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APEC Investment Facilitation Action Plan: Principles and Strategies (Endorsed)

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APEC Investment Facilitation Action Plan:

Principles and Strategies

Introduction

- The APEC Investment Facilitation Action Plan (IFAP) was established in 2008, the same year APEC initiated the Trade Facilitation Action Plan. Members of the APEC Investment Experts' Group (IEG) actively engage with the IFAP, including through regular progress reviews.
- The latest IFAP review by APEC PSU highlights how APEC economies have implemented various investment facilitation measures, among others, aimed at maximizing the developmental impact of Foreign Direct Investment (FDI). This includes promoting high standards of corporate governance and responsible business conduct (RBC) among investors, and offering aftercare services to support reinvestment aligned with the Putrajaya Vision 2040, in promoting economic policies, cooperation and growth which support global efforts to comprehensively address all environmental challenges. The review identifies several recommendations to strengthen the implementation of the IFAP, including that APEC economies proactively address investor concerns, mitigate disputes, , and promote the sharing of best practices and information exchange on FDI facilitation.
- The World Trade Organization (WTO) Investment Facilitation for Development (IFD) Agreement, negotiated as an open and transparent plurilateral agreement and finalized by more than 120 WTO Members in February 2024¹, aims to create a transparent, efficient, and investment-friendly business environment that simplifies the process for investors throughout the entire investment lifecycle. The IFD Agreement focuses on improving transparency and streamlining administrative procedures related to investments, aligning with investor preferences for reform priorities. The IFD Agreement is also the first WTO agreement of its kind that explicitly underlines the importance of promotion and attraction of better, higher quality investment that contributes to sustainable development (e.g. through dedicated provisions related to anti-corruption and RBC). Other recent international standards supporting sustainable, quality, and responsible investment include the Organisation for Economic Co-operation and Development (OECD) Recommendations on FDI Qualities for Sustainable Development and on the Role of Government in Promoting Responsible Business Conduct.
- At the strategic level, the Aotearoa Plan of Action, a plan for implementing the APEC Putrajaya Vision 2040, indicates as one of its collective actions that economies promote the flow of quality investment through work on investment facilitation and liberalization. The 2024 APEC Ministers Responsible for Trade (MRT) Joint Statement

¹ Participating Members are currently seeking to incorporate the IFD Agreement as a plurilateral agreement under Annex 4 of the WTO Agreement. (https://www.wto.org/english/tratop_e/invfac_public_e/invfac_e.htm)

noted the necessity to update APEC's initiative on investment facilitation. It also highlighted the importance of promoting seamless connectivity, resilient supply chains and RBC, recognizing the importance of investment in promoting sustainable economic growth.

- Given this context, an upgrade of the IFAP is both timely and essential to fostering economic integration in the region amid strong headwinds and global economic challenges. The 2024 APEC Ministerial Meeting Joint Statement looked forward to the completion of the work to update the IFAP by 2025 MRT.

Principles and Strategies

This document outlines voluntary, non-binding principles and strategies that reflect APEC economies' collective aspiration for promoting the flow of quality investment in the APEC region. Participating APEC economies noted that the implementation of the WTO IFD Agreement can be helpful to achieving this objective. In addition, we acknowledge the importance of cross-border cooperation and collaboration on best practices for the implementation of the non-binding principles and strategies set out in this document.

1 Promote accessibility and transparency in the formulation and administration of investment-related policies

Promoting accessibility and transparency in investment-related policies - including laws, regulations, measures and relevant standards that investors are required to follow - is essential for building trust, reducing risks, facilitating compliance, and enhancing predictability and consistency for investors and governments of host economies, all of which contribute to attracting and retaining investments that support economic stability and growth.

