Keidanren
Japan Business Federation

Policy Proposal on Investment Treaties
(Provisional translation)

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Keidanren

Contents

I. Importance of Investment Treaties

Foreign direct investment (FDI) not only expands business opportunities for investors, but also provides various benefits to host countries, including the creation of domestic jobs and the introduction of innovative technologies and business models. In fact, cross-border investment is expanding rapidly and the ratio of inward FDI to GDP has expanded from 5.3% in 1980 to 39.5% in 2017[1], thus playing a major role in the sustainable development of the global economy.

Meanwhile, the world's FDI flows have been on a downward trend since 2015, with a year-on-year decrease of 23% in 2017 and 13% in 2018[2]. With the recent intensifying trade friction between the United States and China, the withdrawal of the United Kingdom form the EU (Brexit) and the increasing political tension in the Middle East, the international situation has become volatile and the future of the world economy has become increasingly uncertain. It is feared that this could accelerate the downward trend of foreign direct investment. Under these circumstances, it is urgent to create an environment that fosters foreign direct investment, by setting rules that promote liberalization of FDI and ensure the protection of investment assets.

From the viewpoint of companies operating globally, it is ideal to establish a multilateral legal framework which focuses on investment. Investment liberalization was once discussed in the World Trade Organization (WTO), however, this did not result in a launch of negotiations[3]. In 2017, the "Friends of Investment Facilitation for Development" (FIFD), open to all WTO Members, was formed with a view to discussing improvement of transparency and predictability of investment-related regulations, expediting of investment licensing process, technical cooperation and enhancement of

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[1] Ministry of Economy, Trade and Industry, 2019 Report on Compliance by Major Trading Partners with Trade Agreements -WTO, EPA/FTA and IIA-, p. 495

[2] UNCTAD "World Investment Report 2019" p. 2

[3] It was agreed at the Doha Ministerial Conference (November 2001) that in the period until the next Ministerial Conference, further work in the Working Group on the Relationship Between Trade and Investment will focus on the clarification of: scope and definition; transparency; non-discrimination; modalities for pre-establishment commitments based on a GATS-type, positive list approach; development provisions; exceptions and balance-of-payments safeguards; consultation and the settlement of disputes between members (see Ministerial Declaration para. 22). However, Members were not able to agree on the launch of negotiations at the Cancún Ministerial Conference (September 2003).

consultation services for investment including establishment of an ombudsperson system[4]. As stated in the Joint Recommendations of the B20 Tokyo Summit, the business community supports this initiative by the FIFD[5]. However, it must be noted that the core elements of investment treaties such as investment liberalization (relaxation of restrictions on foreign investment), prohibition of performance requirements, and dispute settlement are not included in the agenda of the FIFD. Therefore, it is practical to conclude bilateral or multilateral investment treaties (including investment chapter of economic partnership agreements(EPA)) to form high-level investment rules of investment liberalization and protection.

In recent years, there have been cases in which global enterprises have been placed in a critical position resulting in insertion of provisions in investment treaties that impose obligations to investors. Also, there are a number of cases in which a dispute settlement clause, a last resort for investors, has been unilaterally abrogated based on the misunderstanding that it may infringe upon the regulatory authority of the state. Therefore, it is essential for the business community to send out a message to put a brake on these developments.

II. Importance of Investment Treaties from Japan's Viewpoint

Japan's trade balance in fiscal year 2018 was a surplus of approximately 1.2 trillion yen, while the income balance recorded a surplus of approximately 20.8 trillion yen[6]. Return from international investment is the source of Japan's balance of payments surplus. Against this backdrop, Japan aims for signature and entry into force of investment-related treaties with 100 countries or regions by 2020[7]. Under this policy, many achievements have recently been made, including the entry into force of the CPTPP (December 2018), the Japan-EU EPA (February 2019) and the Diet approval of the Japan-Argentina Investment Agreement (June 2019). As of July 2019, Japan has

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4 https://www.wto.org/english/thewto_e/minist_e/mc11_e/briefing_notes_e/bfinvestfac_e.htm
5 *B20 Tokyo Summit Joint Recommendations,* 15 March 2019, p. 12
6 Ministry of Finance, Balance of Payments Data
7 The Action Plan for improvement of investment climate through promoting the conclusion of investment-related treaties (formulated in May 2016)

investment arrangements with 76 countries or regions.

