

SADC–IISD Investment Facilitation Workshop

Report of the meeting
held August 21–23, 2018 in
Johannesburg, South Africa

IISD REPORT



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January 2019

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Acronyms and Abbreviations

AL	action line
FDI	foreign direct investment
IIA	international investment agreements
IISD	International Institute for Sustainable Development
IPA	investment promotion agencies
IPF	Investment Policy Framework
KYC	know your customer
MoU	Memorandum of Understanding
OECD	Organisation for Economic Cooperation and Development
OIA	outward investment agency
SADC	Southern African Development Community
SEZ	special economic zones
TFA	Trade Facilitation Agreement
UNCTAD	United Nations Conference on Trade and Development
WTO	World Trade Organization



1.0 Introduction

The Secretariat of the Southern African Development Community (SADC Secretariat), in collaboration with the International Institute for Sustainable Development (IISD), hosted the SADC Workshop on Facilitating Investment for Sustainable Development. The workshop was held at the Southern Sun O.R. Tambo International Airport Hotel in Johannesburg, South Africa, from August 21 to 23, 2018.

Nearly 40 participants attended the workshop, including more than 30 government officials representing 13 SADC member states.¹ The workshop was facilitated by three legal experts from IISD. In addition, one expert of the United Nations Conference on Trade and Development (UNCTAD) led some of the sessions remotely.²

The three-day workshop was the first meeting on the issue of investment facilitation held at SADC regional level and, to the best knowledge of all of the participants and experts, the first meeting of developing country government representatives to actually focus on discussing the detailed issues relating to the concept and implementation of facilitating investment for sustainable development.



Figure 1. Group Photo of Workshop Participants

Source: IISD archives.

¹ Angola, Botswana, Democratic Republic of Congo, Kingdom of eSwatini, Lesotho, Madagascar, Mauritius, Mozambique, Namibia, Seychelles, South Africa, United Republic of Tanzania and Zambia.

² Howard Mann, Senior International Law Advisor; Martin Dietrich Brauch, International Law Advisor; and Nathalie Bernasconi, Group Director, International Economic Law and Policy, for IISD; and Hamed El-Kady, for UNCTAD.



2.0 Background

Investment facilitation has become a hot topic on the international investment policy agenda over the past couple of years. Some states have become very active in promoting international negotiations through bilateral, regional and multilateral treaties, while others have focused on the development of a greater understanding of facilitating investment at the national level. Notably, there is no consensus among international organizations and civil society groups on how best to understand and address investment facilitation issues. The G20 does not have a united position in practice, and the World Trade Organization (WTO) Ministerial Conference in Buenos Aires in December 2017 was divided on the issue of including investment facilitation as a topic for future WTO work, with over 100 governments against including investment facilitation in any WTO work programs.³

While there are multiple discussions, investment facilitation is still an elusive concept.⁴ Moreover, facilitating investment for sustainable development has never been made the central focus of any international discussions. There has also been little research and empirical analysis on the issue, as noted in several of the background documents used at the meeting. The Abujah Declaration on Investment Facilitation, the Organisation for Economic Co-operation and Development (OECD) and the WTO all acknowledge the absence of any common understanding or adequate empirical research on which to properly identify what would be needed to facilitate investment for sustainable development.⁵ This context poses challenges for developing country governments and international organizations considering whether and how to develop and implement investment facilitation policies.



³ Brauch, M. D. (2017, December). *A risky tango? Investment facilitation and the WTO Ministerial Conference in Buenos Aires*. Geneva: IISD. Retrieved from <https://www.iisd.org/library/risky-tango-investment-facilitation-and-wto-ministerial-conference-buenos-aires>

⁴ Zhang, J. (2018, July). *Investment facilitation: Making sense of concepts, discussions and processes*. Geneva: IISD. Retrieved from <https://www.iisd.org/library/investment-facilitation-making-sense-concepts-discussions-and-processes>

⁵ “Investment facilitation stands increasingly high in the global economic agenda. Little conceptual research has been undertaken on the topic.” Novik, A. & de Crombrugghe, A. (2018, April). *Towards an international framework for investment facilitation* (OECD Investment Insights), p. 1. Retrieved from <https://www.oecd.org/investment/Towards-an-international-framework-for-investment-facilitation.pdf>. See also, Ghiotto, L. (2018, October). A critical review of the debate on investment facilitation. *Investment Treaty News*, 9(3), 4–6. Retrieved from <https://www.iisd.org/itn/2018/10/17/a-critical-review-of-debate-investment-facilitation-luciana-ghiotto>



3.0 Objectives

The objectives of the workshop were:

- To understand the various notions of investment facilitation and how this must transform to a concept of facilitating investment for sustainable development.
- To discuss the scope and challenges of facilitating investment for sustainable development for SADC member states and the region.
- To assist SADC member states in scoping out options for harmonized international positions regionally and multilaterally.
- To set a basis for future national and SADC-wide steps in relation to facilitating investment for sustainable development.
- To discuss elements of a possible SADC regional agenda on investment facilitation for sustainable development.

The meeting proceeded through a series of focused discussions led by the four experts from IISD and UNCTAD, break-out groups and full group discussions. This allowed a strong focus on the interests and needs of the SADC member states to be brought forward, discussed, clarified and categorized into national, regional and multilateral action items.

The agenda for the meeting is contained in Appendix A.





4.0 Parameters for the Discussion: Three key distinctions to make

Governments must grapple with three important distinctions with respect to investment facilitation:

1. The distinction between trade facilitation and investment facilitation.
2. The distinction between traditional investment facilitation and facilitating investment for sustainable development.
3. The distinction between international-level issues, regional issues and national-level issues.

The workshop provided an opportunity for a structured and intensive dialogue on these issues by the participants, leading to the following views.

4.1 Distinction 1: Trade facilitation versus investment facilitation

As indicated in a paper published by the OECD,⁶ “investment facilitation can be associated with—or potentially derives from—trade facilitation, which first became a topic at the WTO at the 1996 Ministerial Conference in Singapore. While there is little or no confusion about the nature of trade facilitation (i.e., streamlining and simplifying international trade procedures), investment facilitation is a broader notion, not always clearly defined and sometimes confused with the narrower concept of investment promotion.”

The WTO defines trade facilitation as “the simplification, modernization and harmonization of export and import processes” aimed at reducing bureaucratic delays and “red tape” for traders to move goods across borders.⁷ WTO negotiations on the Trade Facilitation Agreement (TFA) were concluded at the 2013 Ministerial Conference in Bali, and the agreement entered into force on February 22, 2017. Its provisions cover three areas:

1. Expediting the movement, release and clearance of goods, including goods in transit.
2. Setting out effective cooperation between customs and other authorities on trade facilitation and customs compliance issues.
3. Providing technical assistance and capacity building for developing countries and least-developed countries.

The Brazilian proposal for a WTO agreement on investment facilitation tries to expand on the TFA and includes provisions on transparency, opportunities for investors to comment on regulations, and common principles governing administrative procedures and appeals. It also proposes mechanisms such as national enquiry points and single electronic windows, to reduce bureaucracy for investors in a similar way as the TFA aims at reducing it for traders. The proposal further includes provisions geared toward developing countries: international cooperation, special and differential treatment, and assistance and capacity building.

