



**WTO STRUCTURED DISCUSSIONS ON
INVESTMENT FACILITATION FOR DEVELOPMENT**

INFORMAL CONSOLIDATED TEXT

Revision¹

1. As agreed at the organizational meeting open to all WTO Members held on 27 February 2020, the attached "informal consolidated text" has been prepared by the Coordinator under his responsibility. The text has been prepared on the basis of the "streamlined text"² and written proposals and text contributions submitted by Members so far.³ The informal consolidated text is intended to help Members further develop the elements and specific provisions of a multilateral framework on investment facilitation for development in the current negotiating phase of the Structured Discussions⁴ – as well as to assist Members in conducting consultations in their respective capitals and outreach efforts. The structure, content and wording of this text do not, in any way, prejudice the position or views of any delegation on the issues under negotiation. Reflecting this, the whole document is in between double brackets.

2. The texts of the proposals circulated with a document symbol appear in blue font and written proposals submitted during the meeting appear in purple font. Both forms of written proposals appear in square brackets. Submitting Members are identified at the end of the relevant paragraphs in superscript, and by means of three letter ISO codes (except for the European Union, for whom the acronym EU was used, and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, for whom TPKM was used). In those instances where a proposal includes text which is identical to the informal consolidated text, the phrase "Also [Member]" has been added at the end of the relevant paragraph. The texts of the proposals have been inserted as submitted, and the original paragraph numbering has been retained. To facilitate consideration of the different elements, the informal consolidated text follows the same structure as the streamlined text and the proposals have been incorporated as appropriate under the relevant part/paragraph, in alphabetical order of submitting Member. In order to focus exclusively on text alternatives, the comments made by proponents in their submissions (including those announcing future proposals on specific elements) have been omitted. In any case, the Coordinator has taken note of those comments and any future concrete text proposal by any Member will be incorporated when submitted.

¹This eighth revision concerns the addition of the written text proposals submitted by the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (INF/IFD/RD/66) and by Canada (INF/IFD/RD/67).

² Document INF/IFD/RD/45 dated 17 January 2020.

³ The consolidated text includes the written proposals and contributions submitted by Argentina (INF/IFD/RD/42); Brazil (INF/IFD/RD/53, INF/IFD/RD/60, INF/IFD/RD/62 and INF/IFD/RD/63); Canada (INF/IFD/RD/59, INF/IFD/RD/67, and written proposals submitted at the meetings on 8-9 October, and 23 November 2020); China (INF/IFD/RD/48); China and Turkey – joint proposal (INF/IFD/RD/65); Colombia (written proposal submitted at the meeting on 8-9 October); Costa Rica (written proposal submitted at the meeting held on 25 September); the European Union (INF/IFD/RD/46); Indonesia (INF/IFD/RD/57); Japan (INF/IFD/RD/47); the Republic of Korea (INF/IFD/RD/52); Mauritius (INF/IFD/RD/58); Mexico (INF/IFD/RD/55); Morocco (INF/IFD/RD/64); the Russian Federation (written proposals submitted at the meeting held on 25 September 2020); the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (INF/IFD/RD/61, INF/IFD/RD/66); and Turkey (INF/IFD/RD/49).

⁴ See the summary of the discussions corresponding to the meeting held on 27 February 2020 (document INF/IFD/R/11).

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PREAMBLE

[[Members,

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

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

Wishing to establish a multilateral framework of principles and rules on investment facilitation with a view to improving the domestic investment environment and stimulating sustainable investment flows for development;]^{BRA}

[Recognizing the role of investment facilitation measures in the promotion of sustainable development, economic growth, technology transfer, poverty reduction, job creation and human development;]^{MAR}

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;^{Also BRA}

[Recognizing that investment facilitation will encourage the creation of sustainable and inclusive investments that will contribute to the development of the economies of Members, particularly developing and least developed countries;]^{MAR}

[Desiring that the establishment of a multilateral framework of principles and rules on investment facilitation may contribute to enhance cooperation, information sharing, the exchange of best practices, interaction with relevant stakeholders, and dispute prevention;]^{BRA}

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 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 more transparent, efficient, and predictable regulatory environment for facilitating cross-border investment;]^{BRA}

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;^{Also BRA}

[Convinced that investments in the territory of one of the Members must be made in accordance with the laws and regulations in force in the territory of that Member.]^{MAR}

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;

[Considering the particular needs of developing and especially least developed country Members and affirming the commitment to provide assistance and support for capacity building in this area;]^{BRA}

["Considering the particular needs of developing and especially least developed country Members and recognizing the importance of facilitating assistance and support for capacity building which these Members need for formulating and implementing measures necessary for facilitating investment in accordance with this framework;"]^{JPN}

[Recognizing the differences between the level of development and the size of their economies;]^{MAR}

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

[Aiming to increase investment for development, including investment in and by micro, small and medium enterprises;] ^{BRA}

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; ^{Also BRA}

[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 the importance of good corporate governance and voluntary corporate social responsibility principles and standards for investors for sustainable development;] ^{BRA}

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

[Emphasizing the importance of responsible business conduct, promotion of the principles of transparency and combating corruption;] ^{MAR}

[Recognizing that Members may be engaged in different international commitments regarding investment protection and Investor-State Dispute Settlement under Free Trade Agreements or Bilateral Investment Treaties, this framework has been built with the aim to constitute a complete set of rules for investment facilitation measures undertaken by Members, and not to grant market access, rights of establishment nor to create an obligation to grant any treatment to investors or alter existing obligations under IIAs signed by the Members.] ^{MEX}

Reaffirming the importance of the 2030 Agenda for Sustainable Development of the United Nations; ^{Also BRA}

[Confirming the importance of foreign direct investment for economic growth and the achievement of the United Nations 2030 Sustainable Development Goals;] ^{MAR}

(...)

Hereby agree as follows:]

["Objectives"

1. Members recognise the importance of foreign direct investment for the sustainable development of their economies and the achievement of the goals defined under the 2030 Agenda for Sustainable Development of the United Nations.

2. The purpose of this Agreement is to create a better investment environment and hereby lay down the necessary arrangements for the facilitation of foreign direct investment for development.] ^{BRA}

["Objectives"

1. Members recognise the importance of foreign direct investment for the development of their economies and the achievement of the goals defined under the 2030 Agenda for Sustainable Development of the United Nations.

2. Members affirm their commitment to create a better investment climate between them and hereby lay down the necessary arrangements for the facilitation of foreign direct investment.] ^{EU}

[Objectives

1. The purpose of this framework is to increase the flow of foreign direct investment between Members through the facilitation and simplification of procedures affecting investment in the territory of each of the Members, and to lay down the necessary arrangements to achieve this objective.
2. The purpose of this framework is also to promote international cooperation with a view to facilitating investment and helping developing and least developed countries to attract foreign investment.
3. The objectives of this framework must be achieved without prejudice to Members' rights to regulate in the public interest.]^{MAR}

[OBJECTIVE

1. The purpose of this Framework is to ensure [the] facilitation of procedures to increase the direct investment flows between the Members through creating a better environment for doing business in the territory of each Member.]^{TUR}

SECTION I: SCOPE AND GENERAL PRINCIPLES

1 SCOPE

1.1. This framework applies to measures adopted or maintained by Members for facilitating foreign direct investments ^[5] across the whole investment life-cycle [, including the admission, establishment, acquisition and expansion of investments] in services and non-services sectors.

[2.1. This framework applies to foreign direct investment measures adopted or maintained by Members, including the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.] ^{CHN}

[1. This Agreement applies to measures adopted or maintained by Members affecting the establishment and operation of foreign direct investments.

2. Measures by Members include those of general and sector-specific application that affect foreign investors and their investment.] ^{EU}

[3.1. This framework applies to facilitating measures affecting foreign direct investment post establishment in a Member's territory in accordance with its laws and regulations in force, its economic development policies and its foreign investment regime. Facilitation measures concern the management, conduct, operation, and sale or other disposition of investments.] ^{MAR}

[1.1 This Framework applies to measures taken by a Member for facilitating the beginning of operations of foreign direct investments in its territory of an investor of another Member in services and non-services sectors.] ^{MEX}

[2. This Framework applies to the administration of measures by a Member affecting the authorization of investment activities in its territory of an investor of another Member.] ^{TUR}

1.2. This framework shall 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.

[c. market access and right to establish, including a decision by a competent authority of a Member on whether or not to admit and approve a foreign direct investment application.] ^{BRA}

[c. "market access, including a decision by [a competent authority of a Member] on whether or not to approve or admit a foreign investment application."] ^{JPN}

[3. Nothing in this Framework shall be construed to confer any rights for market access and establishment.] ^{TUR}

[1.2 This framework shall not apply to:

- a. government procurement;

⁵ This framework does not apply to portfolio investment.

- b. public concessions and the conditions thereby established, provided that the framework applies to investment 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. subsidies or grants provided by a Member, including government-supported loans, guarantees, and insurance.]^{CHN}

[3.3. This framework shall also not apply to:

- a. government procurement;
- b. a Member's subsidies (grants, loans, insurance and guarantees) granted exclusively by that Member to its own investors in national development activities and programmes;
- c. portfolio investment;
- d. taxation measures;
- e. investments made with funds or assets linked to activities of illicit origin.]^{MAR}

1.3. This framework shall not cover:

- a. investment protection rules; and,
- b. investor-state dispute settlement.

[1.4. For greater certainty, this framework does not create new or modify existing commitments relating to the liberalisation of investment, nor does it create new or modify existing rules on the protection of investment or investor-state dispute settlement.]^{CHN}

[4. For greater certainty, this agreement does not create new or modify existing commitments relating to the liberalisation of investments, nor does it create new or modify existing rules on the protection of international investments or investor-state dispute settlement.]^{EU}

[This Agreement shall not serve as a means to interpret the substantive obligations of an international investment agreement of a Member, and shall not be used as the basis for a claim or in any way by a claimant under the procedures for the resolution of investment disputes between investors and states provided for in other international investment agreements.]^{CAN}

[This Framework shall not serve as a means to interpret any provisions in international investment treaty as basis of a claim by investor or state.]^{IDN}

[A breach of this Framework provisions shall not be treated as a breach of any provisions in international investment treaties.]^{IDN}

[1.3. This Agreement shall not be understood or interpreted to affect in any manner international investment agreements that Members have concluded or will conclude for protection and treatment of foreign investors and investment within their respective territories. Likewise, Members' rights and obligations under international investment agreements shall not affect in any manner the interpretation and implementation of this Agreement. Members confirm their understanding that contracting parties and covered investors of international investment agreements shall not refer to or rely on this Agreement for any purpose.

1.4. For greater certainty, this Agreement shall not apply to the following:

- a. protection of investors or investment;
- b. treatment of investors or investment; or
- c. any dispute settlement proceeding

within the meaning of international investment agreements that Members have concluded or will conclude.]^{KOR}

[3.2. This framework shall not affect the provisions of international investment agreements that Members have concluded or will conclude in the future. Thus, this framework shall not apply to the following:

- a. protection of investors or investments;
- b. treatment of investors or investments; or
- c. any dispute settlement proceeding.]^{MAR}

[Any rights and obligations created in this Agreement shall have no legal implications or effects regarding any disputes arising from and conducted under any other bilateral or plurilateral investment agreement.]^{TPKM}

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

- a. central, regional or local governments and authorities; and
- b. non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities.^{Also MAR, MEX}

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

- a. central, regional or local governments or authorities; and
- b. non-governmental bodies, including a national state enterprise, in the exercise of powers delegated by central, regional or local governments or authorities.]^{BRA}

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

- a. central, regional or local governments and authorities; and
- b. non-governmental bodies in the exercise of government authority delegated by central, regional or local governments or authorities.]^{CHN}

[5. A Member's obligations under this Agreement shall apply to measures adopted or maintained by:

- a. the central, regional and local governments and authorities of that Member; and
- b. non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities.]^{EU}

1.5. In fulfilling its obligations 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 and non-governmental bodies within its territory.

[1.5 In fulfilling its obligations and commitments under this Agreement, each Member shall take such reasonable measures as may be available to it to ensure their observance by regional and local governments and authorities and non-governmental bodies within its territory as referred to in paragraph 1.4(b).]^{BRA}

[6. In fulfilling its obligations and commitments under this Agreement, each Member shall take such reasonable measures as may be available to it to ensure their observance by regional and local governments and authorities and non-governmental bodies within its territory.]^{EU}

[3.5. In fulfilling its obligations under this 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 and non-governmental bodies within its territory, without prejudice to environmental, general security and other public interest requirements, in accordance with the laws and regulations in force in the host Member.]^{MAR}

[Specific exclusions of specific sectors or activities: TBD]

[4. This Framework is without prejudice to the terms, limitations, conditions and qualifications set out in each Party's Schedule of Specific Commitments and List of MFN Exemptions under the GATS for investment activities in services sectors and the List of Reservations of each Member specified in Annex XX of this Framework for investment activities in non-services sectors.]^{TUR}

2.1 [Possible working definition[s]:]

[Foreign direct investment (FDI): for the purpose of this framework, ownership of 10 per cent of the ordinary shares or voting stock is considered as the criterion for determining the existence of a direct investment relationship.]

