures [for obtaining, maintaining, amending and renewing investment authorizations];
- b. [criteria used for the assessment and approval [*of investment applications*]];

---

<sup>5</sup> The following definitions were submitted as examples: ["administrative ruling of general application" means an administrative ruling or interpretation that applies to all persons and fact situations that fall generally within the ambit of that administrative ruling or interpretation and that establishes a norm of conduct, but does not include: a. a determination or ruling made in an administrative or quasi-judicial proceeding that applies to a particular [covered investment or investor of another Member] in a specific case; or; b. a ruling that adjudicates with respect to a particular act or practice;] and ["measure of general application" measure of general application": means laws, regulations, judicial decisions, procedures and administrative rulings that may have an impact on any matter covered by this [framework]. It does not include a ruling that applies to a particular person.]



- c. contact information of relevant competent authorities [responsible for authorizing, approving or regulating investment];
- d. fees and charges [imposed by *relevant competent authorities* on or in connection with [investors and their investments]];
- e. technical standards;
- f. procedures for appeal or review;
- g. procedures for monitoring or enforcing compliance with the terms and conditions of licenses [or qualifications];
- h. opportunities for [public] involvement [of investors in policy and rulemaking,] such as through hearings or comments;
- i. [indicative] timeframes for processing of an application;
- j. contact information and Uniform Resource Locators (URL), if any, of the enquiry point(s).

### 3.3 Information available through the Internet

3.5. Each Member shall make available [in an easily accessible and user-friendly manner], and update to the extent possible and as appropriate, the following through the internet:

- a. description<sup>[Footnote]</sup> of its procedures [*for the admission, establishment, acquisition and expansion of investments*] [*for obtaining, maintaining, amending and renewing investment authorizations*] including procedures for appeal or review, that inform governments, investors, and other interested parties of the practical steps needed [*to invest in its territory*];
- b. the forms and documents required [*for the admission, establishment, acquisition and expansion of investments*] [*to obtain, maintain, amend and renew an investment authorization*];
- c. contact information on its enquiry point(s).

3.6. Whenever practicable, the description referred to in subparagraph 3.5(a) shall also be made available in one of the official languages of the WTO.

3.7. Members are encouraged to make available further investment-related information through the internet, including relevant investment-related legislation and other items referred to in paragraph [XX].

[Footnote: Each Member has the discretion to state on its website the legal limitations of this description.]

### 3.4 Publication in advance and opportunity to comment on proposed measures

3.8. To the extent [possible] [practicable] [and in a manner consistent with its domestic laws and regulations], each Member shall:

- a. publish in advance any [[measure] [laws, regulations and procedures] of general application referred to in paragraph 3.1 (publication and availability of measures)] [regulations affecting the admission, establishment, acquisition and expansion of investments] that it proposes to adopt;<sup>[Footnote 1]</sup> and
- b. provide [interested persons and the other Members] [investors and other interested parties] with a [reasonable opportunity] [adequate time-period] to comment on those proposed measures [including by holding forums, discussion meetings, hearings, etc.].

- c. [consider] [endeavour to consider] the comments received with respect to such proposed measures.<sup>[Footnote 2]</sup>

[Footnote <sup>(1)</sup>: A Party may, consistent with its legal system, comply with its obligations that relate to a proposed regulation by publishing a policy proposal, discussion document, summary of the regulation or other document that contains sufficient detail to adequately inform interested persons and other Parties about whether and how their investment interests may be affected.]

[Footnote <sup>(2)</sup>: The submission of suggestions or comments does not oblige the agency or regulatory body to accept them, in whole or in part. All suggestions and comments received shall be analysed and do not require any individualized response or reaction. The agency or regulatory body is solely responsible for deciding whether any or all of the suggestions or comments received shall be used in full or in part.]

3.9. [When developing a technical regulation or *procedure* which may have a significant effect on *investment*, each Member shall:

- a. carry out consultation procedures, subject to its laws and regulations, which are available to the general public and make the results of such consultation procedures and any existing impact assessments publicly available;
- b. allow persons of the other Members to participate in consultation procedures which are available to the general public on terms no less favourable than those accorded to its own persons;
- c. take into account the other Member's views when carrying out consultation procedures which are available to the general public and, on request of the other Member, provide written responses in a timely manner to the comments made by that Member.]

#### 4 NOTIFICATION TO THE WTO

4.1. Each Member shall [promptly] notify the Committee on Investment Facilitation established under paragraph [28.1] of:

- a. the introduction of any new, or any changes to existing [laws, regulations or administrative guidelines];
- b. the official place(s) where the [items] [measures] in paragraph [X] have been published;
- c. the Uniform Resource Locators (URL) of the website(s) referred to in paragraph [X];
- d. the contact information of the [enquiry/contact/focal] point(s).

4.2. To the maximum extent possible, each Member shall notify of any proposed measure that the Member considers might affect the operation of the framework or otherwise substantially affect other Members' interest under this framework.

[Mechanisms to allow timely access and search of notified information such as ePing SPS and TBT Notification Alert System]

#### 5 ENQUIRY POINTS

5.1. Each Member shall within its available resources establish or maintain [one or more enquiry point(s)] [appropriate mechanisms] to answer reasonable enquiries of governments, [*investors*, and other interested parties on matters covered by [paragraph [X]] and to provide the required forms and documents referred to in paragraph [X].

5.2. The enquiry points shall answer enquiries and provide the forms and documents within a reasonable time period set by each Member, which may vary depending on the nature or complexity of the request.

5.3. Members are encouraged not to require the payment of a fee for answering enquiries and providing required forms and documents. If any, Members shall limit the amount of their fees and charges to the approximate cost of services rendered.