However, no proposal to date seems to actually take into account that trade and investment facilitation have widely different scopes and complexities, even just assuming a traditional notion of investment facilitation. These differences are apparent in at least three aspects:

1. While trade facilitation covers a relatively narrow area of national and international regulation (customs, tax, technical barriers to trade, and sanitary and phytosanitary laws and regulations), investment regulation—and admission—encompasses a much broader area of regulatory space, including laws and

⁶ Novik, & de Crombrughe (2018), *supra* note 5.

⁷ WTO. (2018). Trade facilitation. Retrieved from (https://www.wto.org/english/tratop_e/tradfa_e/tradfa_e.htm)



regulations on environment, labour, consumer protection, competition, transportation, anti-corruption, taxation of ongoing enterprises, revenue collection, health and safety, and many others. In addition, investments may be covered by sector-specific laws and regulations depending on the economic sector of the investment to be facilitated (mining, energy, agriculture, water and sanitation, telecommunication, banking, among others). The regulatory scope applying to admission of investments is thus vastly different compared to a traded good. And there are good reasons for this vast difference in scope, which applies in all states, developed and developing.

2. Given that trade facilitation relates to measures to facilitate imports and exports, it is implemented at the national government level by authorities responsible for overseeing foreign trade. Investment, in turn, covers a much broader scope of economic activity, which is often regulated not only at the national level, but also by subnational authorities and even at municipal levels.
3. Trade facilitation is aimed at the single act of trading by removing barriers to the movement of goods across borders and, as such, has a short-term nature: once the goods have crossed the border, trade facilitation has played its role. Investment facilitation is different in that it is aimed at removing barriers for the admission, establishment and acquisition⁸ of cross-border investment, which are long-term operations subject to multiple regulatory processes that are subject to change over the life of the investment. The impacts of investments, positive and negative, are potentially much greater those of the trade of a product, and thus must be subject to a much broader regulatory base to produce the long-term net benefits desired. Trade facilitation processes do not address these long-term needs, and thus cannot simply be transposed to investment.

4.2 Distinction 2: Investment facilitation versus facilitation of investment for sustainable development

UNCTAD's Global Action Menu for Investment Facilitation notes that “any facilitation initiative cannot be considered in isolation from the broader investment for development agenda. Effective investment facilitation efforts should support the mobilization and channeling 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.”⁹

Traditional investment facilitation models, of the type developed by the OECD in the early and mid-2000s (e.g., OECD Policy Framework for Investment), focused on the investment environment for the investor, largely to the exclusion of issues relating to the development impacts of the investment in the host state. Issues such as the speed of approvals, removing the need for approvals, investment liberalization, stability of the legislative environment and other elements often were addressed.

Today, when we speak of facilitating investment for sustainable development, the factors that support a positive relationship in this respect must be taken into account. These might include environmental protection, local economic development, social development needs, employment and skills training, respect for human rights, climate change adaptation and mitigation, and so on. The workshop explored these elements in more detail.

What was noted as critical by the workshop participants is that there has been very little discussion of how to facilitate investment that meets these host state needs: how does this differ from traditional investment facilitation and trade facilitation? What older elements must be jettisoned and what new ones brought on board? The workshop developed these issues, for the first time in any governmental forum, in an interactive and

⁸ The Brazilian proposal for a WTO agreement on investment facilitation also mentions “expansion” along with “admission, establishment and acquisition.” Throughout the workshop, discussion among participants reflected an understanding that the expansion of investments, from the point of view of the host state, involves different issues than those relating to their admission, establishment and acquisition. Therefore, workshop discussions focused on facilitating investment in the context of its admission, establishment and acquisition.

⁹ UNCTAD. (2017, May). *Global action menu for investment facilitation*. Geneva: UNCTAD, p. 4. Retrieved from <http://investmentpolicyhub.unctad.org/Publications/Details/148>



mutually supportive manner, based on a critical analysis of UNCTAD’s Global Action Menu for Investment Facilitation and other resources.

The participants were strongly of the view that the language of international discussion should be changed from investment facilitation to facilitating investment for sustainable development to reflect the important elements that need to be fully addressed.

4.3 Distinction 3: Investment facilitation in international agreements versus facilitating investment for sustainable development in national environments

Investment facilitation has become, as noted above, a highly controversial issue at the international level. The issue is not new to international economic negotiations. It was included, for example, as far back as the Cotonou Agreement in 2000. What is new is the latest drive to include investment facilitation into the WTO work, often on the basis that it is just a related issue to trade facilitation, the “flip side of the coin” to many. As already noted, this simplistic notion is incorrect.

Based on the discussion on days one and two, on days two and three the participants turned to identifying what the elements of facilitating investment for sustainable development should be, and at what levels these should be addressed: national, regional or multilateral. A key feature of this was to move away from fractious discussions based on notions of trade law disciplines to notions of building collaborative processes. This is an issue of special importance in SADC given the scope of transboundary infrastructure needed in the region.

The meeting concluded that a rational policy framework on facilitating investment for sustainable development must distinguish between national- and international-level measures. At the end of the day, it is the national measures that impact potential investors most directly, but also that relate most directly to the regulatory framework of the state that seeks to support achieving the sustainable development benefits of foreign direct investment (FDI). The participants determined that it was critical to maintain this tight connection between facilitation measures and regulatory measures.

The next sections provide a detailed analysis of how the participants believed this should be implemented in practice.



5.0 SADC Regional Priorities on Investment Facilitation

The 2016 SADC Investment Policy Framework (IPF) is aimed at providing an action-oriented and consensus-driven non-binding roadmap for investment policy reform in SADC member states. It raises issues in the following five action areas, identified as having a strong bearing on the investment environment in the region: (1) transparent and coherent investment environment; (2) market access and competition; (3) investment security and protection of investors' rights; (4) responsible business and inclusive investment for development; and (5) promotion of regional and international cooperation. The SADC IPF presents tables listing specific actions proposed under each area, for the purposes of a prioritization exercise undertaken by SADC member states.¹⁰

Workshop participants broke out in smaller groups of five or six participants to analyze and identify key priorities among the five action areas and the specific actions indicated under each of them. Participants were invited to think of which areas and specific actions would be most beneficial to SADC at the national and regional levels, in other words, to identify their own investment policy priorities. They were also challenged to think of any other areas or specific actions not mentioned in the SADC IPF table and of how areas or specific actions currently mentioned might be drafted differently or further developed. Each group reported back to the plenary.



The following specific actions were highlighted by **four** groups as priorities:

- Providing consolidated and easily accessible information about making investments (Specific Action 1.1).
- Minimizing corruption risks in investment (Specific Action 3.5).
- Enhancing support to local entrepreneurship, including small and medium-sized enterprises and women entrepreneurship (Specific Action 4.2). Groups suggested expanding this specific action to also include youth entrepreneurship.

