



GLOBAL ACTION MENU

FOR INVESTMENT FACILITATION

SEPTEMBER
2016

INVESTMENT AND ENTERPRISE DIVISION



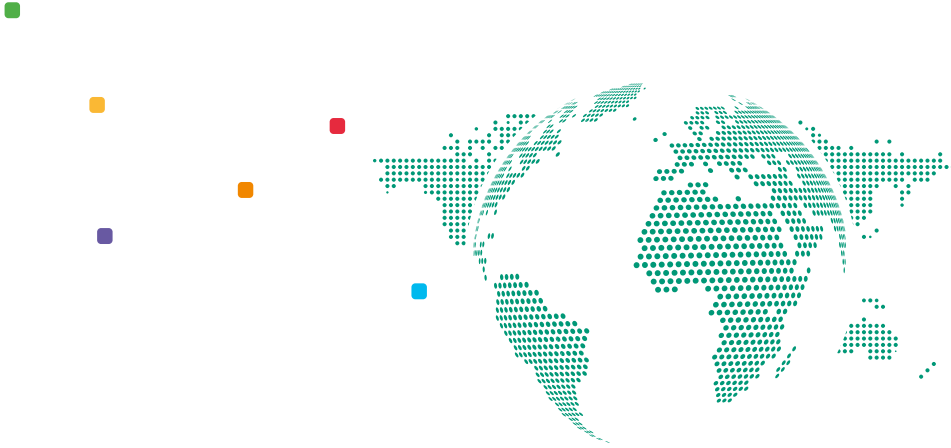
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Note to the Action Menu

This Action Menu incorporates extensive feedback from multi-stakeholder consultations and intergovernmental processes that took place during the UNCTAD 14 Conference and the World Investment Forum (WIF), held in Nairobi, Kenya, in July 2016. At these meetings, the Action Menu was widely welcome and strongly supported by the investment-development stakeholders.

This version further builds on numerous comments and suggestions received since the first posting on the Investment Policy Hub in January 2016 of the Action Menu prepared by the UNCTAD Secretariat in the form of a discussion note. We wish to thank all individuals and organizations – collectively representing the full spectrum of investment-development stakeholders, including senior government officials, experts and business representatives – who provided feedback on the Action Menu, both through the Hub and in other forums. Further feedback is welcome and will be used for subsequent revisions of this "living instrument"; comments can be sent via e-mail to DIAEinfo@UNCTAD.org.

UNCTAD's Global Action Menu for Investment Facilitation

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. UNCTAD's 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.

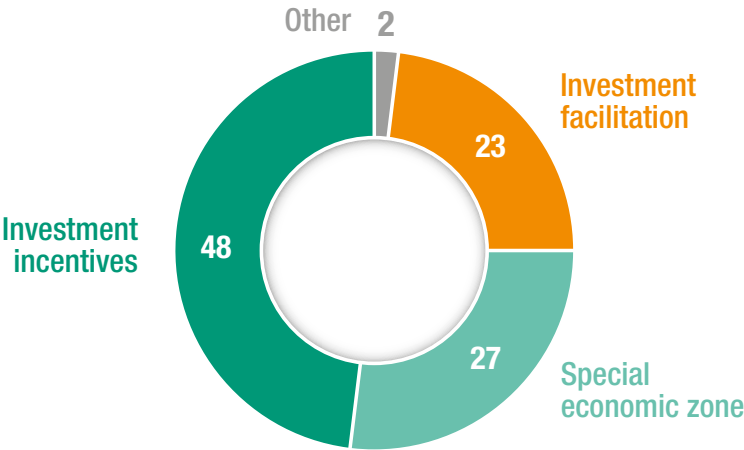
Facilitating investment is of fundamental importance for growth and development. It is critical for achieving the Sustainable Development Goals (SDGs), because developing countries face an annual SDG-investment gap of \$2.5 trillion. Investment facilitation is also one of the five priority areas in the UNCTAD road map for the improvement of the international investment policy regime.

Investment promotion and 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.

Investment facilitation initiatives aim to tackle 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 mitigate investment disputes; they can include cross-border coordination and collaboration initiatives such as links between outward and inward investment promotion agencies; and they can include technical cooperation and other support mechanisms for investment.

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, and only 23 per cent related to investment facilitation specifically (figure 1). 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.

Figure 1. Breakdown of promotion and facilitation measures, 2010–2015 (per cent)



Source: UNCTAD, Investment Policy Monitor.

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

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

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

The Action Menu also contains specific actions to support investment facilitation for development in low income countries. This is important, because 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 the overall investment policy framework, aimed at maximizing the benefits of investment and minimizing negative side effects.

The Action Menu is based on UNCTAD's Investment Policy Framework – which proposed action on investment facilitation in its first edition in 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, UNCTAD's Global Action Menu has benefitted from substantive inputs and strong support from investment-development stakeholders, including high-level policymakers from developing, developed and transition economies, as well as intergovernmental organizations and the private sector.

Action Menu for Investment Facilitation

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.
- Establish a single window or special enquiry point for all enquiries concerning investment policies and applications to invest.
- Maintain a mechanism for providing timely and relevant notice of changes in procedures, applicable standards, technical regulations and conformance requirements.
- Make available screening guidelines and clear definitions of criteria for assessing investment proposals.

ACTION LINE

2

Enhance predictability and consistency in the application of investment policies.

- Ensure consistent application of investment regulations across relevant institutions.
- Avoid discriminatory use of bureaucratic discretion in the application of laws and regulations on investment.
- Establish clear criteria and procedures for administrative decisions with respect to investment 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 of investment administrative procedures.

- Shorten the processing time and, where appropriate, simplify procedures for investment and license applications, investor registration and tax-related procedures.
- Promote the use of time-bound approval processes or a "no objections within defined time limits" approach 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 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.
- Create "Client Charters" in investment agencies that define service delivery standards and good practices.
- Keep the costs to the investor in the investment approval process to a minimum.
- Facilitate, within the framework of relevant legislation, entry and sojourn of investment project personnel (facilitating visas, dismantling bureaucratic obstacles).
- Simplify the process for connecting to essential public 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 in investment policy practice.

- Maintain mechanisms for regular consultation and effective dialogue with investment stakeholders to identify and address issues encountered by investors and affected communities.
- 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, focal point or investment 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 of and transparency in investment legislation and procedures.
- Inform relevant government institutions about 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 efficiency of administrative procedures to identify priority areas for investment facilitation measures .
- Benchmark and measure performance of institutions involved in facilitating investment or in providing administrative services to investors, including in line with international best practices.

ACTION LINE

7

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

- 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.
 - Design, implement and monitor progress on investment facilitation work plans.
- Collaborate on anti-corruption in the investment process.
- Arrange for regulatory and institutional exchanges of expertise.

ACTION LINE

8

Strengthen investment facilitation efforts in developing-country partners, through 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 capacity in IPAs and relevant authorities on business and investor facilitation services, including support in administrative and compliance processes.
- Build capacity for the preparation of regulatory feasibility studies for potential investment projects (including environmental and social impact assessments and regulatory and administrative requirements).
- 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.
- 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 attraction in developing-country partners, through capacity-building in the following areas:

- 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 in IPAs 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
 - Facilitate linkages between foreign affiliates and local enterprises.
 - 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.
 - Adopt frameworks to promote responsible business conduct by international investors.

ACTION LINE

10

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

- Encourage home countries to provide outward investment support, e.g. political risk coverage (investment 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 promotion and facilitation of investment projects.

For the latest investment trends and policy developments, please visit the website of the UNCTAD Investment and Enterprise Division

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