[Investment: for purposes of this framework, the word investment means "FDI" as defined above.]

[Investor: means a natural person or a [juridical person]⁶ of a Member, that attempts to make, is making, or has made an FDI in the territory of another Member.]

[Authorization: TBD]

[Measure: TBD]]⁷

foreign public official means an individual holding a legislative, executive, administrative or judicial office of a foreign country, at any level of government, whether appointed or elected, permanent or temporary, paid or unpaid, and irrespective of that person's seniority; and an individual exercising a public function for a foreign country, at any level of government, including for a public agency or public enterprise;

official of a public international organisation means an international civil servant or an individual who is authorised by a public international organisation to act on its behalf; and

public official means an individual:

- a. holding a legislative, executive, administrative, or judicial office of a Member, whether appointed or elected, permanent or temporary, paid or unpaid, and irrespective of that person's seniority;
- b. who performs a public function for a Member, including for a public agency or public enterprise, or provides a public service, as defined under that Member's law and as applied in the pertinent area of that Member's law; or
- c. defined as a public official under a Member's law.]^{CAN}

["the term "investment" means every kind of asset owned or controlled, directly or indirectly, by an investor, including:

- (i) an enterprise and a branch of an enterprise;
- (ii) shares, stocks or other forms of equity participation in an enterprise, including rights derived therefrom;
- (iii) bonds, debentures, loans and other forms of debt, including rights derived therefrom;

⁶ See as a reference the definition of "juridical person" in Article XXVIII(I) of GATS.

⁷ See as a reference the definition of "measure" in Article XXVIII(a) of GATS.

- (iv) rights under contracts, including turnkey, construction, management, production or revenue-sharing contracts;
- (v) claims to money and to any performance under contract having a financial value;
- (vi) intellectual property rights, including copyrights and related rights, patent rights and rights relating to utility models, trademarks, industrial designs, layout-designs of integrated circuits, new varieties of plants, trade names, indications of source or geographical indications and undisclosed information;
- (vii) rights conferred pursuant to laws and regulations or contracts such as concessions, licenses, authorizations, and permits, including those for the exploration and exploitation of natural resources; and
- (viii) any other tangible and intangible, movable and immovable property, and any related property rights, such as leases, mortgages, liens and pledges;

An investment includes the amounts yielded by investments, in particular, profit, interest, capital gains, dividends, royalties and fees. A change in the form in which assets are invested does not affect their character as investment."

"the term "investor of a Member" means:

- (i) a natural person having the nationality of that Member in accordance with its applicable laws and regulations; or
- (ii) an enterprise of that Member,

that seeks to make, is making or has made an investment in the other Member;"

"the term "measure" means any measure by a Member, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form;"]^{JPN}

[3.6. Investment facilitation refers to measures taken by a Member to:

- a. make investment related policies transparent, effective and predictable by publishing investment related measures and establishing enquiry points; and
- b. facilitate the day-to-day exercise of investors' activities by simplifying administrative procedures and reducing bureaucratic barriers and delays in order to secure their investments.

3.7 a. "Authorization" means the administrative act by which an authority of a Member approves an investment activity while laying down the conditions for its exercise or its realization that an investor from another Member must meet in order to legally carry out its investment activity in that Member.

b. "Enterprise" refers to any legal person duly constituted or organized under a Member's laws and regulations, not for profit, having its registered office, its central administration or principal place of business in the territory of that Member and whether owned or controlled by the State or its nationals, including any corporation, partnership, sole proprietorship, joint venture, organization or enterprise.

c. "Enterprise of a Member" means any corporation more than 50% of whose capital is directly or indirectly owned, exclusively or jointly, by the public bodies of a State.

d. "Investment activities" refers to operation, management, maintenance, use, enjoyment and sale or other disposal of investments.

e. "Measure" means any legislation, regulation or decision of a Member's Administration directly related to a foreign direct investment in that Member's territory and with implications for that investment.]^{MAR}

["measure" means any measure adopted or maintained by a Member, whether in the form of a law, regulation, procedure, or requirement, taken by central, regional or local governments and authorities, to ease the process of establishing or expanding investments in their territories.]^{MEX}

[DEFINITIONS

5. For the purposes of this Framework;

- a. "authorization" means the permission to pursue investment activities, resulting from a procedure an investor must adhere to in order to demonstrate compliance with the necessary requirements;
- b. "applicant" means an investor of a Member who applied for an authorization in the territory of another Member;
- c. "enterprise" means any juridical person or any other entity duly constituted or organised under the applicable laws and regulations, whether or not for profit, and whether private or government owned or controlled, including any corporation, trust, partnership, sole proprietorship, joint venture, association, organisation or company;
- d. "enterprise of a Member" means...
- e. "investment" means an enterprise, a branch of an enterprise or a representative office;
- f. "investor of a Member" means a natural person of a Member or an enterprise of a Member that seeks to make, is making or has made investments in the territory of another Member;
- g. "investment activities" means establishment, acquisition, expansion, operation, management, maintenance, use, enjoyment and sale or other disposal of investments in services and non-services sectors;
- h. "natural person of a Member" means a natural person who under the law of that Member is a national of that Member.]^{TUR}

2 MOST-FAVOURLED NATION TREATMENT

2.1. With respect to any measure covered by this framework, each Member shall accord immediately and unconditionally to investments and investors of any other Member treatment no less favourable than that it accords to like investments and investors of any other country.

[3.8. With respect to any measure covered by this framework, each Member shall accord to investments and investors of any other Member treatment no less favourable than that it accords to like investments and investors of any other Member country.]^{MAR}

2.2. The provisions of this framework shall not be so construed as to prevent any Member from conferring or according advantages to investors of any other Member and their investments in the context of a free trade area, a customs union, a common market or an economic union.

[2.2 The provisions of this framework shall not be construed so as to prevent any Member from conferring or according advantages to investors of any other Member and their investments in the context of a free trade area, a customs union, a common market or other forms of economic integration.]^{BRA}

[For greater certainty, the obligations in this Framework shall not constitute 'treatment' under any other treaty. Conversely, obligations arising from other treaties shall also be excluded for the purpose of assessing a breach of this Framework.]^{IDN}

[3.9. The provisions of this framework shall not be construed to prevent a Member from conferring or according advantages to investors of any other Member and their investments under a bilateral

investment facilitation agreement, a free trade area, a customs union, a common market, an economic union or an economic and monetary union.]^{MAR}

[The provisions of this framework shall not be construed so as to prevent any Member from conferring or according advantages to investors of any other Member and their investments in the context of an investment agreement, whether it is a separate agreement or included as an investment chapter in a free trade area or a customs union provided under GATT Article XXIV or the Enabling Clause, or an economic integration under GATS Article V.]^{TPKM}

SECTION II: TRANSPARENCY OF INVESTMENT MEASURES

3 PUBLICATION AND AVAILABILITY OF MEASURES AND INFORMATION [INCLUDING BY ELECTRONIC MEANS]

3.1 Publication and availability of measures

3.1. Each Member shall ensure that [laws, regulations, procedures, judicial decision and administrative rulings of general application] [measures⁸ of general application] [that pertain to or affect the operation of this framework] [covered by this framework] are promptly published or otherwise made available in a manner that enables interested persons and the other Members to become acquainted with them.

[3.1 Each Member shall publish⁹ promptly and, except in emergency situations, at the latest by the time of their entry into force, all relevant measures¹⁰ of general application with respect to any matter covered by this Agreement in such a manner as to enable investors or persons seeking to invest to become acquainted with them.]^{BRA}

[1. Each Member shall publish¹¹ promptly or otherwise make publicly available in writing and, except in emergency situations, at the latest by the time of their entry into force, all relevant measures of general application with respect to any matter covered by this Agreement in such a manner as to enable investors or persons seeking to invest to become acquainted with them.]^{EU}

[3.1. Each Member shall ensure that its laws, regulations, procedures and administrative rulings of general application with respect to any matter covered by this framework are promptly published or otherwise made available in a manner that enables interested persons and other Members to become acquainted with them.]^{JPN}

[4.1. Each Member shall ensure that its laws, regulations and administrative rulings of general application relating to matters covered by this framework are published promptly and available, if possible, by electronic means, in a manner that enables interested persons and Members to become acquainted with them.

4.4. The publications referred to in paragraph 1 shall be made available to the public in one of the official languages of the WTO.

N.B.: publication of all judicial decisions is a binding measure for developing countries and LDCs.]^{MAR}

[3.1 Each Member shall ensure that measures of general application covered by this framework are promptly published or otherwise made available in a manner that enables interested persons and other Members to become acquainted with them. Each Member shall endeavour to publish international agreements [affecting investments] [...] to which it is a signatory.]^{RUS}

3.2. To the extent practicable, each Member shall endeavour to provide a reasonable period between the date when laws and regulations [and procedures] of general application are made publicly available and the date when investors must comply with such measures.

[3.2. To the extent possible, when introducing or changing the laws, regulations or procedures referred to in paragraph 3.1, each Member shall endeavour to provide a reasonable period between the date when such laws, regulations or procedures are made publicly available and the date when they enter into force.]^{JPN}

⁸ See as a reference definition of "measure" in Article XXVIII(a) of GATS.

⁹ For purposes of these disciplines, "publish" means to include in an official publication, such as an official journal, AND on the Single Portal or an official website.

¹⁰ See as a reference definition of "measure" in Article XXVIII(a) of GATS.

¹¹ For purposes of these disciplines, "publish" means to include in an official publication, such as an official journal, or on an official website.

[3.2 To the extent practicable, when introducing measures referred to in paragraph 3.1, each Member shall endeavour to provide a reasonable period between the date when measures are made publicly available and the date when investors must comply with such measures.]^{RUS}

3.3. Each Member shall [to the extent practicable] include with the publication of a [law or regulation] of general application in paragraph 3.1 an explanation of the purpose of and rationale for the [law or regulation].

[3.3 To the extent practicable and in a manner consistent with its legal system for adopting measures of general application, each Member is encouraged to explain the purpose and rationale of the law or regulation published in accordance with paragraph 3.1.]^{CRI}

[4.3. Each Member shall, to the extent possible, include with the publication of a law or regulation of general application referred to in paragraph 1 an explanation of the purpose and rationale of the law or regulation.]^{MAR}

3.4. Each Member shall publish or otherwise make available [laws, regulations and procedures] in paragraph 3.1 in an official journal of national circulation or on an official electronic medium. Members are encouraged to consolidate electronic publications into a single portal [where feasible in English].

[3.4. Each Member shall make available via electronic means such as a website and, where practicable, accessible through a single portal, and update to the extent possible and as appropriate, the following:

- a. laws and regulations specifically addressing foreign direct investment, where they exist;
- b. restrictions and conditions applying to foreign direct investments;
- c. fees and charges imposed by agencies or regulatory bodies on or in connection with foreign investors and their investments; and
- d. contact information of relevant competent authorities.]^{BRA}

[2. Each Member shall make available via electronic means such as a website and, where practicable accessible through a single portal, and update to the extent possible and as appropriate, the following:

- a. laws and regulations specifically addressing foreign direct investment, where they exist;
- b. restrictions and conditions applying to foreign direct investment; and
- c. contact information of relevant competent authorities.]^{EU}

[4.2. Each Member shall publish or otherwise make available the laws, regulations and procedures referred to in paragraph 1 in an official journal of national circulation or in an official electronic medium. Members are encouraged to consolidate electronic publications into a single portal where feasible in one of the official languages of the WTO.]^{MAR}

[3.4 Each Member shall publish or otherwise make available laws, regulations and procedures referred to in paragraph 3.1 in an official journal of national circulation or on an official electronic medium.

Each Member shall make available, and update to the extent practicable and as appropriate, the measures of general application through the Internet. Members are encouraged to consolidate electronic publications into a single portal.]^{RUS}

3.5. [To the extent practicable, each Member should] [Each Member is encouraged to] make available by electronic means a description of its procedures such as business registration procedures, that inform investors of the practical steps needed to invest in its territory.]^[Footnote]

[3. Each Member shall make available, where practicable via electronic means such as a website and accessible through the single portal referred to in paragraph 2, and update to the extent possible and as appropriate, a description that informs governments, investors, and other interested parties of the practical steps needed to invest in its territory. This description should cover, *inter alia*, the requirements and procedures related to:

- a. company establishment and business registration;
- b. connecting to essential infrastructure such as electricity and water supply;
- c. acquisition and registering of property such as land ownership rights;
- d. construction permits;
- e. resolving insolvency;
- f. capital transfers and payments;
- g. the payment of taxes; and
- h. public incentives offered to investors and persons seeking to invest.]^{EU}

[3.5 Each Member should make available through the Internet, where practicable through the single portal referred to in paragraph 2, a description of its procedures that inform investors of the practical steps needed to invest in its territory.