¹⁰ SADC. (in press). *SADC Investment Policy Framework*. pp. 19–20.



These actions were highlighted as priorities by **three** groups:

- Institutionalizing open stakeholder consultation processes for investment policy
- (Specific Action 1.3). Groups suggested clarifying that stakeholders include civil society, the private sector and government.
- Promoting e-government initiatives to enhance the investment climate (Specific Action 1.5).
- Aligning investment policy with national development objectives (Specific Action 4.1).
- Encouraging environmentally friendly investments for sustainable development (Specific Action 4.5).

Finally, the following specific actions were prioritized by **two** groups:

- Conducting cost-benefit analyses to promote better quality regulation and policies (Specific Action 1.4). In this context, groups stressed the need to emphasize social, environmental and financial aspects of such regulation and policies.
- Adopting non-discriminatory treatment in investment-related policies (Specific Action 2.1).
- Maintaining an open environment for the entry and operation of foreign investment (Specific Action 2.2).
- Facilitating private sector participation in infrastructure investment (Specific Action 2.3).
- Moving toward coherent, harmonized and compatible regulatory regimes for investment (Specific Action 5.1).
- Promoting infrastructure investments through regional cooperation (Specific Action 5.4).
- Enhancing the nexus between trade and investment policy, especially in services (Specific Action 5.5).

The discussions described above helped set a basis for then analyzing collectively the UNCTAD Global Action Menu for Investment Facilitation, the most comprehensive facilitation menu to date, in the light of the critical issue of what level measures might most appropriately be taken.



6.0 Review of UNCTAD Global Action Menu for Investment Facilitation

The detailed analysis undertaken by the workshop participants of the UNCTAD Global Action Menu for Investment Facilitation is contained in Appendix B, which provides a comprehensive review of the analytical methodology and the results it led to. This section summarizes those results.

The first point of note is that the participants validated the great majority of elements in the UNCTAD action lines. What they generally took issue with was the proper allocation of measures between the national, regional, international (multilateral) levels. The results suggest a thoughtful approach is needed to address complex interactions between managing and facilitating the entry of investment and achieving the sustainable development goals that developing countries seek to achieve from that investment. To go back to the UNCTAD Investment Policy Framework for Sustainable Development,

[As a result of the developments described above,] a new generation of investment policies is emerging, pursuing a broader and more intricate development policy agenda within a framework that seeks to maintain a generally favourable investment climate. This new generation of investment policies has been in the making for some time, and is reflected in the dichotomy in policy directions over the last few years – with simultaneous moves to further liberalize investment regimes and promote foreign investment, on the one hand, and to regulate investment in pursuit of public policy objectives on the other. It reflects the recognition that liberalization, if it is to generate sustainable development outcomes, has to be accompanied – if not preceded – by the establishment of proper regulatory and institutional frameworks. The key policy challenge is to strike the right balance between regulation and openness.¹¹

In essence, the participants concluded that facilitating investment for sustainable development requires measures that enhance and work with, and thus primarily within, the national institutional and regulatory frameworks that are needed to achieve the public policy objectives associated with FDI today.

More specifically, the participants rejected the need for international or regional *regulatory* measures in relation to facilitating investment for sustainable development. None of the action lines in the UNCTAD menu produced a result in the meeting that supported new legal obligations at the international or regional levels. Rather, the participants looked for options of capacity building, information sharing and cooperative processes that can enhance policies, practices and legal provisions at the national level.

Benchmarking international best practices was a major theme of the discussion for international-level actions that would be practical and useful for governments. The lack of empirical evidence as to what measures would be most conducive for facilitating investment for sustainable development could be addressed through this type of activity. It was also felt that this information role should be broadly based and ensure options for governments to implement measures most realistic for their needs and circumstances.

At the national level, many of the action lines were considered as appropriate for possible regulatory measures. At the same time, the need to reflect sustainable development goals required, in the views of the participants,

¹¹ UNCTAD. (2015). *Investment policy framework for sustainable development*, p. 16. Retrieved from https://unctad.org/en/PublicationsLibrary/diaepcb2015d5_en.pdf



flexibility to be built into provisions in order to reflect the complexity of review for some potential investments. Environmental impact assessments were agreed as a primary example where one cannot attach fixed timelines to complex projects or assessments.

Information sharing was a major theme of the results of the meeting, in particular in relation to capacity building. Participants strongly supported the need for making accurate information available to potential investors and the need for consultations at the national level on investment laws and policies. The ability to have comparative data available for benchmarking was seen as a critical support element for governments in this regard.

Innovation and the use of technology were also important issues for participants. Here again, however, participants noted that the use of single-window access points and other facilitative processes had to be carefully crafted in order not to impact necessary regulatory functions. Online technologies and other single-window functions were intended to provide access to information in a simplified manner, but not alter regulatory functions.

The participants also identified a number of missing elements in the UNCTAD action menu. These are set out in Appendix B, Section B.4. These “missing elements” relate primarily to government-identified needs for understanding the contribution of the investor and investment to sustainable development in the host state.



7.0 SADC Work Plan on Facilitating Investment for Sustainable Development

Workshop participants concluded that, at the SADC regional level, facilitation measures should focus on information sharing, intra-regional cooperation, use and strengthening of SADC institutions, and capacity building and technical assistance. In particular, they indicated 41 options for possible facilitation measures at the regional level, as set out in Appendix B, Section B.3.2 below.

Participants recognized the important role that already-existing regional Internet platforms on national investment laws can play as a central feature of regional support. This should be built on best-practice standards in such tools, and experience at the national and regional levels should be used to provide such best-practice standards.

The ability of SADC to develop regional best practices and standards—for example, for ensuring responsible corporate behaviour through the investment-making process—was seen as important and likely to generate more relevant standards for countries from the region. While legally binding approaches were not supported, SADC was seen as the most appropriate level for developing, on an incremental basis, standards for service delivery by governments in facilitating investment, and for incorporating standards for maximizing the sustainable development benefits in the investment-making process. Maximizing the value of regional opportunities through such types of measures was seen as a priority for participants. The ability to generate regional best practices from experience and collective research was an important element of this.

There was a strong direction among participants that SADC could assist with technical assistance that supports sustainable development goals related to attracting FDI. Participants noted, for example, the absence of technical support to evaluate and assess investment proposals, to set standards for the economic development aspects of proposals and to identify pipelines of positive proposals. A related issue was the capacity to identify and attract high-level investors with a commitment to being partners in development, as opposed to investors who may have track records that are less supportive of such goals. Conversely, the ability to ensure strong anti-corruption and money laundering was also seen as important. In short, the focus on measures to support the economic and social development goals while enhancing investment attractiveness was identified as an area of need not being met through other institutions. This suggests a positive area of work that would not be duplicative of other resources and that would have a positive impact on generating potential region-wide benefits.

The full list of areas to consider when developing a work program that focuses on the above approaches is in Appendix B, Section B.3.2.





