# INVESTMENT FACILITATION AND PROMOTION:
# A Global Action Menu

UNCTAD Discussion Note*

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*This Discussion Note is made available on UNCTAD's Investment Policy Hub to facilitate online feedback and discussion as an integral part of the Investment Policy Blog. Readers and blog-discussants are invited to submit comments via e-mail to: DIAEinfo@unctad.org.*

**Note to version 2**

This version incorporates numerous comments and suggestions received through the Investment Policy Hub since the first posting of this discussion note on 26 January 2016. We wish to thank all those scholars, international organizations, the private sector, and investment promotion agencies (in particular the World Association of Investment Promotion Agencies, WAIPA), who contributed feedback in this first round of improvement of the Action Menu. Further feedback through the Hub is welcome and will be used for subsequent revisions of this "living instrument".

*The proposed Action Menu is preliminary research and does not represent the official views of UNCTAD member States or the UNCTAD Secretariat.

# Investment Facilitation and Promotion: a Global Action Menu

## I. Introduction

Investment can drive productivity, create jobs, raise incomes, strengthen trade flows and spread technology and know-how internationally. Investment can bolster economic growth for developed and developing economies alike. The extent of the positive impact of investment depends on the dynamics of investment regulatory and facilitation measures.

Mobilizing investment and maximizing its positive contribution to growth and sustainable development is a priority for all countries. Concerted efforts are needed to boost cross-border investment in productive assets, not only in the realm of national and international investment policies and promotion strategies, but also in addressing administrative barriers and hurdles that stand in the way of investment.

Investment promotion and facilitation work hand-in-hand. However, they are two very different types of activities. One is about promoting a location as an investment destination (and is therefore often country-specific and competitive in nature), while the other is about making it easy for investors to establish or expand their investments, as well as to conduct their day-to-day business in host countries.

The Action Menu proposed here is complementary to other policy tools for investment. Its primary focus is on investment facilitation, where all countries have an opportunity to boost investment through transparency, efficiency and effectiveness of investment procedures; where good practices can be replicated across most countries; and where action is mostly non-competitive in nature. The Menu also includes actions specifically to promote investment for development and to support implementation of investment facilitation initiatives in developing countries. The Menu excludes investment protection issues, dealt with in other instruments.

The Action Menu is based on UNCTAD's Investment Policy Framework, which proposed a set of actions on investment promotion and facilitation already in its first edition in 2012, as well as earlier work including a 2008 study on Investment Promotion Provisions in International Investment Agreements. It also draws on UNCTAD's rich experiences and lessons learned in investment promotion and facilitation efforts worldwide over the past decades.

## II. Investment facilitation: an open field in need of work

Numerous initiatives aimed at stimulating investment, both foreign and domestic, exist at national, sub-national and international levels that try directly to affect the risk-return ratio for investors. Such initiatives may try to lower risks by providing guarantees, by sharing risks (e.g. in public-private partnerships) or by offering certain protections. Alternatively they may try to increase potential investor returns through fiscal or financial incentives or through the provision of low-cost capital.

In the most common international instruments for investment, relatively little attention is being paid to ground-level obstacles to investment, such as a lack of transparency on legal or administrative requirements faced by investors, lack of efficiency in the operating environment, and other factors causing high costs of doing business.

Addressing such barriers to investment could provide a real boost to both cross-border and domestic investment, complementing direct stimulus instruments (guarantees, incentives), and reinforcing trade facilitation efforts – given that 80% of trade is driven by the international production networks dependent on investments from multinational firms.

Investment facilitation initiatives could, in fact, mirror many elements common in trade facilitation. They could include improvements in transparency and information available to investors; they could work towards efficient and effective administrative procedures for investors and reduce corruption risks by decreasing the number of steps involved; they could enhance the consistency and predictability of the policy environment for investors through consultation procedures; they could increase accountability and effectiveness of government officials and mitigate investment disputes through ombudspersons; they could include cross-border coordination and collaboration initiatives such as regional investment compacts or links between outward and inward investment promotion agencies; and they could include technical cooperation and other specific support mechanisms for investment.

Investment facilitation covers a wide range of areas, all with the ultimate focus to attract investment, allowing investment to flow efficiently, and for host countries to benefit effectively. Transparency, investor services, simplicity and efficiency of procedures, coordination and cooperation, and capacity building are among its most important principles. It interacts at all stages of investment, from the pre-establishment phase (such as facilitating regulatory feasibility studies), through investment installation, to services throughout the life span of an investment project.

## III. Investment facilitation and promotion: an action menu

Progress in the international community on investment facilitation and promotion should provide a broad range of policy choices suitable for different economic circumstances.