Footnote: Each Member has the discretion to state on its website the legal limitations of this description.]^{RUS}

3.6. [No fee shall be imposed on any person of any Member for access to the information provided pursuant to paragraph 3.4 or 3.5].

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

3.2 Information to be published when an authorization is required to invest in a country

3.7. If a Member requires authorization to invest in its territory¹² the Member shall promptly publish or otherwise make publicly available in writing and in an accessible and user-friendly manner 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. contact information, and Uniform Resource Locators (URL) if any, of relevant competent authorities and of the [enquiry point(s)] [contact/focal points] referred to in paragraph[s] [5.1 and 18.1];
- b. the requirements and procedures, including forms and documents;
- c. fees and charges;
- d. [taxes collected during the procedures;]
- e. procedures for appeal or review of decisions concerning applications;
- f. procedures for monitoring or enforcing compliance with the terms and conditions of licenses [or qualifications];

¹² See section I on scope (paragraph 1.1), which states that this framework applies to measures adopted or maintained by Members across the whole investment life-cycle.

- g. opportunities for [public involvement] [the involvement of investors in policy and rulemaking];
- h. [indicative] timeframes for processing of an application; and,
- i. other information which the Member considers to be useful for investors.

[4. If a Member requires authorisation for an investment in its territory, the Member shall promptly publish¹³ or otherwise make publicly available in writing the information necessary for investors or persons seeking to invest to comply with the requirements and procedures for obtaining, maintaining, amending and renewing such authorisation. Such information shall include, *inter alia*, where it exists:

- a. the requirements and procedures;
- b. fees;
- c. technical standards;
- d. procedures for appeal or review of decisions concerning applications;
- e. procedures for monitoring or enforcing compliance with the terms and conditions of licenses or qualifications;
- f. opportunities for public involvement, such as through hearings or comments; and
- g. indicative timeframes for processing of an application.]^{EU}

[4.8. If a Member requires authorization for an investment in its territory, the Member shall publish to the extent possible or otherwise make publicly available the information necessary for investors or persons seeking to invest to comply with the requirements and procedures for obtaining such authorization. Such information shall include, *inter alia*, where applicable:

- a. the requirements and procedures;
- b. charges, taxes and fees;
- c. technical standards;
- d. procedures for appeal or review of decisions concerning applications;
- e. indicative timeframes for processing of an application.]^{MAR}

3.8. [To the extent practicable, each Member shall make available the information in paragraph 3.7 by electronic means. Members are encouraged to consolidate electronic publications into a single portal.]

[4.9. To the extent possible, each Member shall make available the information referred to in paragraph 1 by electronic means. Members are encouraged to consolidate electronic publications into a single portal.]^{MAR}

3.9. [To the extent practicable, the information in paragraph [3.7] should also be made available in one of the official languages of the WTO.]

[4.10. The information referred to in paragraph 1 shall be made available in one of the official languages of the WTO.]^{MAR}

¹³ Members are encouraged to consolidate electronic publications into a single portal.

[5. No fee shall be imposed on any investor or person seeking to invest in a Member's territory for access to the information provided under this article.]^{EU}

3.3 Publication in advance and opportunity to comment on proposed measures

3.10. To the extent practicable and in a manner consistent with its legal system, each Member shall:

- a. publish in advance any laws and regulations [and procedures] of general application referred to in paragraph [3.1] (publication and availability of measures) that it proposes to adopt; [Footnote] and
- b. provide investors [and other interested parties] [and other Members] a reasonable opportunity to comment on those proposed measures.
- c. endeavour to consider the comments received with respect to such proposed measures. [Footnote] COL

[Footnote: 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.]^{COL}

3.11. To the extent practicable and in manner consistent with its legal system, each Member is encouraged to apply paragraph 3.10 to [procedures and] administrative rulings of general application referred to in paragraph 3.1 (publication and availability of measures) that it proposes to adopt.

[1. To the extent practicable and in a manner consistent with its legal system for adopting measures, each Member¹⁴ shall publish in advance:

- a. its laws and regulations of general application it proposes to adopt in relation to matters falling within the scope of this Agreement; or
- b. documents that provide sufficient details about such a possible new law or regulation to allow interested persons and other Members to assess whether and how their interests might be significantly affected.

2. To the extent practicable and in a manner consistent with its legal system for adopting measures each Member is encouraged to apply paragraph 1 to procedures and administrative rulings of general application it proposes to adopt in relation to matters falling within the scope of this Agreement.

3. To the extent practicable and in a manner consistent with its legal system for adopting measures each Member shall provide interested persons and other Members a reasonable opportunity to comment on such proposed measures or documents published under paragraph 1 or 2.

4. To the extent practicable and in a manner consistent with its legal system for adopting measures each Member shall consider comments received under paragraph 3.¹⁵

5. In publishing a law or regulation referred to in paragraph 1, or in advance of such publication, to the extent practicable and in a manner consistent with its legal system for adopting measures, a Member is encouraged to explain the purpose and rationale of the law or regulation.

¹⁴ Members understand that paragraphs 1 to 4 recognize that Members have different systems to consult interested persons and other Members on certain measures before they are final, and that the alternatives set out in paragraph 1 reflect different legal systems.

¹⁵ This provision does not place any obligation on the final decision of a Member that adopts or maintains any measure for authorisation for an investment.

6. Each Member shall, to the extent practicable, endeavour to allow reasonable time between publication of the text of a law or regulation referred to in paragraph 1 and the date on which investors must comply with the law or regulation.]^{EU}

[Footnote: A Member 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 Members about whether and how their investment interests may be affected.]

[4.11. To the extent possible and within its constitutional framework, each Member shall:

- a. publish in advance any measure it proposes to adopt in relation to matters covered by this framework;
- b. provide interested persons a reasonable opportunity to comment on such measures.]^{MAR}

4 NOTIFICATION TO THE WTO

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

[4.1 Each Member shall promptly and at least annually notify the Committee on Investment Facilitation established under paragraph [28.1] of:]^{RUS}

- a. [the introduction of any major changes to existing laws or regulations of general application referred to in paragraph 3.1 (publication and availability of measures);]
- [a. the introduction of any new, or any changes to existing laws or regulations of general application referred to in paragraph 3.1 (publication and availability of measures);]^{RUS}
- b. the official place(s) where the measures in paragraph 3.1 (publication and availability of measures) [and 3.7] have been published;
- [b. the official place(s) where the measures in paragraph 3.1 (publication and availability of measures) [and 3.7] have been published;]^{RUS}
- c. the Uniform Resource Locators (URL) of the website(s) referred to in paragraph[s] [3.4 and 3.8];
- [c. the Uniform Resource Locators (URL) of the website(s) referred to in paragraph[s] [3.4 and 3.8];]^{RUS}
- d. the contact information and the URL, if any, of the competent authorities and [enquiry/contact/focal] point(s) [appropriate mechanism] referred to in paragraph[s] [3.7, 5.1, 18.1 and 20.1 respectively].
- [d. the contact information and the URL, if any, of the competent authorities and enquiry point(s) referred to in paragraph(s) [X].]^{RUS}

[4.12. Each Member shall at least annually notify the Committee on Investment Facilitation established under paragraph [28.1], in accordance with an indicative list of notifiable elements, to be defined by the Committee on Investment Facilitation and provided to all Members of the framework on investment facilitation for development.]^{MAR}

5 ENQUIRY POINTS

5.1. Each Member shall within its available resources establish or maintain appropriate mechanisms to answer reasonable enquiries of governments, investors and other interested parties on matters covered by paragraph [3.1] and to provide the required forms and documents referred to in paragraph [3.7].

[5.1 Each Member shall within its available resources establish or maintain appropriate mechanisms to answer reasonable enquiries of governments, investors and other interested parties on matters covered by paragraph [3.1] and to provide the required forms and documents referred to in paragraph [3.7].

Members of a customs union or involved in regional integration may establish or maintain common enquiry points at the regional level to satisfy the requirement of paragraph [X] for common procedures.]^{RUS}

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 any Member to provide confidential information, the disclosure of which would impede law enforcement or otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular enterprises, public or private.

[Nothing in this Agreement shall require any Member to provide confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular enterprises, public or private.]^{EU}

[4.13. Nothing in this framework shall require any Member to provide confidential information, the disclosure of which would impede law enforcement or otherwise be contrary to the public interest or national security, or which would prejudice the legitimate commercial interests of particular enterprises, public or private.]^{MAR}

SECTION III: STREAMLINING AND SPEEDING UP ADMINISTRATIVE PROCEDURES AND REQUIREMENTS

7 REASONABLE, OBJECTIVE, AND IMPARTIAL ADMINISTRATION OF MEASURES

7.1. Each Member shall ensure that all measures of general application [covered by this framework] are administered in a reasonable, objective and impartial manner.

[1. Each Member shall ensure that all measures of general application within the scope of this Agreement are administered in a reasonable, objective and impartial manner.]^{EU}

[5.1 Each Member shall ensure that all measures of general application covered by this framework are administered in a reasonable, objective and impartial manner.]^{MAR}

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

- a. whenever possible, an investor¹⁶ of another 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. an investor of another Member that is directly affected by a proceeding is afforded a reasonable opportunity to present facts and arguments in support of that person's position 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 [laws and regulations] [legal system].

8 REDUCTION AND SIMPLIFICATION OF ADMINISTRATIVE PROCEDURES AND DOCUMENTATION REQUIREMENTS

8.1. Each Member shall ensure that new measures [related to administrative procedures and documentation requirements] covered by this framework are plainly written, concise, well organised and easy to understand.

8.2. Each Member shall ensure that procedures covered by this framework are simple, reasonable, impartial, easy to understand and do not act as barriers to the ability to invest.

8.3. If a Member requires authorisation to invest in its territory¹⁷, it shall [in accordance with its legal system] ensure that authorization procedures it adopts or maintains [do not act as barriers to the ability to invest] [do not unduly complicate or delay the investment].

[2. If a Member adopts or maintains measures relating to the authorisation for an investment, the Member shall ensure that:

- c. the procedures do not in themselves unjustifiably prevent fulfilment of requirements.]^{EU}

8.4. Members also recognize the need for minimizing the incidence and complexity of procedures covered by this framework as well as for decreasing and simplifying documentation requirements in

¹⁶ See definition of "investor" in para. 1.5 of the framework.

¹⁷ See section I on scope (paragraph 1.1), which states that this framework applies to measures adopted or maintained by Members across the whole investment life-cycle.

order to facilitate investment. With a view to minimizing the incidence and complexity of procedures and to decreasing and simplifying documentation requirements, each Member shall ensure that such procedures and documentation requirements are applied in a manner that aims at reducing the time and cost of compliance.

[8. Each Member shall ensure that authorization procedures it adopts or maintains do not unduly complicate or delay the establishment, acquisition, expansion, management, conduct, operation and sale or other disposition of an investment in the territory of a Member.] ^{CAN}

[With a view to minimizing the incidence and complexity of procedures and to decreasing and simplifying documentation requirements, and taking into account the legitimate policy objectives and other factors such as changed circumstances, relevant new information, business practices, availability of techniques and technology, international best practices, and inputs from interested parties, each Member shall ensure that such procedures and documentation requirements are applied in a manner that aims at reducing the time and cost of compliance.] ^{JPN}

[5.2. Each Member shall ensure that administrative procedures and formalities covered by this framework are simple and easy to understand and do not act as barriers to the ability to invest. Each Member shall ensure that such procedures and documentation requirements are applied in a manner that aims at reducing the time and cost of compliance.] ^{MAR}

9 CLEAR CRITERIA FOR ADMINISTRATIVE PROCEDURES

9.1. Each Member may establish criteria to invest in its territory according to its national policies and to modify such criteria at any time, in accordance with its international obligations.

[5.3. Each Member may establish criteria to invest in its territory according to its national policies and to modify such criteria at any time, in accordance with its international investment policies.] ^{MAR}

9.2. If criteria are established, they shall be clear, transparent, objective and published beforehand. The assessment by a Member's relevant competent authorities of an application to invest in its territory shall be made on the basis of those criteria in accordance with its legal system. [The assessment of an application based upon those criteria or the conclusion reached by the relevant competent authorities regarding the application is not subject to the WTO Dispute Settlement Understanding.]

