



## **BRICS Understanding on Investment Facilitation**

BRICS format has proven to be an effective vehicle to renew growth and relaunch the BRICS countries' economies. The impact of the health, economic and multilateral regulatory crisis currently unfolding are yet to be fully evaluated. The challenges presented by the current complex situation are accompanied by, *inter alia*, disruption of the established manufacturing, transportation and distribution chains and governance order. The close cooperation among BRICS countries presents an opportunity to mitigate the effects of the crisis and to contribute to restoration of production cross-border trade and cross-border investments, which in turn are all important factors for recovery of the global economy.

The BRICS economies will play an important role in the global restoration of international investment flows, being major exporters of capital and destinations of inward FDI. Therefore, the instruments aimed at facilitation of investments on domestic, intra-BRICS and international level can assist.

Recognizing that investment and investment facilitation is an important area of cooperation in BRICS, Trade Ministers agreed upon the BRICS Trade and Investment Cooperation Framework in 2013 and on the BRICS Trade and Investment Facilitation Action Plan in 2014. Having regard to the uncertainties of current times, BRICS countries will continue their cooperation in the area of investment facilitation as highlighted in the Strategy for the BRICS Economic Partnership adopted in 2015.

In 2017, Trade Ministers endorsed the Outlines for BRICS Investment Facilitation. The Outlines compiled some existing good practices of BRICS countries to enhance transparency, improve efficiency and promote cooperation.

During the discussions within the Contact Group on Economic and Trade Issues, participants identified various investment-related barriers faced by BRICS

countries' operators on certain other markets, in particular, but not limited to, the exchange rate risks and the risks of non-payment; immigration, residency and/or work permits policies, government procurement policies and poor infrastructure. The discussions showed that the enhancement of transparency, improvement of efficiency and promotion of cooperation, as identified in the 2017 Outlines, remain as areas that BRICS countries need to strengthen.

### **Promoting Cooperation**

Recognizing that the BRICS forum could be used to overcome hindrances to intra-BRICS investment flows, and take appropriate investment facilitation measures domestically to address these obstacles, BRICS countries will endeavor to strengthen their cooperation in investment facilitation areas.

BRICS countries will endeavor to regularly exchange of information and experiences on their policies aimed at investment facilitation and the practical implementation thereof as well as the relevant policies and experiences of BRICS countries' investors encountered in other markets.

BRICS countries will furthermore endeavor to regularly exchange information regarding, *inter alia*, prospective investment opportunities and incentives offered, *including* for small and medium enterprises. BRICS countries will exchange the information specifying sectors of BRICS countries' economies where FDI is encouraged, limited or prohibited for investors of BRICS countries.

Such information exchange to the extent practicable will be conducted through the designated relevant authorities of the BRICS countries: authority vested with investment facilitation responsibilities, the authority responsible for BRICS CGETI matters, or specifically designated focal points, e.g. investment one-stop shops for respective BRICS member states.

Such exchange will be without prejudice to the right of each country not to disclose confidential information.

### **Enhancing Transparency**

BRICS countries recognize that a transparent and predictable legal framework is one of the key factors for the attainment of increased FDI inflow for sustainable development as well as the creation of practical benefits for BRICS countries' investors in other markets.

To that end BRICS countries will endeavor to make publicly available, preferably by electronic means, relevant laws, regulations and/or policies of general application that may influence the operation of FDI in their markets; information on authorities (such as agencies or regulatory bodies) responsible for particular authorizations; requirements and procedures required by the domestic legal framework for relevant applicants seeking authorization; and estimated timeframes normally required to process an application for such decisions. The BRICS countries recognize that non-discriminatory, non-arbitrary and reasonable administration of laws, regulations and/or policies of general application affecting the operation of investors and investments is an important factor for the creation of predictable and stable investment environment for such investors, whether domestic or foreign.

To the extent possible BRICS countries will also allow for interested stakeholders to make submissions during the drafting process of investment legislation as provided in their laws and regulations and to the extent such process may be made publicly accessible according to such laws and regulations, in particular through consultations with interested investors and providing an opportunity for them to submit comments and proposals on draft legal acts.

### **Improving Efficiency**

BRICS countries recognize that predictability for investors' operation may be achieved through consistent dialogue between the relevant authorities and the investors.

BRICS countries will endeavor to keep investors duly informed on matters such as potential timeframes, relevant fees, and the status of applications where required by an investor, and in accordance with their laws and regulations.

Where possible, the BRICS countries will endeavor to further simplify the requirements and procedures applied to the investors and their investments, whether domestic or foreign, without prejudice to the legitimate objectives pursued by BRICS countries.

BRICS countries recognize the value of electronic means for the dissemination of official information to facilitate investment, such as legal acts and policies, including their drafts, opportunities and incentives existing at the target markets, responding to the requests by the investors, as well as electronic means for submission of documents required and to obtain necessary authorizations and decisions by the authorities, when such means do not prejudice the legitimate policy objectives of the relevant procedures. BRICS countries will endeavor to establish at national level or where applicable continue with a “one-stop” institution, i.e. a “single window” approach to such aspects as unified document collection and procedural streamlining, in accordance with domestic laws and regulations. With this in mind BRICS countries will continue initiatives such as online portals and expand the ambit to include investment facilitation information.

Recognizing that facilitating investment is crucial for sustainable development and inclusive growth, and bearing in mind the UNCTAD’s Global Action Menu for Investment Facilitation with the view to creation of beneficial environment for investors operating in the markets of BRICS countries as well as their investors operating in other markets, BRICS countries endeavor to promote these principles domestically and internationally and cooperate among themselves where feasible on investment facilitation. The above-mentioned cooperation is without prejudice to individual BRICS country’s approaches to international investment-related rule-making, and for the preserve BRICS country’s policy space and the right to regulate.

The above statement does not represent an international agreement and will be considered on a voluntary basis. BRICS countries fully retain the right to regulate, preserve national policy space, and pursue policy making and approaches to investment in other bilateral, plurilateral and multilateral frameworks and processes consistent with the applicable international rules that BRICS countries are part of.