## **6 SPECIFIC EXCEPTIONS APPLICABLE TO TRANSPARENCY REQUIREMENTS**

### **6.1 Disclosure of Confidential Information**

6.1. Nothing in this framework shall [require] [be construed to require] any Member [to provide or give access to] [to furnish or allow access to] [publish] [disclose] [confidential] [protected] information [or proprietary information] [which is confidential under its domestic legislation], [including information concerning particular investors or investments], the disclosure of which:

- a. [would impede law enforcement] [would hinder the application of the law];
- b. [or otherwise be contrary to the public interest] [or be contrary to its laws protecting confidentiality]; [or]
- c. which could prejudice [legitimate commercial interests] [privacy] [of particular investors] [of particular enterprises, public or private] [of any economic operator] [of any juridical or natural person].

### **6.2 Treatment of Confidential Information**

6.2. When a Member provides confidential information to another Member, [in accordance with this framework], [the other Member shall keep the confidentiality of such information] [the Party shall respect the level of protection of information provided by the submitting Member, according to the respective national legislation on the matter].

### **6.3 Special Formalities and Information Requirements**

6.3. Notwithstanding paragraph [XX], a Member may require an investor of another Member [or a covered investment,] to provide [non-confidential routine] information on its investment solely for informational or statistical purposes. [A Member may only request confidential information if its national legislation so permits and] [The Member] shall protect any confidential business information from any disclosure that would prejudice the competitive position of the investor or the [covered] investment.

6.4. [Nothing in this paragraph shall be construed to prevent a Member from otherwise obtaining or disclosing information in connection with the equitable and good faith application of its law].

---

### SECTION III: STREAMLINING AND SPEEDING UP ADMINISTRATIVE PROCEDURES AND REQUIREMENTS

#### 7 CONSISTENT, REASONABLE, OBJECTIVE AND IMPARTIAL ADMINISTRATION OF MEASURES

7.1. Each Member shall ensure that [all measures of general application affecting *investment*] [all measures that affect *investment*] [all *investment-related* measures] [all measures of general application pertaining to the operation of this framework] are administered in a [consistent], reasonable, objective and impartial manner.

7.2. With a view to administering in a consistent, reasonable, objective and impartial manner [all measures of general application with respect to any matter covered by this framework] [...] each Member shall ensure in its administrative proceedings applying measures referred to in [Article/Section...] to a particular [person] [*investor* or *investment*] of any other Member in specific cases that:

- a. whenever possible, a person of the other Member that is directly affected by a proceeding is provided with reasonable notice, in accordance with domestic procedures, of when a proceeding is initiated, including a description of the nature of the proceeding, a statement of the legal authority under which the proceeding is initiated and a general description of any issue in question;
- b. such [interested] persons are afforded a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative action, when time, the nature of the proceeding and the public interest permit; and
- c. the procedures are [in accordance with its law] [in accordance with domestic law] [based on law].

#### 8 REDUCTION AND SIMPLIFICATION OF ADMINISTRATIVE PROCEDURES AND DOCUMENTATION REQUIREMENTS

8.1. Each Member shall ensure that [new covered [regulatory] measures] [licensing and qualification procedures] [*investment-related* procedures] are [simple, reasonable and [clear] [impartial]] [[plainly written], clear, [concise], [well organized] and [easy to understand]].

8.2. [If] [Where] a Member requires [[authorisation] [approval]] [*for the admission, establishment, acquisition and expansion of investments in its territory*] [*to invest in its territory*], each Member shall:

- a. ensure that [authorization] [approval]] procedures it adopts or maintains are simple, reasonable, clear and [impartial], [and do not act as barriers to the ability to *invest*] [and do not unduly complicate or delay the investment];
- b. [in accordance with domestic laws and regulation,] [where possible,] avoid duplication of [authorizations] [approval] and reviews by multiple authorities, so as to ensure [reasonable and justice of approval process, and minimize [*relevant competent*] authorities' arbitrary activities].

##### Alternative 1:

8.3. Each Member shall work towards further simplification and [standardisation] [reduction] of [*investment-related*] [[formalities] [procedures]], **data and documentation** required by its [*relevant competent*] authorities and other related agencies, in order to facilitate *investment*.

##### Alternative 2:

8.3. Each Member shall endeavour to limit [formalities] [procedures] and the number of documents required **in the context of [*investment* between Members]** to those necessary and

appropriate to ensure compliance with [its] legal requirements, thereby simplifying, to the greatest extent possible, the related [procedures] [*formalities*].

Alternative 3:

8.3. Members also recognize the need for minimizing the incidence and complexity of [*investment-related*] [[*formalities*] [*procedures*] [*measures*]] and for decreasing and simplifying [*investment-related*] documentation requirements in order to facilitate *investment*. With a view to minimizing the incidence and complexity of [*investment-related*] [[*procedures*] [*formalities*]] and to decreasing and simplifying documentation requirements, each Member shall ensure that such [*formalities*] [*procedures*] and documentation requirements are applied in a manner that aims at reducing the time and cost of compliance [...].

## 9 CLEAR CRITERIA AND REQUIREMENTS FOR ADMINISTRATIVE PROCEDURES

Alternative 1:

9.1. With a view to ensuring that [measures relating to qualification requirements and procedures, technical standards, and licensing requirements and procedures] do not unduly complicate or delay the [*investment*], while recognizing the right to regulate and to introduce new [regulations on *investment*] in order to meet its policy objectives, each Member shall ensure that any such [measures] that it adopts or maintains are:

- a. [pre-established,] based on objective and transparent criteria, such as [competence and the ability to [*engage in the activity*], [and relevant to the [*investment sector/activity*] to which they apply]; and
- b. in the case of [licensing] procedures, not in themselves a restriction on the [*ability to invest*].

Alternative 2:

9.1. Members may establish criteria for the admission, establishment, acquisition and expansion of investments in services and non-services sectors according to their national policies and to modify such criteria at any time, in accordance with the obligations established under relevant WTO Agreements and their international obligations.

9.2. If criteria are established, they shall be transparent and objective. No application shall be rejected based on the failure of the investor to fulfil criteria that the investor was not supposed to or could not know before the submission of the application.

(...)