Despite those accomplishments, more work needs to be done. Although Japan has arrangements with China and Russia, namely, the Japan-China-Korea Investment Agreement, the Japan-China Investment Agreement and the Japan-Russia Investment Agreement, they focus only on the promotion, facilitation and protection of investment. Agreements aiming at investment liberalization must be realized. The contents of investment treaties with major Asian countries should also be upgraded. As for the United States, there are currently no investment arrangements due to the United States' withdrawal from the TPP. Furthermore, agreements with countries of high business interest to Japanese companies, such as Brazil and South Africa, have not yet been reached. In order to further promote foreign direct investment by Japanese companies, investment treaties need to be improved in terms of both quality and quantity.

III. Issues to be Addressed in the Investment Treaties

According to a survey conducted by Keidanren[8], its member companies reported various issues which must be addressed regarding foreign direct investments, such as foreign capital ceiling, local content requirements and business environment, and dispute settlement. Keidanren urges that the following issues should be incorporated in the investment treaties. While investment treaties are negotiated bilaterally, the outcome of the negotiations could affect negotiations with other countries, therefore, the Government should be mindful not to make easy compromises and aim for a high level of agreements.

1. Covering a Wide Range of Investment Assets

The scope of liberalization and protection of investment assets based on investment treaties should be broad, covering portfolio investment as well as direct investment. No measures other than those necessary to secure balance of payments should be allowed. Those measures could only be justified when it becomes difficult to maintain an

[8] Conducted in July-September 2019

adequate level of financial reserves due to the outflow of short-term funds.

2. Securing National Treatment (NT)

Keidanren has long called for the granting of national treatment in both pre-investment stage (abolition of restrictions on foreign investment and entry) and post-investment stage (elimination of restrictions on sales, liquidation, withdrawal, etc.) in major manufacturing and service sectors such as automobiles, steel, resources and energy, shipbuilding, food, finance, construction, real estate, distribution, and advertising, as well as in major infrastructure sectors such as electricity, telecommunications and transportation. The CPTPP which offers national treatment to investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments[9] should be the model in this regard.

In addition, from the perspective of maximizing the benefits of abolishing or relaxing restrictions imposed on foreign investment, the schedule of commitments should be based on the negative list approach. Also, a ratchet obligation should be applied to reservation list based on the negative list in order to prevent a retreat of liberalization. Furthermore, future reservations should be eliminated.

3. Securing Most-Favored-Nations Treatment (MFN)

Treatment no less favorable than that accorded to investors of a third country (MFN) should be ensured to investors of the Parties to the investment treaties with respect to all matters covered by said investment treaties. From the viewpoint of investor protection, MFN shall be applied not only to the establishment, acquisition, expansion, management, administration, operation and sale or other disposition of investments, but also to fair and equitable treatment, dispute settlement, etc.

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[9] TPP Article 9.4.1 and 9.4.2

4. Prohibition of Performance Requirements

Even if restrictions on foreign investment and entry are abolished, business will be hindered if companies operating in the host country are required to implement specific measures as a condition of their business activities. Therefore, investment treaties should clearly stipulate that those performance requirements are prohibited. Specifically, it is essential to prohibit requirements to:

(1) export a given level or percentage of goods or services;

(2) achieve a given level or percentage of local content;

(3) relate the volume or value of imports to that of exports;

(4) restrict sales of goods or services in its territory;

(5) transfer a particular technology;

(6) employ a given level of local personnel;

(7) adopt a given rate or amount of royalty under a license contract or a given duration of the term of a license contract[10].

Requiring local procurement even when imported goods are superior in performance and cost would adversely affect the international competitiveness of host countries. In particular, if local content is required even for goods that are difficult to procure locally, it leads to an increase in production costs and a delay in delivery.

The volume of exports and imports is to be determined by market principles, therefore, requirement to control volume for the sake of achieving equilibrium is clearly trade distorting.

The amount of royalty under a license contract and the duration of the term of a license contract are determined between the licensor and the licensee under the principle of freedom of contract, therefore, royalty should not be subject to government intervention.