[5.4. If criteria are established, they shall be clear, transparent, objective and published beforehand. The assessment by a Member's relevant competent authorities of an application to invest in its territory shall be made on the basis of those criteria in accordance with its legal system. The assessment of an application based upon those criteria or the conclusion reached by the relevant competent authorities regarding the application is not subject to the WTO Dispute Settlement Understanding.] ^{MAR}

[2. If a Member adopts or maintains measures relating to the authorisation for an investment, the Member shall ensure that:

- a. such measures are based on objective and transparent criteria;¹⁸
- b. the procedures are impartial, and that the procedures are adequate for applicants to demonstrate whether they meet the requirements, where such requirements exist;] ^{EU}

[Each Member shall ensure that any criteria established by its competent authority for deciding whether or not to approve or admit a foreign investment application is clear, transparent, objective and published beforehand.] ^{JPN}

¹⁸ Such criteria may include, *inter alia*, competence and the ability to supply a service, including to do so in a manner consistent with a Member's regulatory requirements, such as health and environmental requirements. Competent authorities may assess the weight to be given to each criterion. For greater certainty, this provision shall not be construed as creating additional market access rights and obligations of Members.

9.3. [With a view to ensuring that measures of general application covered by this framework do not unduly complicate or delay investment, each Member shall ensure that any such criteria that it adopts or maintains are based on objective and transparent criteria, such as competence and the ability to engage in the activity, [and are relevant to the [investment sector/activity] to which they apply]].

10 AUTHORIZATION PROCEDURES

10.1. If a Member requires authorisation to invest in its territory, it shall ensure that its relevant competent authorities:

[1. If a Member requires authorisation for an investment, it shall ensure that its competent authorities:]^{EU}

10.1 Application timeframes and periods

- a. to the extent practicable, permit submission of an application at any time throughout the year [and without requiring applicants to be invited by the relevant competent authorities to do so];
- b. if a specific time period for applying exists, allow a reasonable period for the submission of an application;

[If a Member requires authorisation for an investment, it shall ensure that its competent authorities to the extent practicable permit submission of an application at any time throughout the year.¹⁹ If a specific time period for applying exists, the Member shall ensure that the competent authorities allow a reasonable period for the submission of an application.]^{EU}

10.2 Acceptance of copies in lieu of original documents²⁰

- 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 [, unless the competent authorities require original documents to protect the integrity of the authorization process].

10.3 Processing of applications

- d. to the extent practicable, provide an indicative timeframe for the processing of an application [and make publicly available that timeframe when established];
- [a. to the extent practicable, provide an indicative timeframe for processing of an application;]^{EU}

[5.5. Each Member must:

- a. establish a time frame for the processing of applications by investors for authorization for their investments;]^{MAR}
- e. at the request of the applicant, provide without undue delay information concerning the status of the application;
- [b. at the request of the applicant, provide without undue delay information concerning the status of an application;]^{EU}

¹⁹ Competent authorities are not required to start considering applications outside of their official working hours and working days.

²⁰ Also addressed in paragraph [14.1(b)] on "Submission of applications online, use of electronic forms, documents and copies".

- f. to the extent practicable, ascertain without undue delay the completeness of an application for processing under the Member's domestic laws and regulations;
- [c. to the extent practicable, ascertain without undue delay the completeness of an application for processing under the Member's domestic laws and regulations;]^{EU}
- g. if the relevant competent authorities consider an application complete for processing under the Member's domestic laws and regulations²¹, 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.²²
- [d. if they consider an application complete for processing under the Member's domestic laws and regulations²³, within a reasonable period of time after the submission of the application ensure that:
- i. the processing of the application is completed; and
 - ii. the applicant is informed of the decision concerning the application,²⁴ to the extent possible in writing;²⁵ EU

[5.5. Each Member must:

[b. inform the investor of the decision concerning the application, to the extent possible in writing.]^{MAR}

10.4 Authorization to enter into effect without delay

- h. ensure that the authorisation, once granted, enters into effect without undue delay [in accordance with the terms and conditions specified therein] [subject to the applicable terms and conditions].

[2. The competent authorities of a Member shall ensure that authorisation, once granted, enters into effect without undue delay, subject to the applicable terms and conditions.²⁶]^{EU}

[10 Bis RISK MANAGEMENT TECHNIQUES AND "SILENCE IS CONSENT" PRINCIPLE

[10.1 If a Member requires authorisation to invest in its territory, its relevant competent authorities...

10.1 Risk management techniques

- i. are encouraged, to the extent practicable and in a manner consistent with its legal system:
 - i. to implement policies and procedures based on the risk profile of investments;

²¹ Competent authorities may require that all information is submitted in a specified format to consider it "complete for processing".

²² "In writing" may include in electronic form.

²³ Competent authorities may require that all information is submitted in a specified format to consider it "complete for processing".

²⁴ Competent authorities may meet this requirement by informing an applicant in advance in writing, including through a published measure that lack of response after a specified period of time from the date of submission of the application indicates either acceptance or rejection of the application.

²⁵ "In writing" may include in electronic form.

²⁶ Competent authorities are not responsible for delays due to reasons outside their competence.

ii. to adopt or maintain risk management techniques in a manner which aims at reducing the time and cost to process an application;

iii. to design and apply risk management techniques in such manner as to avoid arbitrary or unjustifiable discrimination against, or a disguised restriction in respect of a particular investor or investment of any other Member;

iv. to expedite the processing of applications which the competent authority of the Member considers to be a low risk investor or investment of any other Member.

10.2 The "Silence is Consent" principle

- j. are encouraged, to the extent practicable, in a manner consistent with its legal system, and depending on the nature or sensitivity of the investment activity, to enable applicants to consider an application as having been approved in the event that no reply is received from the competent authorities within a specified timeframe.]^{MUS}

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, they shall, [within a reasonable period of time] [without undue delay] after the receipt of an application which it considers incomplete:

[1. If a Member requires authorisation for an investment, it shall ensure that its competent authorities:

- e. if they consider an application incomplete for processing under the Member's domestic laws and regulations, within a reasonable period of time, to the extent practicable:]^{EU}
- a. inform the applicant that the application is incomplete;
- [i. inform the applicant that the application is incomplete;]^{EU}
- 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
- [ii. 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]^{EU}
- c. provide the applicant with the opportunity to provide the additional information that is required to complete the application;
- [iii. provide the applicant with the opportunity²⁷ to provide the additional information that is required to complete the application;]^{EU}

[5.6. If the relevant competent authorities of a Member consider an application to be incomplete for processing under the Member's domestic laws and regulations, they shall, within a reasonable period of time, inform the applicant that the application is incomplete and provide them with the opportunity to complete the application.]^{MAR}

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.

[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; and]^{EU}

²⁷ Such opportunity does not require a competent authority to provide extensions of deadlines.

11.2. If an application is rejected, the relevant competent authorities of a Member shall, to the extent possible, either upon their own initiative or upon request of the applicant, inform the applicant [in writing and without undue delay] of:

[5.7. If an application is rejected, the relevant competent authorities of a Member shall, in accordance with the laws and regulations in force, inform the applicant of:]^{MAR}

- a. the reasons for rejection;^{Also MAR}
- b. the timeframe for an appeal or review against the decision; and^{Also MAR}
- c. if applicable, the procedures for resubmission of an application.^{Also MAR}

11.3. The reasons of rejection that are required to be provided under paragraph 11.2 encompass only the unfulfillment of the criteria referred to in this article.

11.4. [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.] [An applicant shall have the possibility of resubmitting, at its discretion, a new application that addresses the reasons for rejection.]

[f. if an application is rejected, to the extent practicable, either upon their own initiative or upon request of the applicant, inform the applicant of the reasons for rejection 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.]^{EU}

12 FEES AND CHARGES

12.1. Each Member shall ensure that the authorisation fees and charges^[Footnote] charged by its relevant 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, and do not in themselves restrict the investment. [The requirement of guarantees before an authorization is granted shall not in itself restrict the investment.]

[1. Each Member shall ensure that the authorisation fees²⁸ charged by its competent authorities are reasonable, transparent, based on authority set out in a measure, and do not in themselves restrict the investment.]^{EU}

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 paragraph [3.5 (publication and availability of information)] has been published and made readily available.

[2. Each Member shall accord an adequate time period between the publication of new or amended fees and charges related to authorisation procedures and their entry into force, except in urgent circumstances. Such fees and charges shall not be applied until information on them has been published.]^{EU}

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

[12 Bis FEES AND CHARGES – FINANCIAL SERVICES

Each Member shall ensure that its competent authorities, with respect to authorization fees they charge, provide an applicant with a schedule of fees or information on how fee amounts are

²⁸ Authorisation fees do not include fees for the use of natural resources, payments for auction, tendering or other non-discriminatory means of awarding concessions, or mandated contributions to universal service provision.

determined, and do not use the fees as a means of avoiding the Member's commitments or obligations under this Agreement.]^{CAN}

13 PERIODIC REVIEW OF ADMINISTRATIVE PROCEDURES AND REQUIREMENTS

13.1. Each Member shall in accordance with its legal system [periodically review] [review at intervals it deems appropriate]:

- a. its measures of general application in force covered by this framework [with a view to simplifying such measures in order to facilitate investment] [to determine whether specific measures it has implemented should be modified, streamlined, expanded or repealed so as to make the investment facilitation regime more effective in achieving the Member's policy objectives]; and
- b. its fees and charges [with a view to reducing their number and diversity, where practicable].

13.2. [To the extent consistent with each Member's legal system, the relevant competent authorities of each Member shall endeavour to make publicly available their plans for, and the results of, such periodic reviews.]

[1. Each Member is encouraged to review, at intervals it deems appropriate, its measures of general application covered by this Agreement to determine whether specific 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 its policy objectives and in addressing the specific needs of micro, small and medium enterprises (MSMEs).

2. Each Member is encouraged to periodically review its fees and charges with a view to reducing their number and diversity.

3. Members are encouraged to consider stakeholder feedback and make use of relevant international performance indicators such as the World Bank's ease of doing business score. Members are invited to share with the Committee their experiences in carrying out periodic reviews and policy recommendations resulting thereof.]^{EU}

14 USE OF ICT/E-GOVERNMENT INCLUDING ELECTRONIC APPLICATIONS²⁹

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

14.1. If a Member requires authorisation 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 [under similar conditions of authenticity as paper submissions]; 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.

[1. If a Member requires authorisation for an investment, it shall ensure that its competent authorities:

- a. taking into account their competing priorities and resource constraints, endeavour to accept applications in electronic format; and

²⁹ Including submission of applications online, and use of electronic forms, documents and copies.

- b. accept copies of documents, that are authenticated in accordance with the Member's domestic law, in place of original documents, unless the competent authorities require original documents to protect the integrity of the authorisation process.]^{EU}

14.2 Payment of fees and charges online³⁰

14.2. Each Member shall, to the extent practicable, adopt or maintain procedures allowing the option of electronic payment for fees and charges collected by relevant competent authorities [for processing an application, including those charged for the amendment or renewal of an authorization].

[2. Each Member shall, to the extent practicable, adopt or maintain procedures allowing the option of electronic payment for fees and charges collected by relevant competent authorities involved in the authorisation of investments.]^{EU}

[5.8. Each Member shall adopt or maintain, to the extent practicable, procedures for the electronic payment of fees and charges charged by the competent authorities for authorization, including those charged for the amendment or renewal of such authorization.]^{MAR}

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

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 to invest in its territory. If an investment is within the jurisdiction of multiple competent authorities, multiple applications for authorization may be required.

[Each Member shall, to the extent practicable, avoid requiring an applicant to approach more than one competent authority for each application for authorisation. If a service is within the jurisdiction of multiple competent authorities, multiple applications for authorisation may be required.]^{EU}

[5.9. Each Member shall, to the extent practicable, avoid requiring an investor to approach more than one competent authority for each application for authorization to invest in its territory. If an investment is within the jurisdiction of multiple competent authorities, multiple applications for authorization may be required.]^{MAR}

15.2. [To the extent practicable,] Members [shall endeavour to establish or maintain [a single window] [single window mechanisms] [at national or sub-national level, as they consider appropriate] for the submission of documents necessary for investment applications, and to utilize online platforms for the submission and processing of applications to the extent possible.

[5.10. To the extent practicable, Members shall endeavour to establish or maintain a single window at the national or regional level, as they consider appropriate, which shall seek to:

- a. welcome and support investors in the preparation and establishment of their investments in the territory of a Member country and assist them in obtaining information from the competent authorities;
- b. provide timely and useful information on investment regulatory issues in general or on specific projects;
- c. provide assistance on exploration projects and matching with key stakeholders of investment projects;
- d. facilitate the processing of complaints against a measure adopted or maintained by a Member affecting investors and their investments, with a view to preventing disputes;
- e. submit to the competent authorities, where appropriate, recommendations to improve the investment environment.

³⁰ Language modelled *mutatis mutandis* on Article 7.2 of the WTO Trade Facilitation Agreement.

5.11. The single window shall, to the extent possible, establish or maintain a single portal in one of the official languages of the WTO.] ^{MAR}

15.3. Where Members have established or do maintain such [a single window] [single window mechanisms], they [shall endeavour to] [should] ensure that:

- a. these mechanisms do not add to, nor detract from, the competencies and responsibilities of relevant competent authorities involved in the authorization to invest; and
- b. all information provided by investors through these mechanisms are protected according to the provisions of the applicable national legislation.