- 1-1 Provide more transparency regarding judicial, legislative, and administrative decisions and international agreements on investment matters where appropriate.
- 1-2 To the extent practicable, adopt a centralized, up-to-date, electronic registry or website of investment laws, regulations and policies with clear and concise guidelines for the business sector to facilitate the straightforward implementation of key investment requirements.
- 1-3 Enhance predictability and consistency in investment-related policies through publishing or otherwise making publicly available to investors (including through electronic means such as a website) all relevant investment-related laws, regulations and policies in a timely manner, and allowing interested parties a reasonable opportunity to provide comments in advance of implementing such measures.
- 1-4 Foster cross-border cooperation and collaboration on best practices in investment facilitation among APEC economies to enhance regulatory cooperation and promote good regulatory practices.

2 Improve the efficiency and effectiveness of investment applications and procedures

Improving the efficiency and effectiveness of investment procedures is pivotal for creating a conducive and attractive environment for quality investment flows. It boosts investor confidence, reduces costs, enhances transparency, and facilitates business expansion.

- 2-1 Strengthen the functionality and practicality of (on-line) portals for foreign investors to submit any required applications and information to the competent investment authorities.
- 2-2 Provide clear contact details of competent investment authorities.
- 2-3 Define clear indicative timeframes and steps for processing applications related to specific investment authorization procedures and licenses aiming to promote greater legal certainty, transparency, efficiency and streamlined workflows.
- 2-4 Maintain a proactive mechanism to provide timely and relevant advice on changes in procedures, status of existing applications, applicable standards, technical regulations, and conformance requirements.
- 2-5 Establish transparent mechanisms on fees and charges applicable to foreign investors, including any amendments of such fees.
- 2-6 Accept electronic submission of applications and allow online payment of authorization fees, taking into account domestic priorities and available resources.
- 2-7 Establish an online mechanism for investors to raise queries on investment issues, including on the status and treatment of incomplete applications.
- 2-8 Enhance the transparency of processes related to the cross-border mobility of businesspersons for the purpose of conducting investment activities.

3 Develop a business-friendly investment environment in the APEC region

An investor-friendly business environment should be developed including by embracing digital technologies; facilitating investment in new digital technologies; enhancing the availability of a workforce with needed skills; developing/maintaining resilient supply chain networks; and fostering business linkages between foreign investors and domestic suppliers.

- 3-1 Foster digital-friendly investment climates, including by enhancing connectivity through digital infrastructure development; building digitally-enabled regulatory frameworks; promoting the use of digital technologies in investment-related procedures; and bridging the gender digital divide.
- 3-2 Adopt measures and activities to better utilize the existing skill base and labour market potential, while anticipating emerging in-demand skills to address potential skill shortages, bearing in mind the importance of improving regulatory frameworks to enhance the availability of a workforce with needed skills.
- 3-3 Promote supply chain resilience and sustainability, including through FDI-SME linkages, to further improve APEC-wide connectivity, ensure business continuity during disruptions, reduce environmental and social impacts and enhance ethical practices such as RBC.

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- 3-4 Ensure a level playing field for all investors with respect to regulations and activities related to investment; unless required otherwise by public policy objectives that are legitimate, transparent, proportionate, and subject to periodic reviews.
- 3-5 Enhance international cooperation, including by making use of initiatives aimed at building collective investment expertise, such as information sharing and capacity building.

4 Build constructive relationships and engage meaningfully with stakeholders

Building constructive stakeholder relationships enhances mutual cooperation and collaboration, improves stakeholders' alignment and policy coherence and implementation, facilitates knowledge sharing, and enhances good governance.

- 4-1 Encourage communication and coordination among relevant authorities at different levels of government to strengthen domestic regulatory coherence and avoid unnecessary costs to businesses and economies.
- 4-2 Leverage inclusive consultations and decision-making processes involving diverse stakeholders including from the private sector and civil society organizations, to foster dialogue and work towards achieving consensus on policy reforms on investment and sustainable economic growth.

5 Enhance stability of investment environment, security of property and protection of investments

Develop and implement mechanisms and regulatory frameworks that stabilize investment environments by protecting investors' rights and properties, effectively preventing and resolving disputes between investors and host authorities; and ensuring the effective enforcement of contract and arbitral awards to promote investment in the economy.