5. Freedom of Remittance

Even if investment is liberalized and foreign investors and companies are able to operate freely in the host country, they will not be able to fully enjoy the benefits unless

[10] TPP Article 9.10.1 and 9.10.2

they can repatriate profits. International double taxation arises when the parent company is taxed in its home country and transfer pricing is taxed in the host country due to the denial of remittance of royalty consideration. Therefore, it should be clearly stated in the investment treaties that the following transfers of funds will be freely made without delay:

(1) contribution to the capital;
(2) profits, dividends, interest, capital gains, royalties, operational fees, technical assistance fees, and other fees;
(3) proceeds from the sale of all or any part of the covered investment or from the partial or complete liquidation of the covered investment;
(4) payments made under a contract, including a loan agreement;
(5) payment made pursuant to provisions of treatment in case of expropriation and compensation and in the event of armed conflict or civil strife;
(6) payments arising out of a dispute[11].

6. Ensuring Fair and Equitable Treatment (FET)

It is important to establish provisions on fair and equitable treatment to protect investors from the disadvantages of unilateral changes in domestic laws of the host country. In this regard, the Economic Partnership Agreement between the EU and Canada (CETA) identifies the following as elements that violate fair and equitable treatment: denial of justice, fundamental breach of due process, manifest arbitrariness, targeted discrimination, and abusive treatment of investors such as coercion or harassment[12]. In this case, however, there is room for interpretation that investors are not protected unless they fall under the above enumerated conditions. Therefore, it is desirable to insert a clause stating that "such Investments shall also enjoy the most constant protection and security and no Contracting Party shall in any way impair by unreasonable or discriminatory measures their management, maintenance, use,

[11] TPP Article 9.9
[12] CETA Article 8.10.2

enjoyment or disposal" as stipulated in Article 10 (1) of the Energy Charter Treaty[13].

The CETA also states that "the mere fact that a Party regulates, including through a modification to its laws, in a manner which negatively affects an investment or interferes with an investor's expectations, including its expectations of profits, does not amount to a breach of an obligation[14]". Such a provision could reduce the scope for investors and investment assets to be protected and should not be inserted.

7. Prohibition of Safeguards

From the viewpoint of deterring arbitrary restrictions on investment, safeguard measures that temporarily restrict the inflow of foreign capital and the activities of existing foreign capital should be prohibited. Only in circumstances that are indispensable for securing balance of payments should exceptional measures be allowed. The exceptional measures:

(1) shall not discriminate among Members;

(2) shall be consistent with the Articles of Agreement of the International Monetary Fund (IMF);

(3) shall avoid unnecessary damage to commercial, economic and financial interests;

(4) shall not exceed those necessary to deal with the circumstances described above;

(5) shall be temporary and be phased out progressively as the situation improves[15].

8. Dispute Settlement

In the event that a dispute over investment arises with a host country, settling the dispute in a fair and equitable manner would be a last resort to ensure the effectiveness of the investment treaties. The number of investor-state dispute settlement (ISDS) registered to the International Centre for Settlement of Investment Disputes (ICSID) alone has increased significantly over the past 30 years, from 1 in 1989 to 56 in 2018,

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[13] In the *Masdar Solar & Wind v. Spain,* the Tribunal ruled that on the basis of due diligence exercised, the Plaintiff's *legitimate expectation* that the laws would not be modified would be protected under Article 10 (1) of the Energy Charter treaty. (*Masdar Solar & Wind Coopertatief U.A. v. Kingdom of Spain,* ICSID Case No. ARB/14/1, Award of 16 May 2018, paras. 484-522.)

[14] CETA Article 8.9.2

[15] See GATS Article 12. Similar clauses could be found in Article 84 of the Japan-Singapore EPA.

with a notable increase over the past 20 years[16]. Also, approximately 64% of ICSID cases (cumulative total from 1966 to 2019) are registered under investment treaties[17], demonstrating the significant role that investment treaties play in the settlement of investment disputes. In fact, the ISDS clause is included in the CPTPP and other major investment treaties that Japan has concluded.

On the other hand, there are new developments in the international arena. The Working Group of the United Nations Commission on International Trade Law (UNCITRAL) is working on the reform of the ISDS, where many Members are calling for a review of the ISDS from the viewpoint of securing national authority's "right to regulate". Also, in the Investment Chapter of recently concluded EPAs, the EU has introduced an Investment Court System (ICS) in which judges are appointed in advance and the Appellate Court is established in addition to the Investment Court. Furthermore, it is conceivable that in the future there will be an increasing number of countries which require exhaustion of local remedies before submitting an investment dispute to international arbitration[18].