[5.12. Where Members have established or maintain such a single window, they shall endeavour to ensure that:

- a. single windows do not add to, nor detract from, the competencies and responsibilities of relevant competent authorities involved in the authorization to invest; and
- b. all information provided by investors to the single window services is protected according to provisions of the applicable national legislation.] ^{MAR}

[15 SINGLE PORTAL³¹

15.1. To the extent practicable, each Member shall endeavour to make available through a Single Portal laws and regulations adopted or maintained by Members referred to in paragraphs XX.

15.2. Members shall endeavour to ensure that the information provided through the Single Portal is kept updated in order to enable investors, persons seeking to invest and other interested parties to be informed of the agencies or competent authorities involved in the authorization and operation of investments, as well as the information and documents required by them.

15.3. The Single Portal shall contain the contact information, and Uniform Resource Locators (URL) if any, of the Investment Facilitator set out in paragraph 18.1.

15.4. With a view to facilitating investments, especially of micro, small and medium-sized enterprises (MSMEs), each Member shall, to the extent practicable, publish on the Single Portal the laws and regulations referred to in paragraphs 15.1 in one of the official languages of the WTO.

15.5. To the extent practicable and in accordance with its legal system, each Member is encouraged to utilize such online platform as a single-entry point for the submission and processing of all documents necessary for investment applications at national or sub-national level.^{32]} ^{BRA}

16 INDEPENDENCE OF COMPETENT AUTHORITIES

16.1. If a Member [requires authorisation] [adopts or maintains a measure relating to authorisation] to invest in its territory, the Member shall ensure that the relevant competent authorities reach and administer their decisions in [an independent manner] [a manner independent from any investor established in its territory engaged in an activity for which authorization is required]. ^[Footnote]

[If a Member adopts or maintains a measure relating to authorisation for an investment, the Member shall ensure that the competent authority reaches and administers its decisions in a manner independent from any enterprise carrying out the economic activity for which authorisation is required.^{33]} ^{EU}

³¹ This revised draft proposal by Brazil (INF/IFD/RD/60) replaces the previous proposal contained in document INF/IFD/RD/53.

³² Documents uploaded through the Single Portal shall not be subsequently required by any agency or regulatory body, except in cases in which the authenticity of the electronic document cannot be established or ensured through electronic means alone.

³³ This provision does not mandate a particular administrative structure.

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

17 APPEAL AND REVIEW

17.1. Each Member shall establish or maintain tribunals or judicial, quasi-judicial or administrative procedures, which provide [, on request of an affected investor,] for the prompt review of and, where justified, appropriate remedies for, administrative decisions affecting the 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.

[1. Each Member shall maintain or institute as soon as practicable judicial, arbitral or administrative tribunals or procedures which provide, at the request of an affected investor, for the prompt review of, and where justified, appropriate remedies for, administrative decisions affecting investment. 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.

2. The provisions of paragraph 1 shall not be construed to require a Member to institute such tribunals or procedures where this would be inconsistent with its constitutional structure or the nature of its legal system.]^{EU}

[5.13. Each Member shall establish or maintain tribunals or judicial, quasi-judicial or administrative procedures, on request of an affected investor, for the prompt review of, and where 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 shall not have any substantial interest in the outcome of the matter.]^{MAR}

[Each Member shall establish or maintain tribunals or judicial, quasi-judicial or administrative procedures, which provide [, on request of an affected investor,] for the prompt review of and, where justified, appropriate remedies for, administrative decisions affecting the investment. Such tribunals shall be impartial and independent of any authority whether or not it is 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 and in law provide for an objective and impartial review.]^{TPKM}

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

- a. a reasonable opportunity to support or defend their respective positions; and ^{Also MAR}
- 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. ^{Also MAR}

[3. Each Member shall ensure that the parties to the proceedings in paragraph 1 are provided with the right to:

- a. a reasonable opportunity to support or defend their respective positions and submit all relevant information; and
- b. a decision based on the evidence and submissions of record or, where required by its law, the record compiled by the administrative authority.

4. The decision in paragraph 3 shall, subject to appeal or further review as provided for in its law, be implemented by the authority entrusted with administrative enforcement.]^{EU}

17.3. Each Member shall ensure that its procedures for appeal or review are carried out in a non-discriminatory manner. ^{Also MAR}

**[SECTION III BIS: FACILITATION OF THE ENTRY AND TEMPORARY STAY OF
BUSINESS PERSONS FOR INVESTMENT PURPOSES³⁴**

1.1 This Section applies to measures affecting the entry and temporary stay of business persons of a Member engaging or seeking to engage in the conduct of investment activities in another Member.

1.2 This Section shall not apply to measures affecting natural persons seeking access to the employment market of a Member, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.

1.3 Nothing in this Section shall prevent a Member from applying measures to regulate the entry of business persons into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of business persons across its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to the other Member under this Agreement.³⁵

1.4 Members recognize the importance of temporary movement of business persons to facilitate investment activities and ensure that all measures of general application covered by this Section are administered in a reasonable, objective and impartial manner.

1.5 Each Member shall promptly publish, online where possible, information on requirements for entry and temporary stay under this Section, including explanatory materials, relevant forms and documents, that will enable interested persons of the other Members to become acquainted with those requirements.

1.6 The information referred to in paragraph 1.5 shall include, where applicable, the following information, *inter alia*:

- a. categories of visas and work permits or any similar type of authorization regarding entry and temporary stay;
- b. documentation and evidence required and conditions to be met;
- c. method of filing and options on where to file, such as consular offices or online;
- d. processing time;
- e. application fees;
- f. period of validity of the visas and work permits;
- g. conditions for extensions or renewal;
- h. reference to relevant immigration laws of general application;
- i. review and/or appeal procedures, where these exist; and
- j. [respective requirements referred to in paragraph 1.17 of this Section.]^{TUR}

1.7 Members shall, in accordance with their domestic laws and regulations, ensure documents required for applications for the granting of entry and temporary stay to be relevant and commensurate with the purpose for which they are collected.

³⁴ This section is based on the joint proposal by China and Turkey (INF/IFD/RD/65), which replaces the previous proposals on this element submitted by each Member, respectively, in documents (INF/IFD/RD/48) and (INF/IFD/RD/49).

³⁵ The sole fact of requiring a visa for business persons shall not be regarded as nullifying or impairing benefits under the terms of this Agreement.

1.8 Each Member shall expeditiously process completed applications concerning entry and temporary stay under this Section, including extension application thereof.

1.9 At the request of an applicant, the Member that has received a completed application shall inform the applicant of the status of the application. This information shall normally be provided free of charge.

1.10 In case of an incomplete application, Members shall inform the applicant of the information required to complete the application and provide opportunity to the applicant to correct deficiencies within a reasonable period of time.

1.11 If a Member requires additional information from an applicant in order to process the application for temporary stay, the authority shall promptly notify the applicant without undue delay and provide the applicant with the opportunity to supply that additional information within a reasonable period of time.

1.12 After a decision has been taken, the Member concerned shall promptly notify the applicant of the outcome of its application.

1.13 If an application is approved, the notification shall include, if applicable, the period of stay and any other terms and conditions.

1.14 Applicants shall be given an opportunity to apply for renewal or extension of authorisation for temporary stay. Each Member shall ensure that the procedures for application for the renewal or extension of authorisation for temporary stay are pre-established and clearly specified.

1.15 Each Member shall ensure application fees in respect of entry and temporary stay under this Section are reasonable, or in the principle of reciprocity.

1.16 Members shall endeavour to accept and process applications in electronic format.

1.17 [When a Member decides to grant entry and temporary stay to a business person of another Member, and when the respective requirements are fulfilled, the granting Member shall issue multiple entry visas in case the applicant requests that type of visa.]^{TUR}

1.18 For the purpose of this Section, **business person** of a Member means:

- a. a natural person who has the nationality of a Member; or
- b. a permanent resident of a Member that, prior to the date of entry into force of this Agreement, has made a notification consistent with Article XXVIII(k)(ii)(2) of GATS that that Member accords substantially the same treatment to its permanent residents as it does to its nationals,

[who is in a supervisory or executive capacity at a senior level, or involves essential skills, and is responsible for setting up, developing or administering an investment for which a substantial amount of capital has been or will be invested.

Central, regional or local governments and authorities of a Member are encouraged to formulate specific eligibility criteria for business persons for investment purposes. Such criteria shall, to the extent possible, include business persons for investment purposes and their spouses and children.]^{CHN}

[who is an employee of an investor of a Member transferred temporarily³⁶ to an investment in another Member or representative of an investment of a Member who enters the territory of another Member temporarily for the purpose of setting up an investment. Subject to each Member's legislation, the categories of business persons may include short-term business visitors, managers, executives, specialists and other employees of the investor.]^{TUR}]^{CHN, TUR}

³⁶ "Temporarily" means "for a limited time" which is defined in accordance with the domestic legislation of the host Member.

[SECTION III BIS ON FACILITATION OF MOVEMENT OF NATURAL PERSONS FOR INVESTMENT PURPOSES

6.1. This Section applies to measures affecting the entry and temporary stay of natural persons of a Member who engages in investment activities in the territory of another Member.

6.2. This Section shall not apply to measures affecting natural persons seeking access to the employment market of a Member, nor shall it apply to measures regarding citizenship, residence or employment on a permanent or temporary basis.

6.3. Nothing in this Section shall prevent a Member from applying measures to regulate the entry of natural persons into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to the other Member under this framework.

6.4. Each Member shall provide the necessary facilities and permissions for entry, exit, stay and work of natural persons of another Member who have a permanent or temporary relationship with the investment, such as administrators, experts and technicians, in accordance with the legislation in force in the Member country.

6.5. Members shall make available to natural persons online information on the requirements and procedures for entry and temporary stay, including relevant forms and documents, and explanatory materials that will enable them to become acquainted with applicable requirements and procedures.

6.6. In case of an incomplete application, the Member shall inform the applicant without undue delay of the information required to complete the application.

6.7. Each Member shall process within a reasonable period of time complete applications for the grant of entry and temporary stay submitted by natural persons of other Members covered by this Section and shall notify the applicant of the outcome of their applications, including the period of stay and any other terms and conditions.

6.8. If an application is refused, the Member concerned shall inform the applicant in writing of the reasons for such refusal. The applicant shall be given an opportunity to appeal that decision and/or to submit a new application.]^{MAR}

[SECTION III TER: TRANSFERS AND SUBROGATION]**[NEW PROPOSALS:]****[Transfers]**

1. Each Member shall ensure that all transfers relating to investments in that Member of an investor of other Members may be freely made into and out of that Member without delay. Such transfers shall include, in particular, though not exclusively:

- a. the initial capital and additional amounts to maintain or increase investments;
- b. profits, interest, capital gains, dividends, royalties, fees and other current incomes accruing from investments;
- c. payments made under a contract including loan payments in connection with investments;
- d. proceeds of the total or partial sale or liquidation of investments; and
- e. earnings and remuneration of personnel from those other Members engaged in activities in connection with investments in that Member.

2. Each Member shall further ensure that such transfers may be made without delay in freely usable currencies at the market exchange rate prevailing on the date of the transfer.

3. Notwithstanding paragraphs 1 and 2, each Member may delay or prevent a transfer through the equitable, non-discriminatory and good-faith application of its laws and regulations relating to:

- a. bankruptcy, insolvency or the protection of the rights of creditors;
- b. issuing, trading or dealing in securities;
- c. criminal or penal offenses; or
- d. ensuring compliance with orders or judgments in adjudicatory proceedings.

[Subrogation]

If a Member or its designated agency makes a payment to any investor of that Member under an indemnity, guarantee or insurance contract, pertaining to an investment of such investor in another Member, that other Member shall recognize the assignment to that Member or its designated agency of any right or claim of such investor on account of which such payment is made and shall recognize the right of that Member or its designated agency to exercise by virtue of subrogation any such right or claim to the same extent as the original right or claim of the investor. As regards payment to be made to that Member or its designated agency by virtue of such assignment of right or claim and the transfer of such payment, the provision of Article XX (Transfers) shall apply *mutatis mutandis*.]^{JPN}

[SECTION III - QUATER: COMPLIANCE WITH DOMESTIC LAWS AND INTERNATIONAL OBLIGATIONS]

8.1. Investments are governed by the laws and regulations in force in the territory of a Member, and investors and their investments shall comply with such laws and regulations throughout their existence in the territory of the Member country.

8.2. After entry, investors and investments shall comply with the measures in force in the territory of a Member that prescribe formalities for the establishment of an investment and accept the jurisdiction of that Member with respect to investment.

8.3. An investor shall provide the Member State with any information that it requires regarding the investment for decision making purposes related to that investment or for statistical purposes only. The Member shall protect any information of a confidential nature in the face of a disclosure that would cause injury to the competitive position of the investor or the investment.

