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Investment for development

Global action menu for investment facilitation*

I. Introduction


1. Facilitating investment is crucial for sustainable development and inclusive growth. To date, national and international investment policies have paid relatively little attention to investment facilitation. The UNCTAD global action menu for investment facilitation provides options for national and international policy needs. Any investment facilitation initiative cannot be considered in isolation from the broader investment for development agenda.
2. Facilitating investment is of fundamental importance for growth and development. It is critical for achieving the Sustainable Development Goals, because developing countries face an annual investment gap for the Sustainable Development Goals of \$2.5 trillion. Investment facilitation is also one of the five priority areas in the UNCTAD road map for international investment agreement reform.
3. Investment promotion and investment facilitation work hand in hand. However, they are two 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 easier for investors to establish or expand their investments, as well as to conduct their day-to-day business in host countries.
4. Investment facilitation initiatives aim at tackling ground-level obstacles to investment. They can include improvements in transparency and information available to investors. They can work towards efficient administrative procedures for investors. They can enhance the predictability of the policy environment for investors through consultation procedures. They can increase accountability and effectiveness of government officials and

* Based on the *World Investment Report 2016: Investor Nationality – Policy Challenges*, available at http://unctad.org/en/PublicationsLibrary/wir2016_en.pdf.

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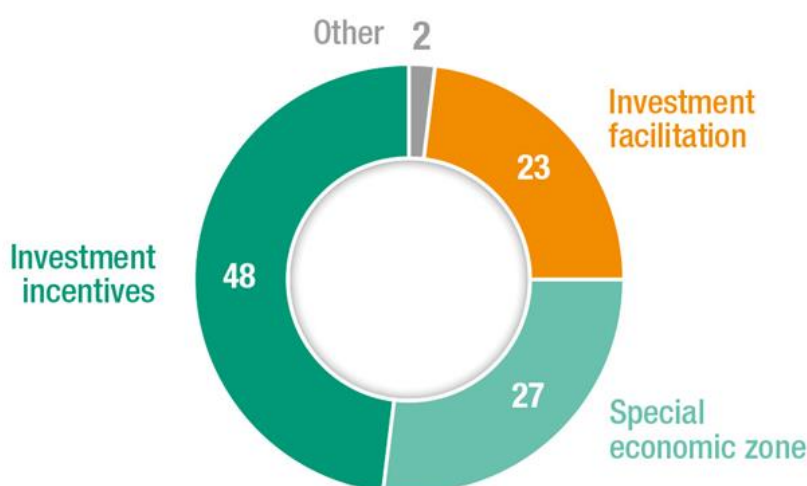


mitigate investment disputes. They can include cross-border coordination and collaboration initiatives such as links between outward and inward investment promotion agencies. They can also include technical cooperation and other support mechanisms for investment.

5. To date, national and international investment policies have paid relatively little attention to investment facilitation. At the national level, many countries have set up policy schemes to promote foreign investment. Between 2010 and 2015, at least 173 new investment promotion and facilitation policies were introduced around the world. However, almost half of these measures related to investment incentives, followed by special economic zones, while only 23 per cent related to investment facilitation specifically (see figure). In addition, a review by UNCTAD of 111 national investment laws shows that only 20 per cent of such laws deal with specific aspects of investment facilitation, such as one-stop shops.

Breakdown of promotion and facilitation measures, 2010–2015

(Percentage)



Source: UNCTAD, Investment Policy Monitor database.

6. At the international level, in the overwhelming majority of the existing 3,300-plus international investment agreements, concrete facilitation actions are either absent or weak. A review of a sample of recent model international investment agreements and agreements concluded in 2015 shows that investment facilitation provisions are not as prevalent as other major provisions. Even those international investment agreements that explicitly deal with investment facilitation issues tend to use general treaty language. The new cooperation and facilitation investment agreements of Brazil are an exception.

7. Investment facilitation can thus be considered a systemic gap in both national and international investment policies. The global action menu for investment facilitation aims at filling this gap. It seeks to complement existing investment policies. The action menu therefore excludes policy measures aimed at the protection of investment, which are well-established in existing national regulatory frameworks and international investment agreements. Similarly, it does not propose direct investment support measures such as guarantees or incentives.

8. The action menu proposes 10 action lines with a series of options for investment policymakers and government agencies for national and international policy measures. It includes actions that countries can choose to implement unilaterally and options that can guide international collaboration or be incorporated in international investment agreements.

9. The action menu also contains specific actions to support investment facilitation for development in low income countries. This is important, as any facilitation initiative cannot be considered in isolation from the broader investment for development agenda. Effective investment facilitation efforts should support the mobilization and channelling of investment towards sustainable development, including the build-up of productive capacities and critical infrastructure. It should be an integral part of an overall investment policy framework aimed at maximizing the benefits of investment and minimizing negative side effects.

10. The action menu is based on the UNCTAD Investment Policy Framework for Sustainable Development – which already proposed action on investment facilitation in its first edition of 2012 – and the rich experiences and practices of investment promotion and facilitation efforts worldwide over the past decades. Throughout the process of formulation and peer review, the UNCTAD global action menu has benefited from substantive inputs and strong support from investment for development stakeholders, including high-level policymakers from developing, developed and transition economies, as well as intergovernmental organizations and the private sector.