In the face of above developments, Keidanren could neither go along with such movements to limit the dispute settlement mechanism to State-State (SSDS) nor such attempts to deny the dispute settlement mechanism itself. The most important point from the perspective of promoting foreign direct investment is to maintain the investor-State mechanism, that is to say a system under which investors could directly bring the host country to arbitration without having recourse to the diplomatic protection of their home country. In order for such investor-State mechanism to function effectively, the following points need to be ensured;

(1) Fairness, Neutrality and Impartiality

From the viewpoints of fairness, neutrality and impartiality, in principle, the arbitrator

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16 *The ICSID Caseload- Statistics* (Issue 2019-2), p. 7

17 *The ICSID Caseload- Statistics* (Issue 2019-2), p. 10

18 For example, the 2016 Indian Model BIT requires exhaustion of local judicial or administrative remedies for at least five years prior to commencing investor-state arbitration, unless the investor can demonstrate that no domestic remedy would be capable of providing relief (Article 15).

should be selected by the State and investor, and the third arbitrator should be selected by the agreement of both parties. In this way, a person who is knowledgeable about business could be appointed as the arbitrator. Issues included in the agenda of the UNCITRAL Working Group such as ethics of arbitrators, prevention of conflicts of interest, and transparency of third-party funding are also important from the viewpoint of ensuring fairness, neutrality, and impartiality. It is anticipated that the discussions in the Working Group will lead to fruitful results.

(2) Rapid Arbitration Procedures

Revision or annulment of an award, as well as an appeal in the ICS cases could prolong arbitration procedures. Therefore, by analogizing the ICSID Arbitration Rules to non-ICSID cases, revision, annulment of an award and an appeal should be limited to exceptional situations such as the discovery of fact which decisively affects the award, and evidence that the fact was unknown to the Tribunal and to the applicant when the award was rendered, and that the applicant's ignorance of that fact was not due to negligence[19]. Also, annulment of an award should be possible in exceptional cases where the Tribunal was not properly constituted or the Tribunal has manifestly exceeded its powers[20].

As the European Court of Justice (ECJ) points out in its Opinion of April 30, 2019 regarding the compatibility of the CETA with the EU laws, in the absence of rules designed to ensure that the CETA Tribunal and Appellate Tribunal are financially accessible to natural persons and small and medium-sized enterprises(SMEs), the ISDS mechanism may, in practice, be accessible only to investors who have significant financial resources available to them[21]. Limiting revision, annulment of an award and an appeal to exceptional situations with a view to avoiding the lengthening of arbitration procedures and thereby preventing the possible snowballing of judicial costs is also important from the viewpoint of protecting SMEs with limited financial resources.

[19] ICSID Arbitration Rules, Rule 50, (1) (c) (ii)
[20] ICSID Arbitration Rules, Rule 50, (1) (c) (iii)
[21] EU-Canada CET Agreement, Opinion 1/17 of the Court, 30 April 2019, paras. 210-222

(3) Jurisdiction of the Tribunal

An investment dispute settlement mechanism is intended to resolve individual disputes and does not require a respondent country to change its public policy, nor does it interpret the domestic laws of the host country. Therefore, the case should not be excluded from jurisdiction of the Tribunal simply because it relates to public policy such as public morals, protection of life and health, environmental protection, occupational safety and health, consumer protection, protection of cultural diversity, etc. On the other hand, as included in the agenda of the UNCITRAL Working Group, it is necessary to consider dismissal of a claim when it is already submitted under a different treaty.

(4) Execution of Awards

It is necessary to ensure the same level of enforceability as ICSID awards, including enforceability in third countries.

IV. Countries and Regions with which Investment Treaties should be Concluded

According to the survey conducted by Keidanren, countries and regions with which investment treaties should be concluded are as follows.

1. Asia

Japan has already concluded investment treaties, including EPAs, with major ASEAN countries and India, but barriers to be eliminated or relaxed still remain. Arrangements with China which cover investment liberalization are yet to be achieved. Therefore, realization of a chapter on investment / trade in services at a high level by concluding the Regional Comprehensive Economic Partnership (RCEP) negotiations is an urgent issue. Achievement of the RCEP negotiations could be upgraded subsequently through the Japan-China-Korea FTA negotiations. Meanwhile, it is expected that Japan steadily promotes the review of existing bilateral EPAs. It is also important to support Thailand's interest in joining the CPTPP.

