EIGHTH CHINA ROUND TABLE ON WTO ACCESSIONS
"ACCESSIONS AND WTO REFORM: ON THE ROAD TO MC12"
Moscow, Russian Federation, 4 - 6 December 2019

Good morning everyone. First of all, let me thank the organizers of this 'Eighth China Roundtable on WTO Accessions' as well as the host, the Russian Federation, for inviting me to this important event. This is a unique platform for me to inform you about the **Joint Initiative on Investment Facilitation for Development.** Since its launch in December 2017 at the Eleventh WTO Ministerial Conference in Buenos Aires, this initiative has made steady progress, and attracted wide and growing interest among WTO Members.

I will focus on the following **four aspects** of the Joint Initiative launched by 70 WTO Members in 2017 and currently engaging 98 Members:

1. **First,** what is investment facilitation and what obstacles does it seek to address?
2. **Second,** who are the main proponents, what other Members are participating, and what does the Joint Initiative seek to achieve?
3. **Third,** what is the latest state-of-play of the discussions, and what are the **possible next steps** in the run-up to MC12?
4. **And fourth and finally,** what are the potential benefits that a multilateral Investment Facilitation Framework would bring?

1. First, what is Investment Facilitation? (Key message: focus is on 'ground-level' obstacles and on enhancing the efficacy of investment policies)

The central idea of investment *facilitation* is to create a more transparent, efficient and investment-friendly business climate to attract investment. It is

about making it easier both for domestic and foreign investors to invest, to conduct their day-to-day business, and to expand their investments. Investment facilitation focuses on **ground-level obstacles** to investment **at all stages** of the investment cycle, namely: pre-establishment, establishment and operation of activities. Investment facilitation also aims at improving the co-operation between WTO Members on investment issues, including for technical assistance and capacity building.

From its very start, proponents have made it clear that the initiative would **not address** market access, investment protection and investor-State dispute settlement (ISDS). These matters are thus clearly **excluded** from the scope of our discussions.

Investment facilitation is **not either** about changing the *substance* of investment policies; it does not affect governments' right to regulate. For instance, investment facilitation **does not touch upon** which sectors a Member wishes to open to foreign investment. **Nor** does it in any way prescribe the criteria governing an investment authorization in any given sector. Rather, investment facilitation is about the *implementation and administration* of investment policies and measures in a **transparent, predictable and efficient way.** Ultimately, it is about transparency and streamlined procedures. According to many surveys, these precisely are where investors and entrepreneurs – and notably small and medium-sized businesses – most want to see reforms.

Investment facilitation in the WTO is inspired by the success of the WTO Trade Facilitation Agreement. It also reflects the most recent trend towards putting in place *facilitation* frameworks or initiatives, broadly supported and assisted by international organization such as UNCTAD, the World Bank and the OECD. In today's integrated global economy, expanding investment flows – similarly to trade flows – depends on **simplifying, speeding up and coordinating processes,** not just on liberalizing policies. In many cases the inefficiencies and uncertainties that investment facilitation seeks to

address arise from unnecessary red tape or cumbersome bureaucratic processes, which serve no clear policy purpose, but can be costly – notably for micro, small and medium-sized businesses.

Investment facilitation in our ongoing discussions in Geneva consists of four key areas:

a. Improving the transparency of investment measures – notably through publication obligations, ideally using electronic means;
b. Streamlining and speeding up administrative investment-related procedures and requirements – i.e., the reasonable, objective and impartial administration of measures; having clear criteria and clear administrative procedures;
c. Strengthening stakeholder consultation and home-host country co-operation mechanisms; and, importantly,
d. Facilitating greater participation of developing and least-developed country Members in global investment flows – what we call the Development dimension.

2. Who are the main proponents, and which other WTO Members are participating? And what does the Joint Initiative seek to achieve?

The particularity of the Joint Initiative on Investment Facilitation is that it is led by **developing countries.** The **key proponents** – the so-called "Friends of Investment Facilitation for Development or FIFD" – is a group of 17 developing and LDC countries, namely: Argentina, Brazil, Chile, China, Colombia, Gambia, HKC, Guatemala, Kazakhstan, Korea, Liberia, Mauritania, Mexico, Nigeria, Pakistan, Qatar, Uruguay.[1]

Many other like-minded Members, both developed and developing, are supporting them – among which Australia, Canada, European Union, Japan,

[1] LDCs are in green.

Norway, Russian Federation, the Kingdom of Saudi Arabia, Switzerland, Turkey, etc.

At the WTO's Eleventh Ministerial Conference held in Buenos Aires in December 2017, **70** WTO Members co-sponsored a Joint Ministerial Statement calling for "beginning structured discussions with the aim of developing a multilateral framework on investment facilitation". The co-signatories aimed at **developing a framework on investment facilitation for development** that would be open to and benefit all WTO Members.