8.0 Conclusions

The meeting concluded on a very positive note, including a recognition of the contributions of Thembi Langa over her period as the SADC Secretariat official leading the investment file. As was noted, when she began working at SADC, it was barely possible to get quorum at some investment-related meetings. Now, the attendance is full. In this spirit, participants anticipated a growing set of constructive work on facilitating investment for sustainable development as well.

Substantively, the above results speak for themselves and need not be reiterated. The evaluations indicated that the meeting was very positively received by the participants and was seen as a positive step forward to improve the SADC Secretariat's contributions to investment throughout the region. Complementary areas of work between the regional SADC Secretariat and national governments were set out in a purposeful and constructive manner. Importantly, there was a strong spirit of solidarity among member states and a strong sense of region-wide opportunities that can be harnessed.

Appendix A contains the Agenda for the meeting. Appendix B sets out the detailed tables reviewing the allocation of facilitation measures between different levels and the types of measures not included in the UNCTAD action lines.



Appendix A: Agenda

21 August	Understanding the Right Parameters	Lead
08:30	Delegate Registration	Secretariat
09:00	Opening Session	Secretariat, IISD
09:30	<p>Facilitating Investment for Sustainable Development: What does it mean?</p> <ul style="list-style-type: none"> • How do we define “investment facilitation” today? • Examples from UNCTAD, OECD and others • Why is it different from older models of investment facilitation? • What needs to be taken into account? • What are the elements of investment for sustainable development that need to be included? • Investment facilitation and investment promotion <p>Materials:</p> <ul style="list-style-type: none"> • SADC <i>Investment Policy Framework</i>, 2016 • UNCTAD <i>Global Action Menu on Investment Facilitation</i>, 2017 • UNCTAD, <i>Investment Policy Framework for Sustainable Development</i>, 2015 • OECD, <i>Towards and International Framework for Investment Facilitation</i>, 2018 • Sauvart and Mann, <i>Characteristics of Sustainable Investment</i>, 2017 	Howard Mann Hamed El-Kady
10:45	Break	
11:00	<p>Investment Facilitation: What levels of governance?</p> <ul style="list-style-type: none"> • Domestic law and policy measures • Regional • International instruments <p>Materials:</p> <ul style="list-style-type: none"> • 2–3 national law and policy examples • UNCTAD Action Menu • SADC regional examples • Cotonou Agreement • WTO proposals • Cooperation and Facilitation Investment Agreements concluded by Brazil 	Howard Mann Martin Brauch Nathalie Bernasconi Hamed El-Kady
12:30	Lunch	



21 August	Understanding the Right Parameters	Lead
14:00	Trade Facilitation Versus Investment Facilitation: An analysis of approaches to trade facilitation compared to investment facilitation for sustainable development Materials: <ul style="list-style-type: none"> • WTO Trade Facilitation Agreement • UNCTAD Action Menu • OECD <i>Towards an International Framework for Investment Facilitation</i>, 2018 	Martin Brauch
14:45	SADC Investment Facilitation Priorities: A first cut <ul style="list-style-type: none"> • Based on SADC Regional investment framework questionnaire (pp. 19–20) • Investment facilitation as a dynamic process, not a watertight box in a document 	Group discussion and priority setting
15:30	Break	
16:00	Prioritizing SADC Regional Needs <ul style="list-style-type: none"> • Reporting back from groups • Identifying levels for action 	Facilitated plenary discussion
17:30	End of Day	
22 August	National-Level Measures	Lead
08:45	Delegate Registration	Secretariat
09:00	Key Themes from Day 1	Group discussion
09:20	UNCTAD's <i>Global Action Menu for Investment Facilitation</i>	Hamed El-Kady
10:00	A Deeper Dive: UNCTAD's Action Line 1 <ul style="list-style-type: none"> • Promote accessibility and transparency in investment policies and regulations and procedures relevant to investors 	Howard Mann Delegates
10:45	Break	
11:00	A Deeper Dive: UNCTAD's Action Lines 2–4 <ul style="list-style-type: none"> • Enhance predictability and consistency in the application of investment policies • Improve the efficiency of investment administrative procedures • Build constructive stakeholder relationships in investment policy practice 	Martin Brauch Delegates
12:30	Lunch	



22 August	National-Level Measures	Lead
14:00	<p>A Deeper Dive: UNCTAD'S Action Lines 5–7</p> <ul style="list-style-type: none"> • Designate a lead agency, focal point or investment facilitator with a mandate • Establish monitoring and review mechanisms for investment facilitation • Enhance international cooperation on investment facilitation 	Nathalie Bernasconi Delegates
15:30	Break	
16:00	<p>A Deeper Dive: UNCTAD'S Action Lines 8–10</p> <ul style="list-style-type: none"> • Strengthen investment facilitation efforts in developing-country partners, through support and technical assistance • Enhance investment policy and proactive investment attraction in developing country partners, through capacity building • Complement investment facilitation by enhancing international cooperation for investment promotion for development, including through provisions in IIAs. 	Howard Mann Delegates
17:30	End of Day	
23 August	International-Level Measures	Lead
08:45	Delegate Registration	
09:00	Key Themes from Day 2	
09:20	<p>From Cotonou to Buenos Aries</p> <ul style="list-style-type: none"> • Investment facilitation in Cotonou • Evolution in IIAs • Proposals in WTO • The resistance movement 	Martin Brauch Nathalie Bernasconi
10:45	Break	
11:00	<p>What is the Need for International Measures?</p> <ul style="list-style-type: none"> • What type of measures, if any? • What are the potential risks? • How can the negotiating context be controlled? 	Facilitated discussion
12:00	<p>An SADC Regional Agenda for Investment Facilitation</p> <ul style="list-style-type: none"> • Support to domestic measures • Developing a regional program • Negotiating at the multilateral level 	
12:30	Lunch	



23 August	International-Level Measures	Lead
14:00	An SADC Regional Agenda for Investment Facilitation, continued <ul style="list-style-type: none">• Support to domestic measures• Developing a regional program• Negotiating at the multilateral level	Facilitated discussion
15:00	Next Steps in a Regional Framework	
15:30	Break	
15:45	Adoption of Meeting Report	Secretariat
17:00	End of Day	



Appendix B: Review of UNCTAD *Global Action Menu for Investment Facilitation*

B1 Methodology

UNCTAD’s *Global Action Menu for Investment Facilitation* “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 [international investment agreements].” In addition, it contains “specific actions to support investment facilitation for development in low income countries,” based on the acknowledgment that “any facilitation initiative cannot be considered in isolation from the broader investment for [sustainable] development agenda.”¹²

Throughout the second day of the workshop, participants broke out in smaller groups of five or six individuals to analyze and discuss the 10 action lines and the specific options for policy measures indicated under each of them. Participants considered whether and how each option could potentially be implemented at the national level (law and policy measures by each SADC member state), the regional level (SADC-level agreements and policies) and the international level (bilateral or multilateral agreements and policies). In particular, participants considered what role (if any) investment facilitation measures could have if implemented at each of the three levels.