8.4. An investor shall not commit fraud or provide false information regarding their investment. A substantial breach of this paragraph by an investor constitutes a violation of the Member State's domestic law concerning the establishment of an investment.

8.5. Investors and their investments shall comply with the tax legislation of the Member States, including payment within the prescribed time limits of their tax and social security obligations.

8.6. Investors shall manage and operate their investments in accordance with international environmental, labour and human rights obligations.]^{MAR}

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

18 CONTACT /FOCAL POINT/OMBUDSPERSON TYPES OF MECHANISMS

18.1. Each Member shall to the extent practicable and in a manner consistent with its legal system designate, maintain or establish a [contact/focal point] [appropriate mechanism], which shall have the following responsibilities:

- a. responding to enquiries from investors³⁷ 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 [5.1] of the framework or any other mechanisms as appropriate,^[Footnote]
- b. assisting investors from any other Member in obtaining information from relevant competent authorities;
- c. assisting investors from any other Member by seeking to resolve investment-related difficulties in collaboration with relevant competent authorities;
- d. [facilitating the settling of grievances [regarding measures adopted or maintained by a Member affecting investors and their investments] [from/with investors], 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]].

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

[1. Each Member shall maintain or establish appropriate mechanisms for responding to enquiries from investors or persons seeking to invest regarding the measures covered by this Agreement.³⁸

2. Members are encouraged to respond to enquiries from enquiry points established by other Members under this Article in order to contribute to the effective application of this Agreement.

3. Each Member shall endeavour to establish or maintain appropriate mechanisms with the task of seeking to effectively resolve problems for investors or persons seeking to invest that may arise from the application of any measure of general application covered by this Agreement. Such processes should be easily accessible, including for micro, small and medium enterprises (MSMEs), time-bound and transparent. They shall be without prejudice to any appeal or review procedures which the Member establish or maintain. They shall also be without prejudice to the Member's rights and obligations under the Dispute Settlement Understanding.

4. Any information provided under this Article shall be without prejudice as to whether the measure is consistent with this Agreement.]^{EU}

³⁷ According to the working definition of "investor" in Section I, this term covers a natural or a juridical person that attempts to make, is making or has made an FDI in the territory of another Member.

³⁸ It is understood that resource constraints may be a factor in determining whether a mechanism for responding to enquiries is appropriate.

[18 INVESTMENT FACILITATOR³⁹

18.1. Each Member shall designate, establish or maintain an Investment Facilitator, which, in cooperation with relevant competent authorities, shall, upon request:

[Each Member shall designate, establish or maintain an Investment Facilitator, which may be a public or private entity experienced in the matters covered by this framework and shall, in cooperation with relevant competent authorities, upon request:] ^{TPKM}

- a. assist investors to obtain information from competent authorities;
- b. respond to enquiries from investors and persons seeking to invest regarding the measures covered by this Agreement;⁴⁰ and
- c. seek to resolve the problems of investors or persons seeking to invest that may arise from the application of measures covered by this Agreement, with a view to preventing disputes.⁴¹

18.2. The Investment facilitator is encouraged to recommend to the competent authorities, as appropriate, measures to improve the investment environment.

18.3. Members that deem appropriate may delegate additional functions to their Investment Facilitator.

18.4. Members are encouraged not to require the payment of a fee for the services provided by the Investment Facilitator. If any, Members shall limit the amount of such fees to the approximate cost of the services rendered.

18.5. Investment Facilitators are encouraged to cooperate with each other in matters related to the responsibilities referred to in paragraphs 18.1 and 18.2.

18.6. Any information provided under this Article shall be without prejudice as to whether the measure is consistent with this Agreement.] ^{BRA}

[Business Obstacle Alert Mechanism

18.2 Each Member shall, to the extent practicable, endeavour to implement an online Business Obstacle Alert Mechanism to effectively resolve problems faced by investors in the application of this framework.

18.3 The Business Obstacle Alert Mechanism shall, inter alia, make provision:

- a. where appropriate, for the publication of problems faced by investors or persons seeking to invest, as well as measures taken to resolve these problems;
- b. for a platform for the business community to report, for resolution by the competent authorities, obstacles faced in relation to investment;
- c. for a database of problems as well as preventive measures applied for systemic or recurrent problems; and
- d. for monitoring progress in resolving obstacles.] ^{MUS}

³⁹ This revised draft proposal by Brazil (INF/IFD/RD/63) replaces the previous proposal contained in document INF/IFD/RD/53.

⁴⁰ The Investment Facilitator shall endeavour to respond to enquiries within a reasonable time period set by each Member, which may vary depending on the nature or complexity of the request.

⁴¹ This responsibility shall be without prejudice to neither appeal or review procedures which the Member establish or maintain, nor to the Member's rights and obligations under the Understanding on Rules and Procedures Governing the Settlement of Dispute (DSU).

19 DOMESTIC REGULATORY COHERENCE

19.1. For the purposes of this framework, 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; and
- c. the role that regulation plays in achieving their policy objectives.

19.3. To assist in designing a measure to best achieve the Member's policy objective, a Member may encourage relevant competent authorities 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.

[The regulatory impact assessments may include positive and negative environmental, social and economic impacts, especially the impacts on small and medium enterprises, and whether there are non-regulatory alternatives. Members are encouraged to publish the regulatory impact assessment reports.]^{TPKM}

19.4. [In accordance with its legal system,] [e]ach Member [shall] [should] designate a mechanism to facilitate domestic coordination for the implementation of this framework.

[1. Each Member is encouraged to carry out, in accordance with its respective rules and procedures, an impact assessment of major regulatory measures within the scope of this Agreement, it is preparing.

2. When conducting such impact assessments, the regulatory authority of the Member may offer reasonable opportunities for any person, on a non-discriminatory basis, to provide comments and take into consideration the potential impact of the proposed regulation on micro, small and medium enterprises (MSMEs).

3. Each Member should ensure that its authorities and agencies responsible for procedures related to investment cooperate with one another and coordinate their activities in order to facilitate investment.]^{EU}

[20 DOMESTIC SUPPLIER DATABASES⁴²

20.1. Each Member is encouraged to promote the establishment of one, or more, domestic supplier database(s) with the aim of making available to investors and persons seeking to invest information on possible relevant domestic suppliers in specific sectors, including potential subcontractors and service providers.

20.2. This database may exhibit, inter alia, the following features, where possible:

- a. highlight local production and services capacity through company factsheets;
- b. be searchable by sector or industry, name of product or service, location, certifications, etc.;

⁴² This revised draft proposal by Brazil (INF/IFD/RD/62) replaces the previous proposal contained in document INF/IFD/RD/53.

- c. be available online, preferably on the Single Portal;
- d. be available in one of the WTO official languages; and
- e. be updated.

20.3. Such domestic supplier databases have an information purpose only and, therefore, Members shall not be liable in any form whatsoever for information shared through these databases.]^{BRA}

20 CROSS-BORDER CO-OPERATION ON INVESTMENT FACILITATION

[21 CROSS-BORDER CO-OPERATION ON INVESTMENT FACILITATION FOR DEVELOPMENT]^{BRA}

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

[21.1. Each Member shall designate a contact point⁴³ to facilitate the cooperation between the Members on matters, including technical guidance or assistance and support for capacity building, relating on any matter covered by the Agreement.]^{BRA}

20.2. On request, a Member [shall] [should] [to the extent practicable] provide specific information to another Member on any matter covered by the framework and respond to questions related to [any measure of general application 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].

[21.2. On request, a Member shall, to the extent practicable, provide specific information and respond to questions of another Member on any matter covered by the Agreement.]⁴⁴ ^{BRA}

[4.5. Each Member shall provide, at the request of another Member, information on any measure that may substantially affect the investments of investors from the latter Member.]^{MAR}

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

[21.3. When a Member provides confidential information to another Member, in accordance with this paragraph, the Member shall respect the level of protection of information provided by the submitting Member, according to the respective national legislation on the matter.]^{BRA}

20.4. Areas for cooperation may include:

[21.4. Areas for continuous cooperation may include:]^{BRA}

[Areas for cooperation among competent authorities of Members may include:]^{TPKM}

- a. exchange of information and sharing of experiences regarding the implementation of this framework;

[a. exchange of information and sharing of experiences regarding the implementation of this Agreement;

[b. exchange of expertise on regulatory and institutional matters, including project evaluation assistance, relating to any matter covered by this Agreement;]^{BRA}

⁴³ Each Member shall notify the Committee of the details of its contact point for the exchange of cross-border co-operation.

⁴⁴ A member can ask questions to other Member related to any measure covered by the Agreement irrespective of their notification to the Committee on Investment Facilitation.

b. exchange of information with respect to investment opportunities [as well as information on domestic investors];

[c. exchange of information with respect to investment opportunities;]^{BRA}

c. collection of data and statistics relating to investment;

[d. collection and compilation of data and statistics relating to investments;

[e. promotion of cooperation and facilitation agendas with a view to increasing investment for development, including investment in and by micro, small and medium enterprises;]^{BRA}

d. [promote business partnerships and the creation of information networks that foster the development of MSMEs]; and

[f. promote business partnerships and the creation of information networks that foster the development of MSMEs]; and]^{BRA}

e. any other issue of interest to the Members.

[g. any other issue of interest to the Members.]^{BRA}

[g. supply of publicly available non-confidential information relevant to their investors and/or investments.]^{TPKM}

[21.5 Members are encouraged to share with the Committee of Investment Facilitation their cooperation experiences in the areas set out in subparagraphs 20.4 a., b., c., d., e., f., and g.]^{BRA}

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

21 GENERAL PRINCIPLES

21.1. Members shall bear in mind the special difficulties experienced by developing and least-developed country Members in formulating and implementing measures covered by this framework, and in implementing obligations under this framework.

[13.1. Members shall take into consideration the special difficulties experienced by developing and least developed country Members in formulating and implementing measures covered by this framework, and in implementing obligations under it.]^{MAR}

21.2. Assistance and support for capacity building should be provided to help developing and least-developed country Members implement the provisions of this framework, in accordance with their nature and scope.

[13.2. Technical assistance and support for capacity building should be provided to help developing and least developed country Members implement the provisions of this framework, in accordance with their nature and scope.]^{MAR}

21.3. 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.^{Also MAR}

21.4. Least-developed country Members will only be required to undertake commitments to the extent consistent with their individual development, financial, administrative and institutional capabilities.

[13.4. Least developed country Members shall only be required to undertake commitments to the extent consistent with their individual development, financial, administrative and institutional capabilities.]^{MAR}

21.5. The Committee on Investment Facilitation shall examine periodically the special and differential treatment, as laid down in this framework, granted to developing and least-developed country Members.^{Also MAR}

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

[The provisions contained in Sections I through IV and VI of this framework shall be implemented by developing and least-developed country Members in accordance with this Section.]^{JPN}

22 IMPLEMENTATION

22.1. 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].

22.2. 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.

[N.B.: Members shall, in the near future, determine the provisions they are including under each of the Categories A, B and C for the implementation of the multilateral framework and the dates for the implementation of Categories B and C.]^{MAR}

23 NOTIFICATION OF DATES FOR IMPLEMENTATION OF CATEGORIES B AND C

[TBD]

24 GRACE PERIOD FOR THE APPLICATION OF THE UNDERSTANDING ON RULES AND PROCEDURES GOVERNING THE SETTLEMENT OF DISPUTES

[TBD]

25 TECHNICAL ASSISTANCE AND CAPACITY BUILDING

[25 TECHNICAL ASSISTANCE AND CAPACITY BUILDING ON INVESTMENT FACILITATION FOR DEVELOPMENT]^{BRA}

25.1. Developed country Members, and to the extent possible, developing country Members in a position to do so, agree to provide assistance and support for capacity building to developing country Members and in particular to least-developed country Members, upon request and on mutually agreed terms and conditions. Such activities shall seek to complement and build on existing frameworks or arrangements between the Members concerned.

[25.1 Developed country Members and developing country Members in a position to do so, shall, to the extent possible, provide technical assistance and support for capacity building⁴⁵ to developing country Members and in particular to least-developed country Members, upon request and on mutually agreed terms and conditions. Such activities shall seek to complement and build on existing frameworks or arrangements between the Members concerned.

25.2 Technical assistance shall be aimed at building and strengthening the capacities, including of regional and local governments, needed to fully implement the obligations and commitments covered by this Agreement. Where a developing or least-developed country Member continues to lack the necessary sustainable capacity, implementation of the provision(s) concerned will not be required until implementation capacity has been acquired.

25.3 With a view to strengthening the domestic investment environment and its efficiency, technical assistance should also be aimed at building capacity for the preparation of regulatory feasibility studies for potential investment projects, including environmental and social impact assessments and regulatory and administrative requirements, of developing and least-developed country Members.