Early November this year, in the aftermath of the informal Ministerial meeting organized by China in Shanghai, **98** WTO Members representing all levels of development and all geographic regions co-signed a follow-up Joint Ministerial Statement. Therein, they committed themselves to **intensify** the work to develop an investment facilitation framework and to work towards a **concrete outcome** on Investment Facilitation for Development at the Twelfth WTO Ministerial Conference (MC12). Among the 98 co-signatories, around 40 are developing and 19 are least-developed country Members. The recent joint ministerial statement, as well as the high level of engagement in the Geneva discussions, are testimony of the increasing momentum gathered by the initiative and a reflection of Members' increasing interest on the topic.

Both Joint Ministerial statements – the 2017 and the November 2019 one – are available on the WTO website.

While it is true that not all WTO Members are part of the initiative, the number of Members attending and actively participating in our Structured Discussions meetings is **increasing steadily**. Our meetings are open to all WTO Members – irrespectively of their position on the joint initiative. They are also open to non-WTO Members – you are thus welcome to attend them.

3. What is the latest state-of-play of the discussions and what are the possible next steps in the run-up to MC12?

In 2018, the discussions focused on the **identification** of the elements of an investment facilitation framework. **Concrete issues** that Members identified are:

A. **To provide clear and up-to-date information** of laws and regulations relevant for investors, including advance notice of proposed changes and the possibility for investors to provide comments; make relevant information easily accessible, including through electronic portals;

B. **To reduce/simplify administrative procedures and documentation requirements** related to investment; clear and transparent criteria and requirements for investment-related administrative procedures; submission of applications online, use of electronic forms, documents and copies; establish focal points/one-stop shop /single window-types of mechanisms;

C. **To build constructive stakeholder relationships** in investment policy practice;

D. **To designate a lead agency / focal point / single window / ombudsman** with a mandate to provide investor services (e.g., help deal with rules and procedures) and *prevent* disputes;

E. **Development dimension:** Improve cross-border cooperation on all these matters and reinforce capacities of investment authorities / IPAs in developing countries;

F. **To promote** *voluntary* corporate social responsibility good practices, and **to fight** against corruption.

Throughout the identification process, we have benefited from the expertise of international organizations such as UNCTAD, ITC, the OECD and the World Bank, who shared with us their perspectives and expertise on the various issues discussed.

Since the beginning of this year (2019), the discussions have sought to **further develop** those elements. We started first by looking into examples from other agreements, including FTAs and the WTO. Afterwards, we distilled those examples into a **'Working Document',** where the different elements have been couched in legal language within a structured framework. The Working Document was circulated to all WTO Members in July of this year [INF/IFD/RD/39].

In the second half of this year, participating WTO Members have engaged in a comprehensive and in-depth text-based discussion – based on the Working Document. The last one of these substantive meetings just took place in Geneva Monday a week ago [November 25th]. In these meetings, participating Members have provided detailed views, positions and textual preferences regarding the elements and issues they wish to include in a future Investment Facilitation Framework.

Possible next steps in the run-up to MC12

As to the possible next steps of this initiative: in the recent Joint Ministerial Statement adopted in November [WT/L/1072/Rev.1], its 98 co-signatories committed themselves to "work towards a **concrete outcome** on Investment Facilitation for Development at MC12". This **expectation** that the initiative should lead to a **meaningful or "concrete" outcome for the next WTO Ministerial Conference is widely shared among participating Members.** We do not know yet what form that outcome may take.

From statements made at the last substantive meeting and from my bilateral consultations with delegations last week, participating Members seem to

converge on **two key objectives –** these will be further discussed at the **"Stock-taking and Next Steps meeting"** on December 12th:

1. first, they would like me to prepare a **streamlined text,** taking the Working Document as a basis and incorporating Members' inputs and discussions during the second half of this year; and

2. second, in order to fulfil the mandate given by their Ministers in Shanghai, [a number of] participating Members would like to move to a negotiating mode in the first quarter of 2020.

My role as Coordinator is to help participating Members advance their discussions as much as possible and achieve their shared objectives – so as to achieve a meaningful outcome at MC12.

At our next meeting on December 12th, we will take stock of the substantive progress made and collectively decide on the best way to move the discussions forward next year – keeping MC12 on the horizon.

To conclude, let me say a few words on:

4. The potential benefits of an investment facilitation framework under the WTO for participating WTO Members

While investment facilitation, clearly, cannot solve all the problems – the proponents and supporters of this initiative in the WTO strongly believe that:

- **First,** creating clear and consistent global benchmarks for investment facilitation, and ensuring that **minimum** common standards are applied across economies, will reduce regulatory uncertainty and transaction costs – making it easier and less costly for investors to invest;

- **Second,** anchoring domestic investment facilitation reforms in **shared international commitments** will strengthen Members' domestic reform efforts – sending a positive signal to investors;

- **Third,** providing a global forum to promote best investment-facilitation practices and cross-border regulatory cooperation will improve information exchanges between investment authorities – and thus foster peer-learning and capacity building;

- **And lastly,** linking multilateral investment facilitation reforms to Members' capacity to implement them (as has been done, for instance in the WTO Trade Facilitation Agreement) will ensure that developing and least-developed countries receive the technical assistance and capacity-building support they need to implement and benefit from a future investment facilitation framework.