II. Action menu for investment facilitation

A. Action line 1

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

- (a) Provide clear and up-to-date information on the investment regime
- (b) Establish a single window or special enquiry point for all enquiries concerning investment policies and applications to invest
- (c) Maintain a mechanism for providing timely and relevant notice of changes in procedures, applicable standards, technical regulations and conformance requirements
- (d) Make available screening guidelines and clear definitions of criteria for assessing investment proposals.

B. Action line 2

12. Enhance predictability and consistency in the application of investment policies:

- (a) Ensure consistent application of investment regulations across relevant institutions.
- (b) Avoid discriminatory use of bureaucratic discretion in the application of laws and regulations on investment.
- (c) Establish clear criteria and procedures for administrative decisions with respect to investment screening, appraisal and approval mechanisms.
- (d) Establish amicable dispute settlement mechanisms, including mediation, to facilitate investment dispute prevention and resolution.

C. Action line 3

13. Improve the efficiency of investment administrative procedures:

- (a) Shorten the processing time and, where appropriate, simplify procedures for investment and licence applications, investor registration and tax-related procedures
- (b) Promote the use of time-bound approval processes or a “no objections within defined time limits” approach to speed up processing times, where appropriate
- (c) Provide timely and relevant administrative advice; keep applicants informed about the status of their applications.
- (d) Encourage and foster institutional cooperation and coordination; where appropriate, establish an online one-stop approval authority; clarify roles and accountabilities between national and local government or where more than one agency screens or authorizes investment proposals
- (e) Create “client charters” in investment agencies that define service delivery standards and good practices
- (f) Keep the costs to the investor in the investment approval process to a minimum.
- (g) Facilitate, within the framework of relevant legislation, entry and sojourn of investment project personnel (facilitating visas, dismantling bureaucratic obstacles)
- (h) Simplify the process for connecting to essential public services infrastructure
- (i) Conduct periodic reviews of investment procedures, ensuring they are simple, transparent and low cost
- (j) Establish mechanisms to expand good administrative practices, applied or piloted in special economic zones, to the wider economy.

D. Action line 4

14. Build constructive stakeholder relationships in investment policy practice:

- (a) Maintain mechanisms for regular consultation and effective dialogue with investment stakeholders to identify and address issues encountered by investors and affected communities
- (b) 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
- (c) Promote improved standards of corporate governance and responsible business conduct.

E. Action line 5

15. Designate a lead agency, focal point or investment facilitator with a mandate to do, for example, the following:

- (a) Address suggestions or complaints by investors and their home states
- (b) Track and take timely action to prevent, manage and resolve disputes

- (c) Provide information on relevant legislative and regulatory issues
- (d) Promote greater awareness of and transparency in investment legislation and procedures
- (e) Inform relevant government institutions about recurrent problems faced by investors which may require changes in investment legislation or procedures.

F. Action line 6

16. Establish monitoring and review mechanisms for investment facilitation:

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

G. Action line 7

17. Enhance international cooperation on investment facilitation. Possible mechanisms include the following:

- (a) Establish regular consultations between relevant authorities, or investment facilitation partnerships, to:
 - (i) Monitor the implementation of specific facilitation measures (e.g. related to dismantling bureaucratic obstacles)
 - (ii) Address specific concerns of investors
 - (iii) Design, implement and monitor progress on investment facilitation work plans
- (b) Collaborate on anticorruption in the investment process
- (c) Arrange for regulatory and institutional exchanges of expertise.

H. Action line 8

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

- (a) 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 eRegulations, eRegistration and Business Facilitation Services)
- (b) Increase capacity in investment promotion agencies and relevant authorities on business and investor facilitation services, including support in administrative and compliance processes
- (c) Build capacity for the preparation of regulatory feasibility studies for potential investment projects (including environmental and social impact assessments and regulatory and administrative requirements)

(d) Maintain mechanisms for consultation and effective dialogue with the private sector and investment stakeholders throughout the investment life cycle, including with a view to preventing the escalation of investment disputes

(e) Enhance the role of policy advocacy within investment promotion agencies or investment authorities as a means of supporting investment climate reforms and of addressing specific problems raised by investors.

I. Action line 9

19. Enhance investment policy and proactive investment attraction in developing-country partners, through capacity-building in the following areas:

(a) Build expertise in investment promotion agencies (or relevant agencies) for investment project proposal development and project appraisal, and for the development of pipelines of directly investable projects

(b) Build expertise in investment promotion agencies (or relevant agencies) for the promotion of investments focused on sustainable development, such as green investments and social impact investments

(c) Build capacity in investment promotion agencies to provide post-investment or aftercare services, including for the expansion of existing operations

(d) Strengthen capacities to maximize positive impacts of investment, e.g. to:

(i) Facilitate linkages between foreign affiliates and local enterprises

(ii) Promote and 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

(iii) Adopt frameworks to promote responsible business conduct by international investors.

J. Action line 10

20. Complement investment facilitation by enhancing international cooperation for investment promotion for development, including through provisions in international investment agreements. Possible mechanisms include the following:

(a) Encourage home countries to provide outward investment support, e.g. political risk coverage (investment guarantees), or facilitation services

(b) Encourage high standards of corporate governance and responsible business conduct by outward investors

(c) Establish regular consultations between relevant authorities, or formal collaboration between outward investment agencies and investment promotion agencies for the promotion and facilitation of investment projects.