9.3. The obligation set out in paragraph [9.2] is met by the publication of the criteria.

(...)

9.4. The assessment of an application based upon those criteria or the conclusion reached by the competent authorities regarding the application is not subject to the WTO Dispute Settlement Understanding.

9.5. Criteria that might entail a subjective analysis by the [*relevant*] competent authorities or that might be carried out under confidential terms are to be considered transparent and objective if the investor is aware beforehand that the investment will be required to fulfil those criteria.

## 10 [AUTHORIZATION] [APPROVAL] PROCEDURES

10.1. [[[If] [Where] a Member requires [authorisation] [approval]] [If criteria are established]] [[for the admission, establishment, acquisition and expansion of investments *in its territory*] [*to invest in its territory*]] [in services and non-services sectors], each Member shall ensure that its [*relevant*] competent authorities involved in the admission, establishment, acquisition and expansion of investments:

### 10.1 Application timeframes and periods

- a. to the extent practicable, permit [an applicant to submit] [submission of] an application at any time throughout the year without requesting an individual invitation;
- b. allow a reasonable period for the submission of an application [where] [if] a specific time period for [applying] [applications] exists;

### 10.2 Acceptance of copies in lieu of original documents

- c. [if they deem appropriate] [wherever possible], accept copies of documents that are authenticated in accordance with the Member's laws [and regulations] in place of original documents.

### 10.3 Establish time-frame for processing, initiate processing, ascertain completeness and complete processing of an application within a reasonable period of time/without undue delay/promptly

- d. [to the extent practicable,] [[provide] [establish]] an [indicative] time-frame for the processing of an application;
- e. initiate the processing of an application without undue delay;
- f. process, in a manner as expeditious as possible, all applications, including applications for investment [screening,] admission and licensing;
- g. at the request of the applicant, [in accordance with domestic laws and regulation, where possible,] provide [relevant] information concerning the status [of approval] of [the] [its] application without undue delay;

#### Alternative 1 (for subparagraph h):

- h. ascertain without undue delay the completeness of an application for processing under [*relevant*] domestic laws and regulations;

#### Alternative 2 (for subparagraph h):

- h. inform the applicant [in writing [and without delay]] whether the application is considered complete under [the Member's] domestic laws and regulations;

#### Alternative 1 (for subparagraph i):

- i. if the relevant competent authorities consider an application complete for processing under the Member's domestic laws and regulations, within a reasonable period of time after the submission of an application considered complete under its laws and regulations, ensure that:
  - i. the processing of the application is completed; and
  - ii. the applicant is informed of the decision concerning the application, [to the extent possible in writing] [in writing [and without delay]].

#### Alternative 2 (for subparagraph i):

- i. control the process time between accepting the application and making the [final] decision within a reasonable period of time.

Alternative 3 (for subparagraph i):

- i. make a decision on granting/denial of a [licence] within the period specified in the relevant normative legal act or, if no time period was specified in the relevant normative legal act, without undue delay.

**10.4 [Authorization] [approval] to enter into effect without delay**

- j. ensure that [a licence or] an [[authorisation] [approval]], once granted, enters into effect without undue delay, [[in accordance with the terms and conditions specified therein] [subject to the applicable terms and conditions]], [and its duration shall not in itself restrict the investment].

**11 TREATMENT OF INCOMPLETE AND REJECTION OF APPLICATIONS**

11.1. If the relevant competent authorities of a Member consider an application to be incomplete [for processing under the Member's domestic laws and regulations], the relevant competent authorities shall, [[within a reasonable period of time] [without undue delay]] after the receipt of an application which it considers incomplete:

- a. inform the applicant that the application is incomplete;
- b. [at the request of the applicant] identify the additional information required to complete the application or otherwise provide guidance on why the application is considered incomplete; and
- c. provide the applicant with the opportunity to [correct deficiencies] [provide the additional information that is required to complete the application];

[however, if none of the above is practicable, and the application is rejected due to incompleteness, ensure that they inform the applicant within a reasonable period of time].

11.2. In case an application is rejected, the competent authorities of a Member shall:

Alternative 1:

- a. inform the applicant [in writing and without undue delay] of the reasons for rejection, [the timeframe for an appeal or review against the decision] and, where applicable, the procedures for resubmission of an application. The reasons of rejection that are required to be provided under this paragraph encompass only the unfulfillment of the criteria referred to in this article.

Alternative 2:

- a. to the extent possible, either upon their own initiative or upon request of the applicant, inform the applicant of the reasons for rejection [or termination] and, if applicable, the procedures for resubmission of an application. [[An applicant should not be prevented from submitting another application solely on the basis of a previously rejected application.] [An applicant should be permitted, within a reasonable timeframe, to [resubmit an application] [submit a future application]. [The applicant shall have the possibility of resubmitting, at its discretion, a new application that addresses the reasons for rejection.]]

**12 FEES AND CHARGES**

12.1. Each Member shall ensure that the [authorisation] [approval] fees<sup>[Footnote]</sup> charged by its competent authorities [for processing an application, including those charged for the amendment or renewal of such authorization] are reasonable, transparent [, based on authority set out in a measure] [[, commensurate with the costs incurred to process the application] [limited in amount to the approximate cost of the services rendered]], and [do not in themselves restrict] [would not in themselves be a restriction to] the investment]. [The requirement of guarantees before an [authorization] [approval] is granted shall not in themselves restrict the investment.]

12.2. Each Member shall accord an adequate time period between the publication of new or amended fees and charges and their entry into force, except in urgent circumstances. Such fees and charges shall not be applied until information on them in accordance with [Article X (publication and availability of information)] has been published [and made readily available].

12.3. Each Member shall periodically review its fees and charges with a view to reducing their number and diversity, where practicable.

[Footnote: [Authorisation] [approval] fees do not include fees for the use of natural resources, payments for auction, [royalties,] tendering or other non-discriminatory means of awarding concessions, or mandated contributions to universal service provision.]