The small groups recorded their discussions in 10 tables (one per action line of UNCTAD’s *Global Action Menu for Investment Facilitation*) provided by the facilitators. The rows of each table listed the specific options for policy measures under a given action line, mirroring the text of UNCTAD’s action menu. Working in small groups, participants completed the tables, indicating in the blank cells under the three columns (national, regional and international) the roles that, in their view, the given policy option could have at the three different levels, in the following format:

Action Line [x]	National	Regional	International
Specific option for policy measure [predefined, mirroring text of UNCTAD’s Global Action Menu for Investment Facilitation]	Role for investment facilitation at national level (domestic policy measures) with respect to the specific policy option [completed by participants]	Role for investment facilitation at regional level (intra-SADC agreements and policy measures) with respect to the specific policy option [completed by participants]	Role for investment facilitation at international level (bilateral and multilateral agreements and policy measures) with respect to the specific policy option [completed by participants]
...

Rapporteurs of each small group presented their preliminary conclusions to the plenary. Based on these preliminary results, the workshop facilitators compiled the most frequent investment facilitation policy measures which, according to participants, could have a role at regional and international levels. In doing so, the facilitators sought to compile participants’ answers to two questions: (1) What role is there for investment facilitation at the national and international (including bilateral and multilateral) levels? (2) What role is there for investment facilitation at the regional (SADC) level?

¹² UNCTAD (2017), *supra* note 7, p. 4.



On the third day of the workshop, the facilitators presented the compiled results to workshop participants, who discussed them, validated them (amending and complementing them as needed) and approved them by consensus.

The preliminary tables prepared by the various small groups at the first stage of the exercise are presented in Section B.2, updated to reflect the rejection of certain controversial points in the validation process conducted on the third day of the workshop. The final results of this discussion, validation and approval process are presented in Section B.3.

The facilitators also organized a brainstorming session on the third day of the workshop, inviting participants to indicate investment facilitation areas and measures which, in their view, were not adequately covered by the UNCTAD Global Action Menu for Investment Facilitation and could be added to a future version of the document. As participants brainstormed and gave their feedback, the facilitators drafted their recommendations and projected them live on the screen. Participants discussed the recommendations, validated them (amending and completing them as needed) and approved them by consensus. The results of this discussion, validation and approval process are presented in Section B.4.

B2 Preliminary Tables of Action Lines and Specific Options for Policy Measures

ACTION LINE 1: PROMOTE ACCESSIBILITY AND TRANSPARENCY IN INVESTMENT POLICIES AND REGULATIONS AND PROCEDURES RELEVANT TO INVESTORS.

	National	Regional	International
Provide clear and up-to-date information	Primary responsibility	SADC promotion campaigns	Promoting SADC as destination region (blending promotion & facilitation)
Establish a single window	Role for national governments (investment promotion agencies [IPAs], single windows, one-stop shops, inter-agency coordination)	SADC portal as a gateway; possible role for harmonization of how information is presented by countries	Bilateral: e.g., national contact points. Multilateral: contact offices, support (cooperation)
Maintain a mechanism for providing timely and relevant notice of changes	Primary location: publishing on national website	When national system is updated, regional is updated automatically. Need for harmonization?	None
Make available screening guidelines and clear definitions of criteria for assessing investment proposals	Need for clear and effective criteria	Flexible, non-binding guidance (best practices), taking into account national differences	Concern was expressed for any international involvement

Source: IISD based on workshop discussions.



ACTION LINE 2: ENHANCE PREDICTABILITY AND CONSISTENCY IN THE APPLICATION OF INVESTMENT POLICIES.

	National	Regional	International
Ensure consistent application of investment regulations	Mechanism to address different decisions of ministers; use of conditions? Guidelines on application of criteria	Role of existing regional agreements; exchange of best practice, esp. for sustainable development; possible re-introduction of role of SADC court	Role of investment tribunals, exhaustion of local remedies ¹³
Avoid discriminatory use of bureaucratic discretion	National laws and regulations	Possible re-introduction of role of SADC court	Role of investment tribunals, exhaustion of local remedies ¹⁰
Establish clear criteria and procedures for administrative decisions	Clear rules	Role of existing regional agreements; benchmarking, best practices	Benchmarking, best practice
Establish amicable dispute settlement mechanisms	Mediation facility	Study possible regional (multi-party) mediation centre	Regional preferred by government, but consider views of investors also

Source: IISD based on workshop discussions.

ACTION LINE 3: IMPROVE THE EFFICIENCY OF INVESTMENT ADMINISTRATIVE PROCEDURES.

	National	Regional	International
Shorten the processing time and simplify procedures	One-stop shop, automation e-portal	Capacity building and exchange program for best practices	Bilateral agreements and cooperation – e.g., Namibia and Singapore; sharing examples of countries with respect to ease of doing business
Promote the use of time-bound approval processes	Indicate in the law the provisions on any extensions in case of complex projects; in the case of public investment, proposals to be submitted one year before to the economic team for timely approval and funding	To be built into bilateral treaty models	Produce worldwide reports for benchmarking and best practices

¹³ NB: The participants did not argue for expanding investor–state dispute settlement to facilitation measures but noted that they may apply where treaties are in effect and address pre-establishment issues.



	National	Regional	International
Provide timely and relevant administrative advice	Provide requirements through documentation and guidelines; brochures, online	To be built into bilateral treaty models	None
Encourage and foster institutional cooperation and coordination	Streamline processes and procedures, encouraging consultation among institutions	Sharing of best practices and awareness creation	Benchmarking against best international practice
Where appropriate, establish an online one-stop approval authority	Aspire to have a national one-stop approval authority	Information sharing	Information sharing from a regional level
Clarify roles and accountabilities between national and local governments or where more than one agency screens	Streamline laws and processes, benchmarking against processes	None	None
Create “Client Charters”	Investor rights and obligations in the act	National commitments should be included in the regional frameworks	None
Keep the costs down	One-stop shop and e-government	Create a link on the SADC portal	E-government should be accessible through the embassy website
Facilitate entry	Online application, approval, issuance of visa	Businessperson framework	None
Simplify the process for connecting to infrastructure	Special economic zones (SEZs), industrial parks, clustering	Promotion of SEZs	Promotion of SEZs
Conduct periodic reviews	Annual reviews	None	None
Establish mechanisms to expand good administrative practices applied or piloted in special economic zones	Involve all stakeholders, improve good practices, create task teams	Information sharing, comparisons of regional value chain and incentives	Benchmarking against international trends

Source: IISD based on workshop discussions.



ACTION LINE 4: BUILD CONSTRUCTIVE STAKEHOLDER RELATIONSHIPS IN INVESTMENT POLICY PRACTICE.