The Action Menu excludes, in the first instance, policy measures aimed at the protection of investment. Investment protection issues are well-established in the existing national regulatory frameworks and international investment treaties. Nevertheless, progress on investment promotion and facilitation would fill a gap in the existing international investment agreement (IIA) regime. In the great majority of the existing 3’300 IIAs, concrete investment facilitation actions are either absent or weak.[1]

Similarly, the Action Menu proposed here does not propose direct investment support measures such as fiscal or financial investment incentives. By focusing on promoting transparency, investor services and efficient and effective administrative procedures for investors − and on options to support developing countries in strengthening their investment promotion and facilitation efforts − the Action Menu aims to complement existing investment protection and support measures.

The ultimate objective of any initiative in the international community on investment promotion and facilitation is to boost global investment, particularly in productive sectors, and to contribute towards progress on the global sustainable development agenda, by placing special emphasis on facilitation measures that are critical for promoting investment in priority sectors for sustainable development.[2] Any investment facilitation initiative should strengthen collaboration in investment promotion and the dissemination of good practices among investment host and home economies.

[1] Based on a representative sample of over 1'200 IIAs for which UNCTAD has mapped treaty content, as well as specific research on investment promotion provisions in IIAs.

[2] See also UNCTAD's Action Plan for Investment in the Sustainable Development Goals (SDGs) in the *World Investment Report 2014.*

The Action Menu proposes 10 action lines with a series of options for investment policymakers to adapt and adopt for national and international policy needs: the package includes actions that countries can choose to implement unilaterally, and options that can guide international collaboration or that can be incorporated in international investment agreements. The Action Menu should be read in the broader context of UNCTAD's Investment Policy Framework for Sustainable Development.

An investment promotion and facilitation package could thus form the basis for formulating a legal instrument, or serve as an informative or guidance instrument, reflecting a collaborative spirit and best endeavor.

**ACTION MENU**

**Part A: Investment Facilitation Actions**

*Action line 1*

Promote accessibility and transparency in the formulation of investment policies and regulations and procedures relevant to investors.

- Provide clear and up-to-date information on the investment regime.
- Adopt a centralised registry of laws and regulations and make this available electronically.
- Establish a single window or special enquiry point for all enquiries concerning investment policies and applications to invest.
- Maintain a mechanism to provide timely and relevant notice of changes in procedures, applicable standards, technical regulations and conformance requirements.
- Make widely available screening guidelines and clear definitions of criteria for assessing investment proposals.
- Publicise outcomes of periodic reviews of the investment regime.

*Action line 2*

Enhance predictability and consistency in the application of investment policies.

- Systematise and institutionalise common application of investment regulations.
- Give equal treatment in the operation of laws and regulations on investment, and avoid discriminatory use of bureaucratic discretion.
- Establish clear criteria and transparent procedures for administrative decisions including with respect to investment project screening, appraisal and approval mechanisms.
- Establish amicable dispute settlement mechanisms, including mediation, to facilitate investment dispute prevention and resolution.

*Action line 3*

Improve the efficiency and effectiveness of investment administrative procedures.

- Shorten the processing time and simplify procedures for investment and license

applications, investor registration, and tax-related procedures.
- Promote use of time bound approval processes or no objections within defined time limits to speed up processing times, where appropriate.
- Provide timely and relevant administrative advice; keep applicants informed about the status of their applications.
- Encourage and foster institutional cooperation and coordination. Where appropriate, establish online "one-stop" approval authority; clarify roles and accountabilities between different levels of government or where more than one agency screens or authorises investment proposals.
- Keep the costs to the investor in the investment approval process to a minimum.
- Facilitate entry and sojourn of investment project personnel (visa, dismantling bureaucratic obstacles).
- Simplify the process for connecting to essential services infrastructure.
- Conduct periodic reviews of investment procedures ensuring they are simple, transparent and low-cost.
- Establish mechanisms to expand good administrative practices applied or piloted in special economic zones to the wider economy.

*Action line 4*

Build constructive stakeholder relationships.
- Maintain mechanisms for regular consultation and effective dialogue with investment stakeholders throughout the life-cycle of investments, including approval and impact assessment stages and post-establishment stages, to identify and address issues encountered by investors and affected stakeholders.
- To the extent possible, establish a mechanism to provide interested parties (including the business community and investment stakeholders) with an opportunity to comment on proposed new laws, regulations and policies or changes to existing ones prior to their implementation.
- Promote improved standards of corporate governance and responsible business conduct.

*Action line 5*

Designate a lead agency or investment ombudsperson/facilitator with a mandate to, e.g.:
- Address suggestions or complaints by investors and their home states.
- Track and take timely action to prevent, manage and resolve disputes.
- Provide information on relevant legislative and regulatory issues.
- Promote greater awareness and transparency on investment legislation and procedures.
- Inform relevant government institutions on recurrent problems faced by investors which may require changes in investment legislation or procedures.

*Action line 6*

Establish monitoring and review mechanisms for investment facilitation.