### **13 PERIODIC REVIEW OF ADMINISTRATIVE PROCEDURES AND REQUIREMENTS**

#### Alternative 1:

13.1. Each Member [shall] [should] [endeavour to] [may] review, at intervals it deems appropriate, its [covered [regulatory] measures] in force [to determine whether specific [regulatory] measures it has implemented should be modified, streamlined, expanded or repealed so as to make the Member's investment facilitation regime more effective in achieving the Member's policy objectives] [with a view to simplifying such measures in order to facilitate investment].

#### Alternative 2:

13.1. The relevant competent authorities of each Member [shall] [should] maintain processes or mechanisms to promote periodic retrospective evaluation of regulatory measures in force.

13.2. The relevant competent authorities of each Member [shall] [should] make publicly available its plans for and the results of such retrospective evaluations to the extent consistent with the Member's relevant rules and procedures.

### **14 USE OF ICT/E-GOVERNMENT INCLUDING ELECTRONIC APPLICATIONS<sup>6</sup>**

#### **14.1 Submission of applications online, use of electronic forms, documents and copies**

##### Alternative 1:

14.1. If a Member requires authorisation [for the admission, establishment, acquisition and expansion of an investment] [*to invest in its territory*], it shall ensure that its [*relevant*] competent authorities:

- a. [taking into account their competing priorities and resource constraints, endeavour to accept applications in electronic format] [adopt or maintain procedures that provide for advance electronic submission and processing of information before (...)]; and
- b. accept copies of documents, that are authenticated in accordance with the Member's domestic law, in place of original documents, unless the [*relevant*] competent authorities require original documents to protect the integrity of the authorisation process.

##### Alternative 2:

14.1. A Member's [*relevant*] competent authority should:

- a. accept applications in electronic format under similar conditions of authenticity as paper submissions; and
- b. accept authenticated copies, if considered appropriate, in place of original documents.

---

<sup>6</sup> Including submission of applications online, and use of electronic forms, documents and copies.



## 14.2 Payment of fees and charges online

14.2. Each Member shall, [to the extent practicable,] adopt or maintain procedures [allowing the option of electronic payment for] [that provide for the possibility of electronic payment for] fees and charges collected by [*relevant competent authorities involved in the admission, establishment, acquisition and expansion of investments*].

## 15 ONE-STOP SHOP/SINGLE WINDOW-TYPES OF MECHANISMS

### Alternative 1:

15.1. The Single Electronic Window (SEW) shall constitute a single entry point for the submission of all documents required by the agencies or regulatory bodies involved in the admission, establishment, acquisition and expansion of investments. Documents uploaded through the SEW shall not be subsequently required by any agency or regulatory body by any other means, except in cases in which the authenticity of the electronic document cannot be established or ensured through electronic means alone.

15.2. The SEW website shall provide information regarding policy, laws and regulations relating to the admission, establishment, acquisition and expansion of investments. Members shall endeavour to include subnational information regarding policy, laws and regulations relating to the admission, establishment, acquisition and expansion of investments.

15.3. The SEW shall contain the information referred to in Section IV of this framework, and, to the extent possible, in one of the languages of the WTO.

15.4. The information provided by the SEW shall be sufficiently clear, precise and up-to-date so as to enable an investor, in a manner as simple as possible, to be informed of:

- a. the agencies or regulatory bodies involved in the admission, establishment and expansion of any specific investment decision;
- b. the documents required by each agency or regulatory body for specific investment decisions; and
- c. the timeframe under applicable legislation within which each agency or regulatory body is required to process an application associated to any specific investment decision.

15.5. The SEW shall not add to nor detract from the competencies and responsibilities of agencies or regulatory bodies involved in the admission, establishment, acquisition and expansion of investments.

15.6. The SEW shall not prevent agencies or regulatory bodies from establishing requirements associated to the admission, establishment, acquisition and expansion of investments that cannot be met electronically.

15.7. The agencies and regulatory bodies connected to the SEW shall have access to the information uploaded to the SEW inasmuch as required by the fulfilment of their legal competencies and responsibilities.

15.8. All information provided by investors through the SEW shall be protected according to the provisions of the applicable national legislation.

15.9. Members shall endeavour to make it possible for investors to pay through the SEW all fees and taxes associated to the admission, establishment, maintenance, acquisition and expansion of investments.

Alternative 2:

15.1. Members [in line with their international commitments] shall endeavour to [establish or maintain] [develop and implement] a single window [in accordance with international standards and best practices], enabling [*investors*] from another Member to submit documentation and/or data requirements [*related to the admission, establishment, acquisition and/or expansion of investments in its territory*] through a single-entry point to the participating [*relevant competent*] authorities or agencies. After the examination by the [*relevant competent*] authorities of the documentation and/or data, the results shall be notified to the applicants through the single window in a timely manner. (...)

Alternative 3:

15.1. Each Member shall, to the extent practicable, avoid requiring an [applicant] [*investor*] to approach more than one competent authority for each application for authorisation [*related to the admission, establishment, acquisition and/or expansion of investments in its territory*]. If an [*investment*] is within the jurisdiction of multiple competent authorities, multiple applications for [authorization] [*approval*] may be required.

Alternative 4:

15.1. Members are encouraged to explore the possibility of establishing a single electronic receiving point for the submission of documents necessary for investment application, and of utilizing online platforms for the submission and processing of applications to the extent possible.

## 16 INDEPENDENCE OF COMPETENT AUTHORITIES

16.1. [*In those sectors where authorisation is required to invest, relevant [competent] [regulatory] authorities would not be accountable to any investors they regulate.*]

16.2. If a Member [requires authorisation *for an investment*] [adopts or maintains a measure relating to authorisation for *investment*], it shall ensure that its [*relevant*] competent authorities reach and administer their decisions in [an independent manner and ensure that their procedures are impartial] [in a manner independent from any *investor* from which authorization is required].  
[Footnote]

[Footnote: This provision does not mandate a particular administrative structure.]