	National	Regional	International
Maintain mechanisms for regular consultation and effective dialogue with affected communities	Stakeholder meetings, committees, set up at the level of the ministries and concerned public sector agencies; public notices of projects with high environmental impact; addressing the issues and monitoring the implementation	Dialogue possible, but to what extent? What mechanism? No solution on that.	Dialogue possible, but to what extent? What mechanism? No solution on that.
Provide an opportunity to comment on proposed new laws, regulations and policies or changes to existing ones	Stakeholder meeting with public and private sector reps; discussion of the bill prior to adoption by the parliament; publication of the bill on the website	Align the relevant legislations, policies with regional agreements at the time the law is being drafted	None
Promote improved standards of corporate governance and responsible business conduct	Legislation on corporate guidance, guidelines also crucial; monitoring investor conduct; requirements for investors to include something about the topic in their annual reports; beneficial ownership of companies should be declared (obligation)	Benchmark on best practice, e.g., OECD principles on corporate governance	Benchmark on best practice, e.g., OECD principles on corporate governance

Source: IISD based on workshop discussions.

ACTION LINE 5: DESIGNATE A LEAD AGENCY, FOCAL POINT OR INVESTMENT FACILITATOR WITH A MANDATE TO, E.G.:

	National	Regional	International
Address suggestions or complaints by investors	Mechanisms to address and provide redress, public–private dialogue, aftercare unit	Independent inter-ministerial task team	None
Track and take timely action to prevent, manage and resolve disputes	Inter-ministerial team, public–private dialogue, mediation, commercial court	SADC tribunal	Advocate for the inclusion of individuals from the SADC region in international arbitral institutions



	National	Regional	International
Provide information	Websites of IPAs	SADC Secretariat's website	World Association of Investment Promotion Agencies + embassy
Promote greater awareness of and transparency in investment legislation	IPAs	SADC Secretariat	Standards may not be ideal for smaller economies that may find them difficult to adhere to
Inform relevant government institutions about recurrent problems	IPA, inter-ministerial committee, council of ministers	SADC investment committee	World Bank (Ease of Doing Business)

Source: IISD based on workshop discussions.

ACTION LINE 6: ESTABLISH MONITORING AND REVIEW MECHANISMS FOR INVESTMENT FACILITATION.

	National	Regional	International
Adopt diagnostic tools and indicators	Define objectives and performance indicators; monitor implementation every 3 months	Monitor every 6 months	Define objectives and performance indicators
Benchmark and measure performance of institutions involved in facilitating investment	Inter-ministerial committee to monitor implementation	Regional funders	International funders

Source: IISD based on workshop discussions.

ACTION LINE 7: ENHANCE INTERNATIONAL COOPERATION ON INVESTMENT FACILITATION.

	National	Regional	International
Establish regular consultations between relevant authorities or investment facilitation partnerships	Investment promotion or facilitation agencies /one-stop shop would act as a single interface, coordinate, dialogue, recommend policy formulation	E.g. this workshop (facilitating investment for sustainable development) – further cooperation to achieve this objective.	At international cooperation forums; Memoranda of Understanding (MoUs) and treaties could provide for consultations and partnerships



	National	Regional	International
Collaborate on anti-corruption	Included in laws and policies	Database for identification of compliance issues, know your customer (KYC), due diligence, sources of funds	Database for identification of compliance issues, KYC, due diligence, sources of funds
Exchanges of expertise	Inter-ministerial committees	Technical assistance	Technical assistance

Source: IISD based on workshop discussions.

ACTION LINE 8: STRENGTHEN INVESTMENT FACILITATION EFFORTS IN DEVELOPING-COUNTRY PARTNERS, THROUGH SUPPORT AND TECHNICAL ASSISTANCE.

	National	Regional	International
Bolster efforts; role of e-facilities	Identify needs and reinforce institutional capacities	Identify needs and reinforce institutional capacities; organize capacity-building sessions	Identify needs and reinforce institutional capacities; organize capacity-building sessions
Increase capacity in IPAs and relevant authorities	Identify needs and reinforce capacities of IPA staff	Identify needs and reinforce capacities of regional secretariat staff	Identify needs and reinforce capacities at international level
Build capacity for the preparation of regulatory feasibility studies for potential investment projects (including environmental and social impact assessments)	Identify stakeholders in public and private sectors; capacity building for feasibility studies	Identify stakeholders in public and private sectors; capacity building for feasibility studies	Identify stakeholders in public and private sectors; capacity building for feasibility studies
Maintain mechanisms for consultation and effective dialogue with the private sector and investment stakeholders	Institutionalize consultations between private sector, public sector, communities, investors, civil society (depending on type of issue, region)	Include private sector and other stakeholders in the SADC forum	Include private sector and other stakeholders in the World Investment Forum
Enhance the role of policy advocacy within IPAs or investment authorities	Guide reform to facilitate investment	Information sharing at SADC forums	Benchmarking and information sharing at int'l forums (such as UNCTAD)

Source: IISD based on workshop discussions.


ACTION LINE 9: ENHANCE INVESTMENT POLICY AND PROACTIVE INVESTMENT ATTRACTION IN DEVELOPING-COUNTRY PARTNERS, THROUGH CAPACITY BUILDING.

	National	Regional	International
Build expertise for investment project proposal and appraisal	Conduct national training for IPA officials	Conduct regional capacity-building workshops at SADC for IPA officials	Facilitate international training for IPAs on international best practice
Build expertise for development of pipelines of directly investable projects	Need for capacity building of IPA officials on investment issues	Regional framework must focus on a provision to stimulate capacity building and exchange of expertise	Institutions like UNCTAD and IISD to develop program to address training and capacity building for member states
Build expertise for promotion of sustainable development-focused investments	Conduct workshops on sustainable development-focused investment and the SDGs	Conduct workshops on sustainable development-focused investment and the SDGs at SADC level	None
Build capacity to provide post-investment or aftercare services	Establish unit for aftercare, training of officials	Regional benchmarking for a standard on aftercare	International benchmarking for a standard on aftercare
Facilitate linkages between foreign affiliates and local enterprises	Encourage to join boards of trade; list of enterprises accessible on the website	Active member of the SADC chamber of commerce; sign MoUs with national chambers; promote joint-venture projects	Promote joint-venture projects
Promote and support programs for certification and compliance with standards relating to product quality or safety, etc.	Establish forum with key stakeholders and signing of MoU	Appointment of regional officials focusing on training and workshops	Information sharing with foreign officers
Adopt frameworks to promote responsible business conduct by international investors	Legal framework or legislation guideline on responsibilities, and expectations, of investors	Legal framework or legislation guideline on responsibilities and expectations of investors; clear and transparent legislation should also be applied	Legislation should be available on all platform websites and at the entry level

Source: IISD based on workshop discussions.



ACTION LINE 10: COMPLEMENT INVESTMENT FACILITATION BY ENHANCING INTERNATIONAL COOPERATION FOR INVESTMENT PROMOTION FOR DEVELOPMENT, INCLUDING THROUGH PROVISIONS IN IIAS.

	National	Regional	International
Encourage home countries to provide outward investment support (political risk coverage, facilitation services)	Reciprocal MoU; investment promotion dialogue	Bilateral agreements, if they are negotiated; SADC common investment areas	MIGA; if there are IIAs, they should include such encouragement
Encourage high standards of corporate governance and responsible business conduct by outward investors	Strengthen corporate governance framework; incentivize compliance with corporate guidance principles of conduct when investing abroad	Develop SADC-level corporate governance standards	Integrate SADC-level corporate governance principles into IIAs, if they are negotiated
Establish regular consultations between relevant authorities, for the promotion and facilitation of investment projects	Private and public dialogue; IPAs to engage with SADC for opportunities within the region; embassies	Review of online portal regarding investment environment and opportunities (SADC Secretariat's online portal).	Create alliance with strategic financial institutions (International Finance Corporation, World Bank, African Development Bank, Islamic Development Bank, European bank for investment)

Source: IISD based on workshop discussions.

