Building on investment-related WTO elements

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I. Investment-related WTO elements

- GATS
- TRIMs
- Additional commitments
- ASCM
GATS: Investment-related elements

• All WTO Members have undertaken extensive commitments in respect of FDI in services (mode 3)
• Over 60% of global inward FDI stock is in services sectors (UNCTAD)
• In essence, universal coverage: all traded services (except most air transport services) and all measures by Members affecting trade in services
GATS: Investment-facilitation effect

- GATS Article III (transparency)
- GATS Article VI (domestic regulation)
Agreement on Trade-Related Investment Measures

• “Desiring… to facilitate investment across international frontiers…” (Preamble)

• Applies only to investment measures related to trade in goods

• Similar measures applied to service suppliers acting through mode 3 – outside scope
Subsidies: ASCM and GATS Art. XV

• Certain investment incentives fall under scope of ASCM, but not the whole range

• Members have agreed to address trade distortive effects of subsidies in GATS Article XV, but for now – no substantive commitments
Accession (additional commitments)

- WTO Agreement Article XII
- Wide range of commitments in different spheres that contribute to investment-facilitation goal, e.g.:
  - Transparency-related issues
  - Disciplines on domestic regulation
II. Regulation of FDI

• As a general rule, in national legal frameworks no differentiation between treatment of investments in services and non-services sectors

• Same in international arrangements:
  - OECD Code of Liberalisation of Capital Movements
  - BITs and FTAs provide for disciplines covering different aspects of investment facilitation
III. Building upon WTO foundation

1) Transparency:
   - timely and transparent publication of relevant legislation;
   - opportunity for stakeholders to comment on relevant regulation during its development
Building upon WTO foundation

2) **Domestic regulation** (simplification and streamlining of certain procedures):

- Procedures and requirements for obtaining necessary permits
- Fees and charges
- Timeframes for administrative actions
- Dispute prevention and resolution
- Electronic procedures and online services
Other instruments applied by Members to stimulate FDI inflow

- **Single window mechanisms**
- **Government-Investor feedback**
  - Identify administrative barriers that can be dismantled in order to streamline relevant procedures
  - Address investors’ concerns before they turn into disputes, help mediate and amicably resolve investment-related disputes
  - Share vision or strategy for investment in certain areas or sectors
Thank you for your attention!