## 17 APPEAL AND REVIEW

Alternative 1:

17.1. Each Member shall establish or maintain tribunals or judicial, quasi-judicial or administrative procedures, [for the purpose of the prompt review and, when justified, the correction of final administrative actions concerning matters covered by this framework] [which provide, on request of an affected *investor*, for the prompt review of and, if justified, appropriate remedies for, administrative decisions affecting *investment*]. Such tribunals shall be impartial and independent of the office or authority responsible for applying administrative measures and they shall not have any substantial interest in the outcome of the matter. [Where such procedures are not independent of the agency entrusted with the administrative decision concerned, the Member shall ensure that the procedures in fact provide for an objective and impartial review].

17.2. Each Member shall ensure that, in any such tribunals or procedures, the parties to the proceedings are entitled to:

- a. a reasonable opportunity to support or defend their respective positions; and
- b. a decision based on the evidence and arguments submitted or, where required by that Member's domestic law, on the record compiled by the administrative authority.

17.3. Each Member shall ensure, subject to appeal or further review as provided in its domestic law, that such decisions shall be implemented by, and shall govern the practice of,

the office or authority with respect to the administrative action that is the subject of the decision.

Alternative 2:

17.1. Each Member shall provide that any person to whom a competent authority issues a decision has the right, within its territory, to:

- a. an administrative appeal to or review by an administrative authority higher than or independent of the competent authority that issued the decision; and/or
- b. a judicial appeal or review of the decision.

17.2. Each Member shall ensure that its procedures for appeal or review are carried out in a non-discriminatory manner.

17.3. Each Member shall ensure that the person referred to in [paragraph 1 of this Article] is provided with the reasons for the decision of the competent authority so as to enable such a person to have recourse to procedures for appeal or review where necessary.

---

## **SECTION IV: CONTACT POINTS/FOCAL POINT/OMBUDSPERSON -TYPES OF MECHANISMS, ARRANGEMENTS TO ENHANCE DOMESTIC COORDINATION AND CROSS-BORDER COOPERATION ON INVESTMENT FACILITATION**

### **18 CONTACT POINT/FOCAL POINT/OMBUDSPERSON TYPES OF MECHANISMS**

18.1. Each Member shall [designate] [maintain or establish] a [contact point] [National Focal Point] [appropriate mechanism], which shall have the following responsibilities:

- a. responding to enquiries from [*investors or persons seeking to invest*] regarding the measures referred to in paragraph [3.1 (publication and availability of measures)]. Such enquiries may be addressed through the enquiry points established under paragraph [X] of the framework or any other mechanisms as appropriate;<sup>[Footnote]</sup>
- b. assisting investors [from any other Member] in obtaining information from [government agencies or entities with delegated authority relevant to their investments and, if applicable, subnational authorities] [*relevant competent authorities*] [including on procedural requirements for investment [licences] [authorizations]] [and providing advisory services regarding establishment and liquidation as much as possible];
- c. assisting investors from any other Member by seeking to resolve investment-related difficulties, in collaboration with [government agencies, entities with delegated authority relevant to their investments, and, if applicable, with subnational authorities] [*relevant competent authorities*];
- d. [[to address complaints or grievances] [facilitating the settling of grievances]] [regarding measures adopted or maintained by a Member affecting investors and their investments] [from/with investors], [whether in the form of law, regulation, procedure, decision, administrative ruling, or any other form, in violation of the provisions of this framework,] with a view to preventing disputes;
- e. to recommend to the competent authorities, as appropriate, measures to improve the investment environment;
- f. to operate and maintain the [Single Window] [one-stop shop]].

18.2. Each Member shall notify [the Committee] of its [contact point] [National Focal Point] [appropriate mechanism] no later than [X] days after the date of entry into force of the framework.

[Footnote: It is understood that resource constraints may be a factor in determining whether a mechanism for responding to enquiries is appropriate.]

### **19 DOMESTIC COORDINATION**

19.1. [For the purposes of this paragraph, regulatory coherence refers to the use of good regulatory practices in the process of planning, designing, issuing, implementing and reviewing regulatory measures in order to facilitate achievement of policy objectives, and to enhance regulatory cooperation in order to further those objectives and promote international trade and investment, economic growth and employment.

19.2. Members affirm the importance of:

- a. sustaining and enhancing the benefits of this framework through regulatory coherence in terms of facilitating increased investment between the Members;
- b. each Member's right to identify its regulatory priorities and establish and implement regulatory measures to address these priorities, at the levels that the Member considers appropriate;

- c. the role that regulation plays in achieving their policy objectives;
- d. taking into account input from interested persons in the development of regulatory measures; and
- e. developing regulatory cooperation and capacity building, as appropriate.

19.3. To assist in designing a measure to best achieve the Member's policy objective, a Member may encourage relevant [*competent authorities and*] [regulatory] agencies, consistent with the laws, regulations, policies and practices of the Member, to conduct regulatory impact assessments when developing proposed covered [regulatory] measures that exceed a threshold of economic impact, or other regulatory impact, where appropriate, as established by that Member.]

## **20 NATIONAL COMMITTEE ON INVESTMENT FACILITATION**

20.1. Each Member shall establish and/or maintain a national committee on investment facilitation or designate an existing mechanism to facilitate both domestic coordination and implementation of the provisions of this framework.

## **21 CROSS-BORDER CO-OPERATION ON INVESTMENT FACILITATION**

21.1. Each Member shall designate a [contact point] [National focal point] to [facilitate communication between the Members and] cooperate on matters relating to investment facilitation.

21.2. [On request, a Member shall provide specific information to another Member on any matter covered by the framework and respond to questions related to [any measure of general application or international agreement within the meaning of paragraph [3.1]] [any proposed or actual measure that the requesting Member considers might affect the operation of the framework, whether or not the other Member has been notified of that measure].]

