PREDICTABILITY AND TRANSPARENCY

Article 2.1

Administration of measures of general application

Each Party shall ensure that all measures of general application within the scope of this Agreement are administered in a reasonable, objective and impartial manner.

Article 2.2

Publication requirements

1. Each Party shall publish promptly or otherwise make publicly available in writing and, except in emergency situations, at the latest by the time of their entry into force, all relevant measures of general application with respect to any matter covered by this Agreement in such a manner as to enable investors to become acquainted with them.

2. For the purposes of this Agreement, "publish" means to include in an official publication, such as an official journal, or on an official website.

Article 2.3

Publication in advance and opportunity to comment

1. To the extent practicable and in a manner consistent with its legal system for adopting measures, each Party[4] shall publish in advance:

   (a) the laws and regulations of general application it proposes to adopt in relation to matters falling within the scope of this Agreement; or

   (b) documents that provide sufficient details about such a possible new law or regulation of general application to allow interested persons and other Parties to assess whether and how their interests might be significantly affected.

2. To the extent practicable and in a manner consistent with its legal system for adopting measures, each Party is encouraged to apply paragraph 1 to procedures and administrative rulings of general application it proposes to adopt in relation to matters falling within the scope of this Agreement.

[4] The Parties understand that paragraphs 1 to 4 recognise that the Parties have different systems to consult on certain measures before they are final, and that the alternatives set out in paragraph 1 reflect different legal systems.

3. To the extent practicable and in a manner consistent with its legal system for adopting measures, each Party shall provide any person, on a non-discriminatory basis, a reasonable opportunity to comment on such proposed measures or documents published under paragraph 1 or 2.

4. To the extent practicable and in a manner consistent with its legal system for adopting measures, each Party shall consider comments received pursuant to paragraph 3[5].

5. In publishing a law or regulation of general application referred to in paragraph 1, or in advance of such publication, to the extent practicable and in a manner consistent with its legal system for adopting measures, each Party is encouraged to explain the purpose and rationale of that law or regulation.

6. Each Party shall, to the extent practicable, endeavour to allow a reasonable time between publication of the text of a law or regulation of general application referred to in paragraph 1 and the date on which investors must comply with the law or regulation.

Article 2.4

Transparency of the investment framework

1. Each Party shall make available via electronic means such as a website and, where practicable accessible through a single portal, and update to the extent possible and as appropriate, the following:

   (a) laws and regulations specifically addressing investment, where they exist;

   (b) restrictions and conditions applying to investment; and

   (c) contact information of relevant competent authorities involved in the authorisation of investment.

2. Each Party shall make available, where practicable via electronic means such as a website and accessible through the single portal referred to in paragraph 1, and update to the extent possible and as appropriate, a description that informs the other Party's government agencies, investors, and other interested parties of the practical steps needed to invest in its territory. This description should cover, inter alia, the requirements and procedures related to:

   (a) company establishment and business registration;

   (b) connecting to essential infrastructure such as electricity and water supply;

   (c) the acquisition and registering of property such as land ownership rights;

   (d) construction permits;

[5] This provision does not place any obligation on the final decision of a Party that adopts or maintains any measure for authorisation of an investment.

(e) resolving insolvency;

(f) capital transfers and payments;

(g) convertibility of currency;

(h) the payment of taxes; and

(i) access to finance, especially for Micro, Small and Medium-sized Enterprises (MSMEs).

3. No fee shall be imposed on any investor in a Party's territory for access to the information provided under this Article or under Article 2.2 [publication requirements].

Article 2.5

Transparency of investment incentives

1. Each Party shall make available via electronic means such as a website and, where practicable accessible through a single portal, and update to the extent possible and as appropriate, information on investment incentives.

2. The information shall cover all incentives available to investors and persons seeking to invest, including financial incentives, fiscal incentives as well as in-kind transfers (including non-financial incentives).

3. The information provided should include, inter alia, the following elements:

(a) the legal basis of the incentive;

(b) the form of the incentive;

(c) the eligibility requirements of the incentive;

(d) the application process, including forms and documents; and

(e) contact information.

Article 2.6

Linkages with the host economy

Each Party is encouraged to make available to investors and persons seeking to invest information on domestic suppliers with a view to strengthening linkages with the local economy, increasing the competitiveness of domestic suppliers and enhancing the contribution of investment to sustainable development.

Article 2.7

Disclosure of confidential information

Nothing in this Agreement shall require any Party to provide confidential information the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular enterprises, public or private.

CHAPTER III

STREAMLINING OF AUTHORISATION PROCEDURES

Article 3.1

Scope and definitions

1. This Section applies to measures of the Parties relating to the authorisation of investment.

2. For the purposes of this Section,

   (a) "authorisation" means the permission to pursue any economic activity related to an investment, resulting from a procedure an investor must adhere to in order to demonstrate compliance with the necessary requirements; and

   (b) “competent authority” means a central, regional or local government or authority or non-governmental body in the exercise of powers delegated by central, regional or local governments or authorities, which is entitled to take a decision concerning the authorisation referred to in point (a).

Article 3.2

Submission of applications

Each Party shall, to the extent practicable, avoid requiring an applicant to approach more than one competent authority for each application for authorisation. If an activity for which authorisation is requested is within the jurisdiction of multiple competent authorities, multiple applications for authorisation may be required.

Article 3.3