- 5-1 Provide regulatory frameworks that secure property rights covering tangible and intangible assets supported by well-performing court systems; and effective contract enforcement.
- 5-2 Limit the use of expropriatory measures, which should be taken on a non-discriminatory basis, for a public purpose, in accordance with procedures established in domestic legislation and internationally recognized rules, and upon payment of prompt, adequate and effective compensation.
- 5-3 Provide adequate and effective protection of technology and related intellectual property rights while developing tailored strategies to address the intellectual property needs of SMEs.
- 5-4 Establish proactive and early resolution mechanisms, including Alternative Dispute Resolution (ADR) and other amicable dispute resolution methods for preventing and resolving international investment disputes between investors and host authorities. Incorporate effective dispute prevention and resolution mechanisms in Bilateral Investment Treaties (BITs) and Regional Trade Agreements (RTAs), as appropriate and at a reasonable cost.

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- 5-5 Provide a mechanism for the enforcement of arbitral awards and consider membership of recognized international arbitration bodies.

6 Promote sustainability and responsible business conduct (RBC) in the investment environment

Promoting sustainability and responsible business conduct (RBC) enhances long-term viability, manages risks, builds stakeholder trust, facilitates access to capital, ensures regulatory compliance, expands market opportunities, and strengthens high standards of corporate governance.

- 6-1 Encourage investors to adhere to international principles on responsible business conduct (RBC) and inclusive and responsible business and investment (IRBI), including by undertaking risk-based due diligence as an integral part of risk management systems in their supply chains. This includes identifying actual and potential adverse impacts on their operations, products and services; and developing strategies to prevent, mitigate, and address such adverse impacts.
- 6-2 Adopt measures that uphold principles of accountability, transparency, and integrity to prevent and address corruption issues.
- 6-3 Promote investments that help address environmental challenges and foster sustainable growth.

7 Foster quality investment to enhance sustainable economic growth for all

Fostering quality investment enhances sustainable economic growth for all, including by supporting investors that face barriers to participation in investment facilitation procedures. It has the potential to strengthen environmental and social safeguards; encourage job creation and skills development; enhance productivity and innovation; reduce inequalities; and empower local communities to build long-term economic prosperity, stability and resilience.

- 7-1 Provide coherent strategic direction and a whole-of-government approach on fostering investment in support of sustainable economic growth for all; and foster policy continuity and their effective implementation, including by ensuring that investment-related policies, strategies and plans are aligned with inclusive and sustainable economic growth strategies and objectives in areas such as quality job creation, skills development, gender equality, and local/regional and industrial development.
- 7-2 Learn from exemplary cases of long-term sustained quality investments and consider adopting policies, measures and activities that encourage such investment practices.
- 7-3 Address the information asymmetries and administrative barriers in investment facilitation procedures that hinder sustainable economic growth.
- 7-4 Address structural and systemic barriers to their full and equal participation by all investors including MSMEs and women in the economy. This includes improving access to investment-related information, streamlining investment procedures, and providing targeted capacity building assistance.

8 Establish monitoring and review mechanism for investment policies

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Establishing monitoring and review mechanism for investment policies is essential for optimizing policy effectiveness and enhancing transparency and accountability.

- 8-1 Periodically review the progress of investment facilitation in APEC economies using inputs and relevant qualitative and quantitative evidence provided by relevant international organizations (including the OECD and ASEAN), member economies, observers, representatives from business sectors, and other sources as appropriate. The review schedule should include a periodic review every three years after implementation. APEC IEG is responsible for conducting such periodic reviews, with the support by the PSU, and will accommodate discussions related to economies' implementation of this framework at its meeting.
- 8-2 Update the IFAP every five (5) years, or appropriate timings as agreed otherwise, based on the feedback from APEC economies, APEC Business Advisory Council (ABAC) and other stakeholders, and the results from the aforementioned periodic reviews.