25.4 Members shall endeavor to apply the following principles for providing assistance and support for capacity building with regard to the implementation of this framework:

- a. take account of the overall developmental framework of recipient countries and regions and, where relevant and appropriate, ongoing reform and technical assistance programs;

⁴⁵ The technical assistance and support for capacity building can be provided either bilaterally or multilaterally, through the appropriate international organizations.

- b. ensure that ongoing investment facilitation reform activities of the private sector are factored into assistance activities;
- c. promote internal coordination between their investment and development officials, both in capitals and in Geneva, in the implementation of this Agreement and technical assistance;
- d. promote coordination between and among Members and other relevant institutions, including regional economic communities, to ensure maximum effectiveness of and results from this assistance; and
- e. encourage use of existing in-country and regional coordination structures such as roundtables and consultative groups to coordinate and monitor implementation activities.]
BRA

[25.1.1. Donor Members agree to facilitate the provision of assistance and support for capacity building to developing country and least-developed country Members on mutually agreed terms either bilaterally or through the appropriate international organizations. The objective is to assist developing country and least-developed country Members to implement the provisions of Sections I through IV and VI of this framework.

25.1.2. Through the relevant development cooperation mechanisms and consistent with the principles of technical assistance and support for capacity building as referred to in paragraph 25.1.3, development partners shall endeavour to provide assistance and support for capacity building in this area in a way that does not compromise existing development priorities.

25.1.3. Members shall endeavour to apply the following principles for providing assistance and support for capacity building with regard to the implementation of this framework:

- a. take account of the overall developmental framework of recipient countries and regions and, where relevant and appropriate, ongoing reform and technical assistance programs;
- b. include, where relevant and appropriate, activities to address regional and sub-regional challenges and promote regional and sub-regional integration;
- c. ensure that ongoing investment facilitation reform activities of the private sector are factored into assistance activities;
- d. promote coordination between and among Members and other relevant institutions, including regional economic communities, to ensure maximum effectiveness of and results from this assistance;
- e. encourage use of existing in-country and regional coordination structures such as roundtables and consultative groups to coordinate and monitor implementation activities; and
- f. encourage developing country Members to provide capacity building to other developing and least-developed country Members and consider supporting such activities, where possible.]^{JPN}

[13.7. To the extent possible, developed countries and developing country Members agree to provide assistance and support for capacity building to developing countries and, in particular least developed countries, upon request and on mutually agreed terms and conditions. The objective is to assist developing and least developed country Members to implement the provisions of this framework.

13.8. Members shall endeavour to apply the principles set out in this framework, for the provision of assistance and support for capacity building in relation to the implementation of this framework.]^{MAR}

25.2. 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.

25.3. 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.

[25.6 Donor Members assisting developing country Members and least-developed country Members shall establish and submit to the Committee:

- a. contact points of their agencies responsible for providing assistance and support for capacity building related to the implementation of this Agreement including, where practicable, information on such contact points within the country or region where the assistance and support is to be provided; and
- b. information on the process and mechanisms for requesting assistance and support for capacity building.

25.7 Developing country Members declaring themselves in a position to provide assistance and support are encouraged to provide the information above.

25.8 Members may provide the information referred to in paragraphs 25.6 and 25.7 through internet references and shall update the information as necessary. The Secretariat shall make all such information publicly available.

25.9 To provide transparency to developing country Members and least-developed country Members on the provision of assistance and support for capacity building for implementation of this Agreement, each donor Member assisting developing country Members and least-developed country Members with the implementation of this Agreement shall submit to the Committee, at entry into force of this Agreement and annually thereafter, the following information on its assistance support for capacity building that was disbursed in the preceding 12 months and, where available, that is committed in the next 12 months:⁴⁶

- a. description of the assistance and support for capacity building;
- b. the status and amount committed/disbursed;
- c. procedures for disbursement of the assistance and support;
- d. the beneficiary Member or, where necessary, the region; and
- e. the implementing agency in the Member providing assistance and support.]^{BRA}

25.1 Cooperation with other international organizations

25.4. 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 assistance and support for capacity building programs that are commensurate with their development levels and macro-economic objectives. Such collaboration should aim to enhance coordination in order to maximize the benefits of the framework.

⁴⁶ The information provided will reflect the demand driven nature of the provision of assistance and support for capacity building.

SECTION VI: CROSS-CUTTING ISSUES

[7 MAINTENANCE OF PUBLIC HEALTH, LABOUR, ENVIRONMENTAL AND SAFETY STANDARDS

7.1. Members recognize that national measures related to public health, labour, the environment or safety should not be relaxed to facilitate and encourage investment.]^{MAR}

26 CORPORATE SOCIAL RESPONSIBILITY

[26 RESPONSIBLE BUSINESS CONDUCT]^{BRA}

26.1. In accordance with its legal system, each Member [shall] [should] encourage enterprises operating within its territory or subject to its jurisdiction to voluntarily incorporate in their internal policies 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.

[Taking into account the importance of enterprises implementing due diligence in order to identify and address adverse impacts in their operations, their supply chains and other business relationships, in accordance with their domestic laws, Members shall promote the uptake by companies of corporate social responsibility or responsible business practices, consistent with relevant internationally agreed instruments that have been endorsed or are supported by each Member, such as the UN Guiding Principles on Business and Human Rights, The ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy and the OECD Guidelines for Multinational Enterprises and related due diligence guidance.]^{ARG}

[26.1. In accordance with its legal system, each Member shall encourage enterprises and investors operating within its territory or subject to its jurisdiction to voluntarily incorporate in their internal policies responsible business conduct practices with a view to achieving the highest possible level of contribution to the sustainable development⁴⁷ of the host Member and the local community.]^{BRA}

[1. Members recognise the importance of investors implementing due diligence in order to identify and address adverse impacts, such as on the environment and labour conditions, in their operations, their supply chains and other business relationships. Members shall promote the uptake by enterprises and investors of corporate social responsibility or responsible business practices with a view to contributing to sustainable development.]^{EU}

[In accordance with its laws and regulations, each Member should encourage enterprises operating in it or subject to its jurisdiction to voluntarily incorporate in their internal policies 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 each Member shall not adopt or maintain measures for the purposes of this paragraph, which impose a new or more burdensome requirement, restriction or prohibition on such enterprises and are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between Members or a disguised restriction on trade.]^{JPN}

[Members reaffirm the importance of encouraging enterprises operating within its territory or subject to its jurisdiction to voluntarily incorporate internationally recognized standards, guidelines, and principles of corporate social responsibility that have been endorsed or are supported by Members to their internal policies, which may include the OECD Guidelines for Multinational Enterprises. These standards, guidelines, and principles may address areas such as labor, environment, gender equality, human rights, indigenous and aboriginal peoples' rights, and corruption.]^{MEX}

⁴⁷ The three dimensions of sustainable development: economic, environmental and social.

26.2. In this regard, each Member should take into account relevant internationally agreed instruments that have been endorsed or are supported by that Member, such as the United Nations Global Compact, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, and the OECD Guidelines for Multinational Enterprises.

[26.2. Aiming to increase investment for development and to contribute to the 2030 Agenda for Sustainable Development, Members recognize the importance that enterprises and investors referred to in paragraph 1 shall endeavour to comply with the following voluntary principles and standards of responsible business conduct, in accordance with the laws adopted by the host Member and with Members' international commitments on this matter, 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:

- a. Encouraging the use of technologies in their investments that contribute to sustainable development;
- b. Respecting human rights of all stakeholders related to the investment' activities;
- c. Stimulating the strengthening of local capacities, including by facilitating the access of workers to professional qualification, through close cooperation with the local community;
- d. 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 enterprises and investors are subjected;
- e. Supporting and maintaining the implementation of due diligence and principles of sound corporate governance, in order to identify and address adverse impacts, such as on the environment and labor conditions, in their operations, their supply chains and other business relationships; and
- f. Respecting local political processes and activities.

26.3. Members shall encourage enterprises and investors to keep the National Investment Facilitator informed about their internal responsible business conduct policies and practices.]^{BRA}

[2. Members shall support the dissemination and use of relevant internationally agreed instruments such as the UN Guiding Principles on Business and Human Rights, the UN Global Compact, the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy and the OECD Guidelines for Multinational Enterprises and related due diligence guidance.

3. Members agree to exchange information as well as best practices on issues covered by this article, including on possible ways to facilitate the uptake by enterprises and investors of corporate social responsibility, responsible practices and reporting, in the Committee. To this end, the Committee shall maintain close contact with relevant international organisations active in the field of corporate social responsibility or responsible business conduct.]^{EU}

[10 SOCIAL AND ENVIRONMENTAL RESPONSIBILITY] ^{MAR}

[10.1. Investors and their investments shall endeavour to contribute to the sustainable development of the Member State in whose territory the investment is made and of the local community through responsible practices.

10.2. Investors of a Member in the territory of another Member shall endeavour to contribute to the training of human capital, job creation and technology transfer.

10.3. Investors of a Member in the territory of another Member shall endeavour to apply the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy of the International Labour Organization and the OECD Guidelines for Multinational Enterprises and the specific or sectoral standards of responsible conduct encouraged by Members.

10.4. Investors shall manage or operate their investments in accordance with international obligations concerning human and labour rights, responsible business conduct, health and environmental protection, in line with climate change mitigation and adaptation objectives.]^{MAR}

[4.6. A Member has the right to request information from an investor or its Member State of origin regarding its record of corporate governance and investor practices, including in its State of origin. The requesting Member shall protect the confidential business information it receives in this regard.]^{MAR}

27 MEASURES AGAINST CORRUPTION

27.1. In accordance with its legal system, each Member shall [adopt or maintain measures] [ensure that measures are taken] to prevent and fight corruption, money laundering and terrorism financing with regard to matters covered by this framework, and, where appropriate, provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures.

[Each Member shall ensure that measures are taken to prevent and fight corruption, money laundering, terrorism financing, tax fraud and tax evasion, with regard to matters covered by this framework, in accordance with its legal system and internationally agreed standards that have been endorsed or are supported by that Member such as the United Nations Convention against Corruption and the OECD Guidelines for Multinational Enterprises as well as the current standards in the field of international taxation.]^{EU}

[Each Member shall ensure that measures are taken to prevent and fight corruption, money laundering, terrorism financing, tax fraud and tax evasion, with regard to matters covered by this framework⁴⁸, in accordance with its legal system and internationally agreed standards that have been endorsed or are supported by that Member such as the United Nations Convention against Corruption and the OECD Guidelines for Multinational Enterprises as well as the current standards in the field of international taxation.]^{TPKM}

[27.1. Each Member reaffirms the importance of transparent measures regarding investment and of avoiding conflicts of interest and corrupt practices, in accordance with applicable international instruments.

27.2. For the purposes of paragraph 27.1, each Member reaffirms its commitment to adopt or maintain measures, in conformity with its obligations under the United Nations Convention Against Corruption and in accordance with its laws and regulations, to prevent and fight corruption with regard to matters covered by this framework, and, where appropriate, provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures.]^{JPN}

[27.3 Article 31 (Dispute Settlement) shall apply to this Article, except for matters arising from the application and enforcement of anti-corruption of laws of Members.]^{TPKM}

[27 MEASURES AGAINST CORRUPTION⁴⁹

27.1 Scope

27.1.1. The scope of this Article is limited to measures to eliminate corruption with respect to any matter covered by this Agreement.

27.1.2. The Members recognise that the description of offences adopted or maintained in accordance with this Article, and of the applicable legal defences or legal principles controlling the lawfulness of

⁴⁸ For greater certainty, measures which are subject to the exceptions in this framework are merely some obligations being exempted from the obligations of this framework. They are still matters covered by this framework.

⁴⁹ This revised proposal by Canada (INF/IFD/RD/67) replaces the previous proposal contained in document INF/IFD/RD/54. The definitions contained in the revised proposal by Canada have been inserted in Section I, under "[Possible working definition[s]:]", while the provision on "Dispute Settlement" has been included under the relevant provision in Section VII of the Informal Consolidated Text.

conduct, is reserved to each Member's law, and that those offences shall be prosecuted and punished in accordance with each Member's law.

27.2 Measures to combat corruption

27.2.1. In complying with this Agreement, each Member should take into account relevant internationally agreed instruments that have been acceded to by that Member, such as the *United Nations Convention against Corruption*, done at New York on October 31, 2003, the *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*, with its Annex, done at Paris on November 21, 1997, or the *Inter-American Convention Against Corruption*, done at Caracas on March 29, 1996. Nothing in this Agreement shall affect the rights and obligations of the Members under those instruments.

27.2.2. Each Member shall adopt or maintain legislative and other measures as may be necessary to establish as criminal offences under its law, in matters that affect international investment, when committed intentionally, by any person subject to its jurisdiction:

- a. the promise, offering or giving to a public official, directly or indirectly, of an undue advantage, for the official or another person or entity, in order that the official act or refrain from acting in relation to the performance of or the exercise of his or her official duties;
- b. the solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official or another person or entity, in order that the official act or refrain from acting in relation to the performance of or the exercise of his or her official duties;
- c. the promise, offering or giving to a foreign public official or an official of a public international organisation, directly or indirectly, of an undue advantage,⁵⁰ for the official or another person or entity, in order that the official act or refrain from acting in relation to the performance of or the exercise of his or her official duties, in order to obtain or retain business or other undue advantage in relation to the conduct of international business; and
- d. the aiding or abetting, or conspiracy in the commission of any of the offences described in subparagraphs (a) through (c).