21.3. Areas for cooperation may include:

- a. exchange of information and sharing of experiences regarding the implementation of this framework;
- b. exchange of information with respect to investment opportunities [as well as information on domestic investors];
- c. [collection of data and statistics relating to investment];
- d. technical assistance and capacity building;
- e. [*any other issue of interest to the Members*].

21.4. Each Member shall notify the Committee of the details of its [contact point] [focal point], including of any changes to those details.

---

## SECTION V: SPECIAL AND DIFFERENTIAL TREATMENT FOR DEVELOPING AND LEAST DEVELOPED COUNTRY MEMBERS

### 22 GENERAL PRINCIPLES

#### Alternative 1:

22.1. Members shall provide differential and more favourable treatment to developing country Members to this framework, through the following provisions as well as through the relevant provisions of other Articles of this framework.

22.2. Members shall give particular attention to the provisions of this framework concerning developing country Members' rights and obligations and shall take into account the special development, and [*investment*] needs of developing country Members in the implementation of this framework, both nationally and in the operation of this framework's institutional arrangements.

22.3. Developed country Members shall bear in mind the special difficulties experienced by developing country Members in formulating and implementing [*investment policies and measures*], and in their desire to assist developing country Members with their efforts in this direction, developed country Members shall take account of the special needs of the former in regard to [*investment*] and development.

22.4. The [Investment Facilitation Committee] shall examine periodically the special and differential treatment, as laid down in this framework, granted to developing country Members on national and international levels.

#### Alternative 2:

22.1. In order to increase the benefits of this framework, Members recognize the importance of according special and differential treatment to developing and least-developed country Members, through:

- a. technical assistance to strengthen their capacity in relation to investment policies, including in areas such as human resource development;
- b. access to information on the investment policies of other Members, business information, relevant databases and contact points for investment [promotion agencies]; and
- c. recognizing that commitments by each Member may be made in accordance with its stage of development.

### 23 IMPLEMENTATION

23.1. The extent and the timing of implementation of the provisions of this framework shall be related to the implementation capacities of developing and least-developed country Members. Where a developing or least-developed country Member continues to lack the necessary capacity, implementation of the provision(s) concerned will not be required until implementation capacity has been acquired.

23.2. Least-developed country Members will only be required to undertake commitments to the extent consistent with their individual development, financial and [*investment*] needs or their administrative and institutional capabilities.

#### Alternative 1:

23.3. The provisions of this framework shall be implemented upon entry into force, except for the provisions in [Section X], which shall be implemented within [3 (three)] years of entry into force.

23.4. Notwithstanding the exception provided for in paragraph 1, Members shall strive for early implementation of the provisions of Section X and, should they not be in a position to do so, seek to implement such provisions in a progressive and scheduled manner in the transition to electronic procedures only.

23.5. Provisions under [Sections X (...) and X (...)] of this framework shall be implemented upon entry into force of this framework.

23.6. Provisions under [Sections X (...) and X (...)] of this framework shall be implemented by developing country Members within [4 (four)] years after the entry into force of this framework.

23.7. Provisions under [Section X (...)] of this framework shall be implemented by developing country Members within [8 (eight)] years after the entry into force of this framework.

23.8. Notwithstanding the implementation period specified above, developing country Members shall strive for early implementation of provisions and, should they not be in a position to do so, seek to implement such provisions in a progressive and scheduled manner in the transition to electronic procedures only.

23.9. Developing country Members in a position to fulfil the provisions under sections [X] in a shorter timeframe shall notify the [Investment Facilitation Committee] the revised timeframes for the implementation of the provisions.

23.10. Least-developed country Members shall not be required to implement the provisions of Sections [X] of this framework. Least-developed country Members are nonetheless encouraged to implement these provisions to the extent compatible with their special economic situation and their development needs. Upon graduation from least-developed country status, the schedule of implementation of the provisions of this framework established under [Article XX] [this provision] shall apply to the graduated Member.

#### Alternative 2:

23.3. The General Principles set out before shall be applied through the provisions set out in [this Section] [Section X].

23.4. There are three categories of provisions:

- a. Category A contains provisions that a developing country Member or a least-developed country Member designates for implementation upon entry into force of this framework, or in the case of a least-developed country Member within one year after entry into force, as provided in [Article XX].
- b. Category B contains provisions that a developing country Member or a least-developed country Member designates for implementation on a date after a transitional period of time following the entry into force of this framework, as provided in [Article XX].
- c. Category C contains provisions that a developing country Member or a least-developed country Member designates for implementation on a date after a transitional period of time following the entry into force of this framework and requiring the acquisition of implementation capacity through the provision of assistance and support for capacity building, as provided for in [Article XX].

23.5. Each developing country and least-developed country Member shall self-designate, on an individual basis, the provisions it is including under each of the Categories A, B and C.

## **24 TECHNICAL ASSISTANCE AND CAPACITY BUILDING**

### **24.1 General Principles**

24.1. [Assistance and support for capacity building] [Technical assistance] should be [provided to help developing and least-developed country Members implement the provisions of this framework,

in accordance with their nature and scope] [aimed, inter alia, at developing and strengthening the capacities needed to fully implement the obligations arising under this framework].

Alternative 1:

24.2. Developed country Members, and to the extent possible, developing country Members in a position to do so, shall provide technical assistance to developing country Members and in particular to least-developed country Members, upon request and on mutually agreed terms and conditions.

Alternative 2:

24.2. Members recognize that cooperation activities may be undertaken between two or more Members, on a mutually agreed basis, and shall seek to complement and build on existing frameworks or arrangements between them.

24.3. Each Member shall establish and notify to the WTO a contact point on matters relating to the coordination of cooperation on technical assistance and capacity building matters.

24.4. A Member may make a request for cooperation on technical assistance and capacity building matters related to [this framework] to another Member or Members through the respective contact points.