Examples of barriers to be eliminated and mitigated through investment treaties are as follows.

[Discriminatory Measures]

There are cases in which foreign capital ceilings exist in major sectors such as transportation, distribution, finance, and construction (Indonesia, Thailand, India, Myanmar, and the Philippines). Also, there are cases where foreign investors are subject to minimum amount of net assets and annual sales, functioning as a *de facto* entry barrier (Indonesia). Unwritten or customary foreign capital restrictions are also hindering direct investment (Myanmar).

Prohibiting foreign investors from land acquisition adversely affect their business development (Thailand and Vietnam). Tax incentives and capital investment subsidies limited to domestic companies are distorting competition (China).

[Performance Requirements]

Local content requirements exist for many infrastructure investments such as electricity, railways, and oil (Indonesia).

In addition, there are cases of technology transfer requirements, such as requirements for the submission of detailed technology-related information upon investment, and the submission of written pledges to transfer knowledge and technology upon obtaining a work visa (China and Indonesia).

Other examples of performance requirements include the obligation to employ more than one resident per foreign national (Indonesia, Thailand and India), a system in which tax burdens progressively increase as the number of foreign employees increases (Singapore), a residency requirement for board members (India), an obligation to manufacture products for domestic consumption domestically within a certain period of time (Indonesia), and the data localization and server installation obligation when doing e-commerce (Indonesia, Vietnam).

[Restrictions on Liquidation and Withdrawal]

When clearing and withdrawing investments, only notification is required for local enterprises, whereas government approval is required for foreign investors (China). The procedures for relocation and liquidation are burdensome (Vietnam).

[Remittance Regulations]

Examples include cumbersome licensing procedures for remittances of foreign currencies (Vietnam and South Korea), restrictions on remittances of royalties up to 5% of sales (China), and the need for prior inquiry and review of remittances exceeding the limit with the competent tax department (China).

2. Americas

(1) United States

The Japan-US Trade Agreement and the Japan-US Digital Trade Agreement were finalized. Should the negotiations on investment and trade in services take place in the second phase, the contents should be consistent with the CPTPP. At the same time, Japan should continue to urge the United States to return to the TPP.

(2) Brazil

Brazil restricts the entry of foreign capital into the financial sector (Banks, insurance and reinsurance), mining, and medical sectors etc. In addition to local content requirements in major sectors such as automobiles, electric and electronic equipment, oil drilling, construction, and shipbuilding, there are also strict performance requirements. Such requirements include the obligation to employ local people, the upper limit of the royalty ratio (maximum of 5% or less depending on sector), and the upper limit of the license contract duration. In addition, the transfer of royalties is limited to 5 years (with possible single time extension for 5 years), and an annual total amount of royalties that could be transferred is limited.

In order to eliminate above investment barriers in Brazil, it is desirable to conclude either the Japan-Mercosur EPA or the Japan-Brazil Investment Agreement. In July 2018, Keidanren, jointly with the Brazilian National Federation of Industries (CNI), announced the "Roadmap for an Economic Partnership Agreement between Japan and Mercosur[22]" and proposed that a set of rules should be established concerning investment and trade in services, such as liberalization through the negative list approach, abolition of performance requirements, and freedom of remittance. In July of this year,

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[22] http://www.keidanren.or.jp/en/policy/2018/062.html

in the “Keidanren-CNI Joint Statement on EPA” both Japanese and Brazilian business leaders encouraged the respective political leaders to fully exert their strong leadership and commitment to swiftly launching a joint study group or negotiations on Japan-Mercosur EPA[23].

Among Mercosur member countries, Japan has already concluded investment treaties with Uruguay and Argentina, and negotiations are under way with Paraguay. It is expected that the investment chapter of the Japan- Mercosur EPA will be of higher quality so as to compliment those treaties.

(3) Colombia

The Japan-Colombia Investment Agreement has already been implemented, and negotiations on the Japan-Colombia EPA are being held intermittently. In addition, as referred to in “The 10th Japan-Colombia Joint Economic Committee Meeting Joint Statement”, the Japanese business community welcomes Colombia's participation in the CPTPP because integrating Japan and Colombia to the wider Asia-Pacific market is more beneficial than limiting them to the bilateral framework.[24]

(4) Cuba

With regard to Cuba, where preliminary consultations have been initiated, there are potential investments by Japanese companies in fields such as infrastructure renovation, medical care, etc. Government should make steady efforts toward the realization of the Japan-Cuba Investment Agreement.