- Adopt diagnostic tools and indicators on the effectiveness and efficiency of administrative procedures for investors to identify priority areas for investment facilitation interventions.
- Benchmark and measure performance of institutions involved in facilitating investment or in providing administrative services to investors, including in line with international good practices.

*Action line 7*

Enhance international cooperation for investment facilitation, including through provisions in IIAs. Possible mechanisms include, e.g.:

- Establish regular consultations between relevant authorities, or investment facilitation partnerships, to:
    - monitor the implementation of specific facilitation measures (e.g. related to dismantling bureaucratic obstacles).
    - address specific concerns of investors (e.g. based on a report by an ombudsperson).
    - design, implement and monitor progress on investment facilitation work plans.
- Collaborate on anticorruption in the investment process.
- Regulatory and institutional exchanges of expertise.

**Part B: Actions to support investment promotion and facilitation for development**

*Action line 8*

Strengthen investment facilitation efforts in developing-country partners. Provide support and technical assistance to:

- Bolster efforts towards transparent, effective and efficient administrative processes for business and investors, including tools and techniques for the documentation and simplification of procedures (e.g. UNCTAD's eRegulations, eRegistration and Business Facilitation Services).
- Increase capacities in investment promotion agencies (IPAs) and relevant authorities on business and investor facilitation services, including support in administrative and compliance processes.
- Build capacity for the preparation or facilitation of regulatory feasibility studies for potential investment projects (including environmental and social impact assessments and regulatory and administrative requirements).
- Maintain mechanisms for regular consultation and effective dialogue with the private sector and investment stakeholders throughout the investment life-cycle, including with a view to preventing escalation of investment disputes.
- Enhance the role of policy advocacy within IPAs or investment authorities as a means of supporting investment climate reforms and of addressing specific problems raised by investors.

*Action line 9*

Enhance investment policy and proactive investment promotion in developing-country partners. Provide support and technical assistance to:

- Conduct investment policy reviews and design effective investment promotion strategies.
- Organize investment promotion forums, business fairs and business-government networking events.
- Build and maintain active IPAs with adequate resourcing and expertise and effective performance monitoring and evaluation.
- Build expertise in IPAs (or relevant agencies) for investment project proposal development and project appraisal, and for the development of pipelines of directly investable projects.
- Build expertise in IPAs (or relevant agencies) for the promotion of sustainable development focused investments such as green investments and social impact investments.
- Build capacity to provide post-investment or aftercare services, including for the expansion of existing operations.
- Strengthen capacities to maximize positive impacts of investment, e.g. to:
    - Promote and facilitate linkages between foreign affiliates and local enterprises.
    - Promote support programs for certification and compliance with standards relating to, e.g., product quality or safety, to enable firms to engage in linkages with foreign affiliates.
    - Adopt frameworks to promote responsible business conduct by international investors.

*Action line 10*

Enhance international cooperation for investment promotion and facilitation for development, including through provisions in IIAs. Possible mechanisms include, e.g.:

- Encourage home countries to provide outward investment support, e.g. political risk coverage, investment insurance and guarantees, or facilitation services.
- Encourage high standards of corporate governance and responsible business conduct by outward investors.
- Establish regular consultations between relevant authorities, or formal collaboration between Outward Investment Agencies (OIAs) and IPAs, for the purpose of:
    - exchanging information on investment opportunities and raising awareness of opportunities in investor home countries, helping bridge knowledge gaps.
    - marketing specific investment projects to investors in home countries.
    - joint monitoring and impact assessment.
    - designing, implementing and monitoring progress on thematic work plans (e.g. on green investment).
    - exchanging expertise.
- Organise joint investment promotion activities such as exhibitions, conferences,

seminars and outreach programmes.
- Establish regional investment compacts, e.g. for cross-border infrastructure development, industrial collaboration or build-up of regional value chains.

*Source:* UNCTAD.

## IV. Conclusion: impact

Progress on investment facilitation can have an immediate impact by enhancing transparency, efficiency, simplicity, and the consistency and predictability of investment administration.

- Transparency: responds to investor interest and enables business decisions.
- Efficiency: reduces costs for investors and adds to competitiveness for host countries and firms, especially for SMEs with higher barriers to entry.
- Simplicity: speeds up investment processes, ensures issues can be dealt with expeditiously, avoids duplication and double-handling at different levels of government.
- Consistency: enhances certainty to encourage business decisions, enables business to help shape a productive investment environment.
- Predictability: allows business to include prospective changes in planning decisions.

Any investment facilitation initiative cannot be considered in isolation from the broader investment for development agenda. It is important to address weaknesses in investment promotion and facilitation capabilities where they exist in developing countries. Effective investment promotion and facilitation efforts should support the mobilization and channelling of investment towards priority areas for sustainable development, including the build-up of productive capacities and critical infrastructure, and should be an integral part of the overall investment policy framework aimed at maximizing the benefits of investment for host countries and minimizing any negative side effects or externalities.