## **24.2 Cooperation with other international organizations**

24.5. [The WTO may collaborate with other international organizations such as [...] to comprehensively study and evaluate the needs for investment facilitation of developing Members, especially the least-developed country Members, and at the request of these Members, provide capacity building and technical assistance plans that are commensurate with their development levels and macro-economic objectives.]

## **24.3 Investment Facilitation Facility**

24.6. [Members shall explore and discuss the possibility of establishing an Investment Facilitation Facility to manage the contributions that Members may voluntarily provide to the WTO, with the aim of assisting developing Members, and especially the least-developed country Members, to implement the provisions of this framework. The administration and operation of the Facility shall comply with the fund management rules and regulations of the WTO. The WTO Secretariat shall be responsible for the administration of the fund and its efficient, open and transparent operation.]



**SECTION VI: CROSS-CUTTING ISSUES****25 MICRO, SMALL AND MEDIUM ENTERPRISES (MSMES)**

25.1. Each Member shall establish or maintain its own publicly accessible website containing information regarding this framework, including:

- a. information designed for MSMEs that contains:
  - i. the text of this framework;
  - ii. a description of the provisions in this framework that the Member considers to be [most] relevant to MSMEs; and
  - iii. any additional information that the Member considers to be useful for MSMEs interested in benefitting from the opportunities provided by this framework.

25.2. Each Member shall include in the website referred to in subparagraph [25.1] links to:

- a. the websites of its government authorities and other appropriate entities that provide information the Member considers useful to persons interested in investing or doing business in that Member;
- b. (...)

25.3. [Each Member shall ensure that the linked websites referred to in subparagraph [25.2(a)] provide information related to] [Subject to each Member's laws and regulations, the information described in subparagraph [25.2(a)] may include]:

- a. business registration procedures;
- b. taxes collected during the procedures [*for obtaining, maintaining, amending and renewing investment authorizations*], if applicable; and
- c. other information which the Member considers to be useful for MSMEs.

25.4. Each Member shall regularly [, or when requested by the other Member,] review the information and links referred to in paragraphs [X to X] to ensure that they are up-to-date and accurate.

25.5. Each Member shall work towards ensuring that information provided pursuant to this Article is presented in a manner that is easy to use for MSMEs. [Each Member shall endeavour to make the information available in English.]

25.6. [No fee shall be imposed on any person of either Member for access to the information provided pursuant to paragraphs X to X.]

25.7. [Cooperation in favour of MSMEs:

- a. Activities:
  - i. Promote business partnerships and the creation of information networks that foster the development of MSMEs;
  - ii. Encourage MSMEs to adopt new technologies so they can modernize their business management practices, broaden their markets and more easily meet their obligations; and

- iii. Create in the meantime a space for horizontal cooperation among the intermediate groups for the different levels at which the enterprises operate: networks, associative structures, cooperatives, strategic partnerships, franchises, consortia, joint investments and public and private investment-promotion institutions.
- b. Projects:
- i. Disseminate public policy best practices for the promotion and development of the sector, whereby legislative developments, regulatory frameworks, initiatives promoting formalization and other development instruments, particularly centres for technological development and innovation and the promotion of entrepreneurship, can be showcased and shared in the regions;
  - ii. Promote systems that guarantee interconnectivity, which, besides improving quality of life, provide MSMEs with the knowledge and opportunities to [access markets].]

## 26 CORPORATE SOCIAL RESPONSIBILITY

### Alternative 1:

26.1. Investors and their investments shall strive to achieve the highest possible level of contribution to the sustainable development of the host Member and the local community, through the adoption of a high degree of socially responsible practices, based on the voluntary principles and standards set out in this provision and internal policies, such as statements of principle.

26.2. Investors and their investments shall endeavour to comply with the following voluntary principles and standards of corporate social responsibility, in accordance with the laws adopted by the host Member and with Members' international commitments on this matter:

- a. Respecting the protection of the environment and sustainable development and encouraging the use of technologies that do not harm the environment, in accordance with the national policies of Members, in a way that incentivizes economic, social and environmental progress;
- b. Respecting human rights of those involved in the activities of the companies, consistent with the international obligations and commitments of the host Member;
- c. Stimulating the strengthening of local capacities through close cooperation with the local community;
- d. Incentivizing the formation of human capital, particularly creating job opportunities and facilitating the access of workers to professional qualification;
- e. Abstaining from seeking or accepting exemptions other than those established in the law of the host Member with respect to the environment, health, safety, labour, financial incentives or other matters;
- f. Supporting and maintaining principles of sound corporate governance, as well as developing and applying good practices in corporate governance;
- g. Developing and applying effective self-regulated practices and management systems that foster a relationship of mutual trust between the enterprises and the societies in which they carry out their operations;
- h. Promoting the knowledge of workers regarding company policies through the appropriate publication of these policies, including through recourse to professional capacity building programs;
- i. Abstaining from discriminatory or disciplinary actions against workers who report severe occurrences to the management or, when appropriate, to the competent

public authorities, of practices in breach of the law or standards of sound corporate governance to which the enterprise is subjected;

- j. Encouraging, whenever possible, the business partners, including suppliers and outsourced services, to apply principles of business conduct consistent with the principles provided for in this provision; and
- k. Respecting local political processes and activities.

26.3. Investors are invited to keep the [National Focal Point] informed about their internal corporate social responsibility policies and practices.

#### Alternative 2:

26.1. In accordance with their domestic laws or policies, Members [agree to promote] [shall encourage] corporate social responsibility [practices], [that are beneficial to the environment and contribute to sustainable development in its economic, environmental and social dimension] [to strengthen coherence between economic, social and environmental objectives], provided that measures related thereto are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between Members or a disguised restriction on trade.

26.2. Measures for the promotion of corporate social responsibility include, among others, exchange of information and best practices, education and training activities and technical advice. In this regard, each Member takes into account relevant internationally agreed instruments that have been endorsed or are supported by that Member, such as the Organisation for Economic Co-operation and Development Guidelines for Multinational Enterprises, the United Nations Global Compact and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.