B3 Final Results: Options for facilitation measures by category of measures

The following compilation looks at the final results from the perspective of the type of international or regional measures that were seen as most useful for governments to support facilitating investment for sustainable development. They present the preliminary tables above (Section B.2) from the starting point of these categories instead of the starting point of the action item lines. The information does, however, reflect the tables above.

B3.1 What role is there for facilitation measures at international (including bilateral and multilateral) level?

Workshop participants concluded that, at the international level, facilitation measures should focus on information sharing, international cooperation, capacity building and technical assistance, and regional engagement in international processes. In particular, they indicated 28 options for policy measures as priorities for facilitation measures at the international level:

- i) Information sharing at the international level, including benchmarking against best practices (**11 options for policy measures**)
- ii) International cooperation (**8 options for policy measures**)
- iii) Capacity building and technical assistance (**6 options for policy measures**)
- iv) Regional (SADC, member states, stakeholders) engagement in international processes (**3 options for policy measures**)



We detail below (Sections B3.1.1 through B3.1.4) the specific options for policy measures for which, according to workshop participants, there is a role for investment facilitation measures at the international level. The drafting of each specific option mirrors that is used in UNCTAD’s *Global Action Menu for Investment Facilitation*, modified by participants where there was disagreement with respect to the original language. Each specific option is followed by an indication, in round brackets, of the action line (AL) under which it is included in UNCTAD’s publication. Comments by participants are included in square brackets.

B3.1.1 INFORMATION SHARING AT THE INTERNATIONAL LEVEL

Workshop participants concluded that, with respect to the following policy measures for facilitating investment for sustainable development, information sharing at the international level (including benchmarking against best practices) could play a relevant role:

- Establish clear criteria and procedures for administrative decisions with respect to investment screening, appraisal and approval mechanisms (AL2).
- Promote the use of time-bound approval processes (AL3). [The use of a “no objections within defined time limits” approach to speed up processing times, mentioned in UNCTAD’s drafting of the action line, was rejected by participants.]
- Shorten the processing time and, where appropriate, simplify procedures for investment and license applications, investor registration and tax-related procedures (AL3).
- Encourage and foster institutional cooperation and coordination (AL3, part 1).
- Where appropriate, establish an online one-stop approval authority (AL3, part 2).
- Establish mechanisms to expand good administrative practices applied or piloted in special economic zones to the wider economy (AL3).
- Promote improved standards of corporate governance and responsible business conduct (AL4).
- Provide information on relevant legislative and regulatory issues (AL5).
- 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 (AL8).
- 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 (AL9).
- Build capacity in IPAs to provide post-investment or aftercare services, including for the expansion of existing operations (AL9).

B3.1.2 INTERNATIONAL COOPERATION

Workshop participants concluded that, with respect to the following policy measures for investment facilitation, international cooperation (at the bilateral and multilateral levels) could have a relevant role:

- Establish a single window or special enquiry point for all enquiries concerning investment policies and applications to invest (AL1).
- Shorten the processing time and, where appropriate, simplify procedures for investment and license applications, investor registration and tax-related procedures (AL3).
- Facilitate, within the framework of relevant legislation, entry and sojourn of investment project personnel (facilitating visas, dismantling bureaucratic obstacles) (AL3). [Cooperation in the framework of multilateral agreements with provisions on removing obstacles to entry, taking into account the WTO TFA.]
- Establish regular consultations between relevant authorities or investment facilitation partnerships (AL7).
- Encourage home countries to provide outward investment support, e.g., political risk coverage (investment guarantees) or facilitation services (AL10). [Integrate aspects into IIAs.]
- Encourage high standards of corporate governance and responsible business conduct by outward



investors (AL10). [Integrate SADC-level corporate governance principles into IIAs.]

- Establish regular consultations between relevant authorities or formal collaboration between outward investment agencies (OIAs) and IPAs for the promotion and facilitation of investment projects (AL10).
- Collaborate on anti-corruption in the investment process (AL10). [Database for identification of compliance issues, KYC, due diligence, source of funds.]

B3.1.3 CAPACITY BUILDING AND TECHNICAL ASSISTANCE AT THE INTERNATIONAL LEVEL

Workshop participants concluded that, with respect to the following policy measures for investment facilitation, there could be a role for capacity building and technical assistance at the international level:

- 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) (AL8).
- Increase capacity in IPAs and relevant authorities on business and investor facilitation services, including support in administrative and compliance processes (AL8).
- Build capacity for the preparation of regulatory feasibility studies for potential investment projects (including environmental and social impact assessments and regulatory and administrative requirements) (AL8).
- Build expertise in IPAs (or relevant agencies) for investment project proposal development and project appraisal (AL9, part 1).
- Build expertise in IPAs for the development of pipelines of directly investable projects (AL9, part 2).
- Arrange for regulatory and institutional exchanges of expertise (AL7).

B3.1.4 REGIONAL ENGAGEMENT IN INTERNATIONAL PROCESSES

Workshop participants concluded that, with respect to the following policy measures for investment facilitation, there could be a role for regional engagement (by the SADC as a region, its member states and other stakeholders) in international processes:

- Create “Client Charters” in investment agencies that define service delivery standards and good practices (AL3). [Engagement of member states and SADC as a region at the WTO to ensure regional voices are heard.]
- Track and take timely action to prevent, manage and resolve disputes (AL5). [Engagement of SADC at international arbitral institutions.]
- Maintain mechanisms for regular consultation and effective dialogue with investment stakeholders to identify and address issues encountered by investors and affected communities (AL4). [Engagement at UNCTAD’s World Investment Forum.]

B3.2 What role is there for facilitation measures at the regional (SADC) level?

Workshop participants concluded that, at the regional (SADC) level, facilitation measures should focus on information sharing, intra-regional cooperation, use and strengthening of SADC institutions, and capacity building and technical assistance. In particular, they indicated 41 options for policy measures as priorities for investment facilitation at the regional level:

- i) Information sharing at the SADC level, including benchmarking against best practices (11 options for policy measures)
- ii) Regional cooperation (11 options for policy measures)



- iii) Using and strengthening SADC institutions (10 options for policy measures)
- iv) Capacity building and technical assistance (9 options for policy measures)

B3.2.1. INFORMATION SHARING AT THE SADC REGIONAL LEVEL

Workshop participants concluded that, with respect to the following policy measures for investment facilitation, there could be a role for information sharing at the SADC level:

- Establish a single window or special enquiry point for all enquiries concerning investment policies and applications to invest (AL1). [SADC portal as a gateway; possible role for harmonization of how information is presented by countries.]
- Establish clear criteria and procedures for administrative decisions with respect to investment screening, appraisal and approval mechanisms (AL2).
- Ensure consistent application of investment regulations across relevant institutions (AL2).
- Encourage and foster institutional cooperation and coordination (AL3, part 1).
- Establish mechanisms to expand good administrative practices applied or piloted in SEZs to the wider economy (AL3).
- Keep the costs to the investor in the investment approval process to a minimum (AL3).
- Promote improved standards of corporate governance and responsible business conduct (AL4).
- Provide information on relevant legislative and regulatory issues (AL5).
- 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 (AL8).
- Build capacity in IPAs to provide post-investment or aftercare services, including for the expansion of existing operations (AL9).