3. Europe

(1) United Kingdom

Regarding the UK's exit from the EU, Japan and the UK should maintain and further develop free trade and investment relations by either concluding a bilateral EPA that exceeds the Japan-EU EPA, or by realizing the UK's interest in joining the CPTPP,

[23] http://www.keidanren.or.jp/en/policy/2019/061.html
[24] http://www.keidanren.or.jp/policy/2019/046.html

taking into account of the future UK-EU Framework.

(2) Russia and the CIS

In Russia, restrictions on the entry of foreign capital into sectors such as financial, construction, natural resource and energy, as well as local procurement obligations in line with the import substitution policy promoted by the government (special investment contract) are the major factors hindering business. It is expected that the current Japan-Russia Investment Agreement will be revised in terms of investment liberalization, protection and improvement of the business environment.

In addition, given their geopolitical importance, it is expected that Japan steadily progress in investment treaty negotiations with the CIS countries, namely, Turkmenistan, Georgia, Azerbaijan, the Kyrgyz Republic, and Tajikistan.

4. Middle East and Africa

(1) Turkey

Located at the junction of Europe, Asia, the Middle East, and North Africa, Turkey, with a population of approximately 82 million, is becoming increasingly important as a production base and consumer market. It is therefore vital to conclude the Japan-Turkey EPA as soon as possible. As for the investment chapter, abolishment or relaxation of local content requirements and specific measures such as the obligation to employ local people (so-called 1: 5 rule) is necessary.

(2) Israel

In recent years, there has been a dramatic increase in the number of Japanese companies operating in Israel, which is referred to as “Silicon Valley of the Middle East”. In light of this situation, the launch of negotiations on the Japan-Israel EPA should be considered in order to further expand and deepen strategic Win-Win relations, particularly in the fields of innovation and digital.

(3) Gulf States

In Qatar, the ratio of foreign capital cannot exceed 49% in most sectors and joint ventures with local partners are required in principle. There are also performance requirements such as tax payments and local employment, which only apply to foreign companies. Foreign investors are also restricted from land acquisition. In Bahrain, foreign capital is restricted in domestic banking and securities, trade, construction, etc. Local employment obligation is imposed as well. It is therefore important to encourage the relaxation and abolition of those restrictions through ongoing negotiations on investment treaties.

(4) Africa

Nigeria restricts entry of foreign investment in infrastructure projects and plant construction, etc. Local content requirements and restrictions on royalty remittance are also imposed. In Ethiopia, restrictions exist on foreign investment and remittances in the telecommunications sector. Algeria limits the foreign ownership ceiling to 49% in key sectors. Considering the potential business opportunities these countries have, progress in the ongoing investment treaty negotiations is expected.

Japan should consider concluding an EPA with South Africa, a country which serves as a hub for Japanese companies in the African Region and has many investment opportunities, including the demand for infrastructure renovation. Barriers to investment such as excessive regulations on business licensing, public procurement and local content requirements should be addressed in the future EPA. Also, from the viewpoint of enhancing connectivity between Mozambique, for which an investment treaty between Japan has already been in force, future Japan-South Africa EPA would play a significant role. Japan should seek for opportunities to commence negotiations on an EPA with South Africa, taking into account its political situation.

V. Transparency of Domestic Regulations and Improvement of Business Environment

Even if restrictions on foreign investment are removed or relaxed and market access is improved, arbitrary application of domestic laws and cumbersome administrative procedures could function as *de facto* barriers to investment. In order to ensure the transparency of domestic regulations, the following measures are required:

(1) publication of Administrative Procedures;

(2) establishment of a contact point to resolve investment problems;

(3) response to enquiries by investors on administrative decisions within a reasonable period;

(4) acceptance of Public Comments;

(5) ensured consistency and transparency of local government measures with central government measures;

(6) prompt review of administrative actions and ensuring corrective procedures as necessary;

(7) establishment of lead time between the publication and implementation of laws and administrative procedures;

(8) transparency of application procedures

In addition, in order to deal with the legal problems faced by local enterprises, a "Sub-Committee on Business Environment" composed of representatives from the government and the business community should be established under the investment treaties and operated effectively.

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