#### Alternative 3:

26.1. Members reaffirm the importance of each Member encouraging enterprises operating within its territory to voluntarily incorporate into their internal policies those internationally recognized standards, guidelines and principles of corporate social responsibility that have been endorsed or are supported by that Member.

#### Alternative 4:

26.1. Members reaffirm their commitment to internationally recognized standards, guidelines and principles of corporate social responsibility that have been endorsed or are supported by the Parties, including the OECD Guidelines for Multinational Enterprises, and each Member should encourage enterprises operating within its territory or subject to its jurisdiction to voluntarily incorporate these standards, guidelines and principles into their business practices and internal policies. These standards, guidelines and principles address issues such as labour, environment, gender equality, human rights, community relations, and anti-corruption.

## **27 [MEASURES AGAINST CORRUPTION] [ANTI-CORRUPTION]**

#### Alternative 1:

27.1. Each Member shall [maintain measures] [ensure that measures are taken] to prevent and [fight] [combat] corruption, [money laundering and terrorism financing] with regard to matters covered by this framework, in accordance with its laws and regulations.

27.2. Nothing in this framework shall require any Member to protect investments made with capital or assets of illicit origin or investments in the establishment or operation of which illegal acts have been demonstrated to occur and for which national legislation provides asset forfeiture.

#### Alternative 2:

27.1. Each Member shall take measures, in accordance with the fundamental principles of its domestic law, to prevent corruption involving the private sector, enhance accounting and auditing standards in the private sector and, where appropriate, provide effective,

proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures.

Alternative 3:

27.1. Enterprises should not, directly or indirectly, offer, promise, give, or demand a bribe or other undue advantage to obtain or retain business or other improper advantage. Enterprises should also resist the solicitation of bribes and extortion.

Alternative 4:

27.1. Investors and their investments shall not, prior to the establishment of an investment or afterwards, offer, promise or give any undue pecuniary, or other advantage, whether directly or through intermediaries to a public official of the Host Member, or a member of an official's family or business associate or other person in close proximity to an official, for that official or for a third party, in order that the official or third party act or refrain from acting in relation to the performance of official duties, in order to achieve any favour in relation to a proposed investment or any licences, permits, contracts or other rights in relation to an Investment.

27.2. Investors and their investments shall not be complicit in any act described in the first paragraph, including incitement, aiding and abetting, and conspiracy to commit or authorization of such acts.

27.3. A breach of this article by an investor or an investment is deemed to constitute a breach of the domestic law of the Host Member concerning the establishment and operation of an investment.

27.4. Consistent with their applicable law, Members shall prosecute and where convicted penalize persons that have breached the applicable law implementing this obligation.

---

**SECTION VII: INSTITUTIONAL ARRANGEMENTS AND FINAL PROVISIONS****28 WTO COMMITTEE ON INVESTMENT FACILITATION**Alternative 1:

28.1. The Parties hereby establish a Committee on Investment Facilitation, open to all Members.

28.2. The Committee shall meet as needed and envisaged by the relevant provisions of this framework, but no less than [twice] [once] a year for the purpose of affording Members the opportunity to consult on issues related to this framework. The Committee shall carry out such other functions as assigned to it by the Members [to monitor] [to facilitate] the operation of this framework [and promote cooperation and facilitate joint initiatives] [and further its objectives].

Alternative 2:

28.1. A Committee on Investment Facilitation is hereby established.

28.2. The Committee shall be open for participation by all Members and shall elect its own Chairperson. The Committee shall meet as needed and envisaged by the relevant provisions of this framework, but no less than [twice] [once] a year, for the purpose of affording Members the opportunity to consult on any matters related to the operation of this framework or the furtherance of its objectives. The Committee shall carry out such responsibilities as assigned to it under this framework or by the Members. The Committee shall establish its own rules of procedure.

28.3. The Committee may establish such subsidiary bodies as may be required. All such bodies shall report to the Committee.

28.4. The Committee shall develop procedures for the sharing by Members of information and experiences on investment facilitation, as well as the identification of best practices, as appropriate. The Committee [shall] [may] prepare an annual report on investment facilitation measures undertaken to implement the framework [based on information notified by Members or otherwise authorized by them].

28.5. The Committee shall maintain close contact with other international organizations in the field of investment facilitation, such as [UNCTAD, World Bank, the OECD and ITC], with the objective of securing the best available advice for the implementation and administration of this framework and in order to ensure that unnecessary duplication of effort is avoided. To this end, the Committee may invite representatives of such organizations or their subsidiary bodies to:

- l. attend meetings of the Committee; and
- m. discuss specific matters related to the implementation of this framework.

28.6. The Committee shall review the operation and implementation of this framework [four] [five] years from its entry into force, and periodically thereafter. [Recommendations arising from the review shall be presented to the General Council.] [The Committee shall report to the General Council periodically.]

28.7. Members are encouraged to raise before the Committee questions relating to issues on the implementation and application of this framework.

28.8. The Committee shall encourage and facilitate ad hoc discussions among Members on specific issues under this framework with a view to reaching a mutually satisfactory solution promptly.

## 29 FINAL PROVISIONS

29.1. [Notwithstanding the general interpretative note to Annex 1A to the Marrakesh Agreement Establishing the World Trade Organization, nothing in this framework shall be construed as diminishing the obligations of Members under the GATT 1994 and GATS. In addition, nothing in this framework shall be construed as diminishing the rights and obligations of Members under the Agreement on Trade-Related Investment Measures.]

29.2. [Article X [...] shall not apply to:

- a. treatment accorded by a Member under a bilateral or multilateral international agreement in force or signed prior to [XX].
- b. treatment accorded by a Member under an existing or future bilateral or multilateral agreement or arrangement:
  - i. establishing, strengthening or expanding a free trade area, a customs union, a common market, an economic union or a similar institution; or
  - ii. relating to:
    - [aviation;
    - fisheries; or
    - maritime matters, including salvage.]]]

---