27.2.3. Each Member shall make the commission of an offence described in paragraph 27.2.2 or 27.2.6 liable to sanctions that take into account the gravity of that offence.

27.2.4. Each Member shall adopt or maintain measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for offences described in paragraph 27.2.2 or 27.2.6. In particular, each Member shall ensure that legal persons held liable for offences described in paragraph 27.2.2 or 27.2.6 are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, which include monetary sanctions.

27.2.5. A Member shall not allow a person subject to its jurisdiction to deduct from taxes expenses incurred in connection with the commission of an offence described in paragraph 27.2.2(a), (b), and (c).

27.2.6. In order to prevent corruption, each Member shall adopt or maintain measures as may be necessary, in accordance with its laws and regulations, regarding the maintenance of books and records, financial statement disclosures, and accounting and auditing standards, to prohibit the following acts carried out for the purpose of committing any of the offences described in paragraph 27.2.2:

- a. the establishment of off-the-books accounts;
- b. the making of off-the-books or inadequately identified transactions;

⁵⁰ For greater certainty, a Member may provide in its law that it is not an offence if the advantage was permitted or required by the written laws or regulations of a foreign public official's country, including case law. The Members confirm that they are not endorsing those written laws or regulations.

- c. the recording of non-existent expenditure;
- d. the entry of liabilities with incorrect identification of their objects;
- e. the use of false documents; and
- f. the intentional destruction of bookkeeping documents earlier than foreseen by the law.

27.2.7. Each Member shall consider adopting or maintaining measures to protect, against any unjustified treatment, any person who, in good faith and on reasonable grounds, reports to the competent authorities any facts concerning offences described in paragraph 27.2.2 or 27.2.6.

27.3 Promoting Integrity among Public Officials

27.3.1. To fight corruption in matters that affect investment, each Member should promote, among other things, integrity, honesty and responsibility among its public officials.

27.3.2. Each Member shall endeavour to adopt or maintain codes or standards of conduct, in accordance with the fundamental principles of its legal system, for the correct, honourable and proper performance of public functions, and measures providing for disciplinary or other measures, if warranted, against public officials who violate the codes or standards established in accordance with this paragraph.

27.3.3. Each Member, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures through which a public official accused of an offence described in paragraph 27.2.2 may, where appropriate, be removed, suspended or reassigned by the appropriate authority, bearing in mind respect for the principle of the presumption of innocence.

27.3.4. Each Member shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, adopt or maintain measures to strengthen integrity, and to prevent opportunities for corruption, among members of the judiciary in matters that affect international investment. These measures may include rules with respect to the conduct of members of the judiciary.

27.4 Application and Enforcement of Anticorruption Laws

27.4.1. In accordance with the fundamental principles of its legal system, a Member shall not fail to effectively enforce its laws or other measures adopted or maintained to comply with paragraph 27.2.2 through a sustained or recurring course of action or inaction, after the date of entry into force of this Agreement for that Member, as an encouragement for investment.⁵¹

27.4.2. In accordance with the fundamental principles of its legal system, each Member retains the right for its law enforcement, prosecutorial and judicial authorities to exercise their discretion with respect to the enforcement of its anti-corruption laws. Each Member retains the right to take bona fide decisions with regard to the allocation of its resources.

27.5 Participation of Private Sector and Society

27.5.1. Each Member shall take appropriate measures, within its means and in accordance with fundamental principles of its legal system, to promote the active participation of individuals and groups outside the public sector, such as enterprises, civil society, non-governmental organisations and community-based organisations, in the prevention of and the fight against corruption in matters affecting international investment, and to raise public awareness regarding the existence, causes and gravity of, and the threat posed by, corruption.

27.5.2. Each Member shall endeavour, in accordance with the fundamental principles of its legal system, to encourage investors, taking into account their structure and size, to:

⁵¹ For greater certainty, the Members recognise that individual cases or specific discretionary decisions related to the enforcement of anti-corruption laws are subject to each Member's own domestic laws and legal procedures.

- a. adopt or maintain sufficient internal auditing controls to assist in preventing and detecting offences described in paragraphs 27.2.2 and 27.2.6 in matters affecting international investment; and
- b. ensure that their accounts and required financial statements are subject to appropriate auditing and certification procedures.

27.5.3. Each Member shall take appropriate measures to ensure that its relevant anti-corruption bodies are known to the public and shall provide access to those bodies, if appropriate, for the reporting, including anonymously, of any facts concerning the offences described in paragraph 27.2.2.]^{CAN}

[9 COMBATING CORRUPTION, MONEY LAUNDERING AND FINANCING OF TERRORISM

9.1. Before or after the establishment of an investment in the territory of the Member State, investors and their investments shall not provide, promise or provide any monetary or other unfair advantage, directly or through intermediaries, to a public official of that State and/or to a member of their family, one of their partners or to any other person close to the official, for their benefit or the benefit of a third party, so that the official acts or refrains from acting in the performance of their official duties, with a view to obtaining any preference regarding a proposed investment or licences, permits, contracts or any other right related to an investment.

9.2. In the exercise of their activities, investors and their investments in the territory of a State shall apply the principles recognized by the international community with regard to combating money laundering and the financing of terrorism.]^{MAR}

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

28.1. A Committee on Investment Facilitation is hereby established. ^{Also BRA}

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.

[28.2. 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 Agreement, but no less than twice a year, for the purpose of affording Members the opportunity to consult on any matters related to the implementation and operation of this Agreement or the furtherance of its objectives. The Committee shall carry out such responsibilities as assigned to it under this Agreement or by the Members. The Committee shall establish its own rules of procedure.

28.3 The Committee shall hold at least one dedicated session per year to:

- a. discuss any problems regarding implementation of provisions or sub-parts of provisions of this Agreement;
- b. review progress in the provision of assistance and support for capacity building to support the implementation of the Agreement, including any developing or least developed country Members not receiving adequate assistance and support for capacity building;
- c. share experiences and information on ongoing assistance and support for capacity building and implementation programs, including challenges and successes; and
- d. review donor notifications as set forth in Article 25.6 and 25.7.] ^{BRA}

28.3. The Committee may establish such subsidiary bodies as may be required. All such bodies shall report to the Committee. ^{Also BRA}

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 develop procedures for the sharing by Members of information and experiences on investment facilitation, as well as the identification of best practices, as appropriate.

28.6 The Committee [shall] [may] prepare an annual report on investment facilitation measures undertaken to implement the Agreement [based on information notified by Members or otherwise authorized by them]. ^{BRA}

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:

[28.7. The Committee shall maintain close contact with other international organizations in the field of investment facilitation, such as [UNCTAD, UNIDO, World Bank, the OECD and ITC], with the objective of securing the best available advice for the implementation and administration of this

Agreement 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:]^{BRA}

- a. attend meetings of the Committee; and^{Also BRA}
- b. discuss specific matters related to the implementation of this framework.
- [b. discuss specific matters related to the implementation of this Agreement; and
- c. propose cooperation and facilitation agendas.]^{BRA}

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.]

[28.8 The Committee shall review the operation and implementation of this Agreement 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.]^{BRA}

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

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.

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

28.11 The Committee shall consult with investors and relevant stakeholders, when applicable, including on the possibility of discussing their views and requests, on specific issues related to this Agreement with a view to ensuring maximum benefits and effectiveness accruing from its implementation and administration.]^{BRA}

28.9. [The Committee 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.]

[28.12 The Committee shall discuss the establishment of an Investment Facilitation Facility to manage the support that Members may voluntarily provide to the WTO in furtherance of supplementary assistance to developing Members, and especially the least-developed country Members, to implement the provisions of this Agreement.]^{BRA}

29 GENERAL EXCEPTIONS

[GATS Article XIV, GATS Article XIV bis, paragraph 1 (a), (b) and (c), 1994 GATT Article XX and 1994 GATT XXI⁵² shall apply to the provisions of this Agreement.]^{EU 53}

[GATS Article XIV and 1994 GATT Article XX shall apply mutatis mutandis to the provisions of this Agreement.]^{TPKM}

⁵² Waivers applicable to the GATT 1994 or any part thereof, granted according to Article IX:3 and Article IX:4 of the Marrakesh Agreement Establishing the World Trade Organisation and any amendments thereto as of the date of entry into force of this Agreement, shall apply to the provisions of this Agreement.

⁵³ The EU proposal covers both general exceptions and security exceptions. It has been included in full here.

30 SECURITY EXCEPTIONS

[2.5 Nothing in this framework shall be construed:

- a. to require any Member to furnish or allow access to any information the disclosure of which it determines to be contrary to its essential security interests; or
- b. to preclude any Member from applying measures that it considers necessary for the fulfilment of its obligations with respect to the maintenance or restoration of international peace or security, or the protection of its own essential security interests.]^{CHN}

[11.1. Nothing in this framework requires any Member State to furnish or allow access to any information that it considers contrary to its national security interests.

11.2. Nothing in this framework shall be construed to prevent any State from applying measures that it considers necessary for the fulfilment of its obligations with respect to the maintenance or restoration of international peace or security, or the protection of its own essential security interests.]^{MAR}

30 [BIS FINANCIAL EXCEPTIONS]

[2.6 Nothing in this framework shall be construed to prevent any Member from adopting or maintaining measures for prudential reasons, including for:

- a. the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial services supplier; or to
- b. ensuring the integrity and stability of the financial system,

2.7 Where such measures do not conform with the provisions of this framework, they shall not be used as a means of avoiding the Member's commitments or obligations under the framework.

2.8 Nothing in the framework applies to non-discriminatory measures of general application in pursuit of monetary and related credit policies or exchange rate policies.⁵⁴] ^{CHN}

[12.1. Nothing in this framework shall be construed to prevent any Member State from adopting or maintaining measures for prudential reasons, including:

- a. the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial service supplier; or
- b. ensuring the integrity and stability of the financial system.

12.2. Nothing in the framework applies to non-discriminatory measures of general application in the pursuit of monetary and related credit policies or exchange rate policies.] ^{MAR}

31 DISPUTE SETTLEMENT

[For any dispute concerning the interpretation and application of the provisions of this Agreement, the Parties shall only have recourse to the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) of the World Trade Organisation.]^{EU}

[Article 31.1: The provisions of the Dispute Settlement Understanding (DSU) and those of Articles XXII and XXIII of the GATT 1994 as elaborated and applied by the DSU shall apply to consultations and the settlement of disputes under this framework, except for Articles XXIII:1(b) and (c) of the

⁵⁴ For greater certainty, measures of general application taken in pursuit of monetary and related credit policies or exchange rate policies do not include measures that expressly nullify or amend contractual provisions that specify the currency of denomination or the rate of exchange of currencies.

GATT 1994 and Article 26 of the DSU concerning non-violation complaint and those as otherwise specifically provided herein.

Article 31.2: Members are encouraged to consider resorting to good offices, conciliation and mediation provided in Article 5 and arbitration provided in Article 25 of the DSU to resolve their disputes in an amicable and swift manner.

Article 31.3: Notwithstanding the MFN and other provisions in this Agreement, a Panel established under the DSU for a dispute arising from the interpretation or application of this Agreement shall not directly or indirectly apply or consider a provision or treatment provided in any other IIAs.]^{TPKM}

[1. Members shall not have recourse to the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) of the World Trade Organization for matters arising under Sub-section 27.4 (Application and Enforcement of Anticorruption Laws).]^{CAN}

32 FINAL PROVISIONS

32.1. [Members shall implement this framework from the date of its entry into force. Developing country Members and least-developed country Members that choose to use the provisions of Section [V] shall implement this framework in accordance with that Section.]

32.2. [Nothing in this framework shall be construed as diminishing the rights and obligations of Members under the Marrakesh Agreement Establishing the WTO.]

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

[Nothing in this framework shall be construed as diminishing the obligations of Members under the Marrakesh Agreement Establishing the World Trade Organization (hereinafter referred to as the "WTO Agreement"). In addition, nothing in this framework shall be construed as diminishing the rights and obligations of Members under the Agreement on Technical Barriers to Trade and the Agreement on the Application of Sanitary and Phytosanitary Measures in Annex 1A to the WTO Agreement.]^{JPN}

32.3. [The MFN provision in paragraph 2.1 of this framework shall not apply to the treatment accorded by a Member under a bilateral or plurilateral agreement in force or signed prior to [XX]].

32.4. [Nothing in this framework shall be construed as altering or affecting a Member's rights or obligations under bilateral or plurilateral agreements covering [FDI] [investments]].]