B3.2.2 INTERNATIONAL COOPERATION AT THE SADC REGIONAL LEVEL

Workshop participants concluded that, with respect to the following policy measures for investment facilitation, there could be a role for international cooperation at the SADC regional level:

- Provide clear and up-to-date information on the investment regime (AL1) [Legal framework or legislative guidelines on investors' responsibilities and expectations.]
- Make available screening guidelines and clear definitions of criteria for assessing investment proposals (AL1). [Flexible, non-binding guidance, taking into account national differences.]
- Promote the use of time-bound approval processes (AL3). [The use of a “no objections within defined time limits” approach to speed up processing times, mentioned in UNCTAD’s drafting of the action line, was rejected by participants.] [Build into bilateral treaty models.]
- Encourage and foster institutional cooperation and coordination (AL3, part 1). [Build into bilateral treaty models.]
- Facilitate, within the framework of relevant legislation, entry and sojourn of investment project personnel (facilitating visas, dismantling bureaucratic obstacles) (AL3).
- Establish regular consultations between relevant authorities or investment facilitation partnerships (AL7).
- Adopt frameworks to promote responsible business conduct by international investors (AL9). [Legal framework or legislative guidelines on investors' responsibilities and expectations.]
- Establish regular consultations between relevant authorities, or formal collaboration between OIAs and IPAs for the promotion and facilitation of investment projects (AL10).
- Collaborate on anti-corruption in the investment process (AL10). [Database for identification of compliance issues, KYC, due diligence, source of funds.]



- Encourage home countries to provide outward investment support, e.g., political risk coverage (investment guarantees) or facilitation services (AL10). [Bilateral agreements and SADC common investment areas.]
- Encourage high standards of corporate governance and responsible business conduct by outward investors (AL10). [Develop SADC-level corporate governance standards.]

B3.2.3 CAPACITY BUILDING AND TECHNICAL ASSISTANCE AT THE SADC REGIONAL LEVEL

Workshop participants concluded that, with respect to the following policy measures for investment facilitation, capacity building and technical assistance at the SADC regional level could play a relevant role:

- Shorten the processing time and, where appropriate, simplify procedures for investment and license applications, investor registration and tax-related procedures (AL3).
- Arrange for regulatory and institutional exchanges of expertise (AL7).
- 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) (AL8).
- Increase capacity in IPAs and relevant authorities on business and investor facilitation services, including support in administrative and compliance processes (AL8).
- Build capacity for the preparation of regulatory feasibility studies for potential investment projects (including environmental and social impact assessments and regulatory and administrative requirements) (AL8).
- Build expertise in IPAs (or relevant agencies) for investment project proposal development and project appraisal (AL9, part 1).
- Build expertise in IPAs for the development of pipelines of directly investable projects (AL9, part 2).
- Build expertise in IPAs (or relevant agencies) for the promotion of sustainable development-focused investments such as green investments and social impact investments (AL9). [Conduct workshops on sustainable development-focused investment and the SDGs at the SADC level.]
- 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 (AL9). [Appointment of regional officials focusing on training and workshops.]

B3.2.4 USING AND STRENGTHENING SADC REGIONAL INSTITUTIONS

Workshop participants concluded that, with respect to the following policy measures for investment facilitation, there could be a role for using and strengthening SADC regional institutions:

- Ensure consistent application of investment regulations across relevant institutions (AL2). [Possible reintroduction of the role of the SADC court.]
- Avoid discriminatory use of bureaucratic discretion in the application of laws and regulations on investment (AL2). [Possible reintroduction of the role of the SADC court.]
- Establish amicable dispute settlement mechanisms, including mediation, to facilitate investment dispute prevention and resolution. [Study possible regional multiparty mediation centre.]
- Maintain mechanisms for regular consultation and effective dialogue with investment stakeholders to identify and address issues encountered by investors and affected communities (AL4). [Include private sector and other stakeholders in the SADC forum.]
- 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 (AL5). [Independent inter-ministerial task team.]
 - Track and take timely action to prevent, manage and resolve disputes (AL5). [SADC tribunal.]
 - Provide information on relevant legislative and regulatory issues (AL5). [SADC Secretariat website.]



- Promote greater awareness of and transparency in investment legislation and procedures (AL5). [SADC Secretariat.]
- Inform relevant government institutions about recurrent problems faced by investors that may require changes in investment legislation or procedures (AL5). [SADC investment committee.]
- Facilitate linkages between foreign affiliates and local enterprises (AL9). [MoU with national chambers of commerce.]

B4 What is Missing in UNCTAD’s *Global Action Menu for Investment Facilitation*?

Workshop participants concluded that the following aspects could be explicitly covered or further developed in a future revision of UNCTAD’s *Global Action Menu for Investment Facilitation*:

- Innovation and continued innovation: new technology will have an important role to play.
- Capacity building to address investors’ queries, communicate with them, understand their issues.
- Key performance indicators for investors: tracking performance by businesses.
- Incorporate issues of sustainability in key performance indicators (not only economic, but also social and environmental aspects).
- How to institutionalize and build capacity for monitoring compliance, performance in the long term (especially important in the sustainability angle).
- Screening guidelines to track the source of funds.
- Focused on information on formalities; should also cover information for investors on processes available to resolve challenges to ensure long-term investment.
- Strengthen capacity and professional training for youth, especially to respond to needs of investors.
- Establish collaboration frameworks and partnerships between public and private sectors.
- Expand databases of IPAs to respond to various needs of investors, such as access to finance, domestic economic linkages, etc.
- Assist investors to facilitate movement of goods across borders (investment-related trade).
- Consider including under the action lines objectives provided for in SADC and other regional industrialization and integration strategies.
- Consider including under the action lines objectives provided for in the SADC strategy for financial inclusion of previously excluded sectors; look beyond FDI.
- Incorporate different educational programs (for example, in partnership with chambers of commerce) for investors to understand that sustainable investment leads to win–win solutions.
- Encourage environmentally friendly investment (in the SADC framework, missing from UNCTAD action lines).
- Include measures to address money laundering, drug trafficking and tax evasion.
- Address the issue of “immigrant investors” (granted permanent residence or nationality to foster investment).
- Consider diaspora challenges and opportunities.
- Address issues of data privacy and how they relate to multilateral enterprises.
- Address issue of e-commerce and resulting revenues when multilateral enterprises are not formally established in the host country.

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