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INVESTMENT FACILITATION

ARTICLE XX.1 Definitions

For the purposes of this Chapter:

Applicant means an investor of a Party who applied for an authorisation in the territory of the other Party;

Authorisation means the permission to pursue investment activities under the applicable law of a Party, such as permits, licences, and other similar authorisation, resulting from a procedure an investor must adhere to in order to demonstrate compliance with the necessary requirements;

Enterprise means any juridical person or any other entity duly constituted or organised under the applicable laws and regulations, whether or not for profit, and whether private or government-owned or controlled, including any corporation, trust, partnership, sole proprietorship, joint venture, business association, organisation, or company;

Enterprise of a Party means a juridical person, including sovereign wealth funds, constituted or otherwise organised under the law of that Party, that is engaged in substantive business operations in the territory of that Party;

Investment means an enterprise or a branch of an enterprise;

Investment activities means the establishment, acquisition, expansion, operation, management, maintenance, use, enjoyment, sale, or other form of disposal of investments in services and non-services sectors;

[Placeholder: Investor of a Party means];

Measure means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form.

ARTICLE XX.2 Objectives and Scope

1. The purpose of this Chapter is to ensure the facilitation of procedures as much as possible to increase direct investment flows between the Parties and create a better and safer environment for doing business in the territory of each Party.
2. This Chapter applies to the administration of measures by a Party affecting investment activities in its territory of an investor of the other Party.
3. This Chapter shall apply to measures adopted or maintained by:
 - (a) central, regional, or local governments and authorities; and

- (b) non-governmental bodies in the exercise of powers delegated by central, regional, or local governments or authorities.
4. The Parties recognise the right to regulate and introduce new regulations in order to meet national policy objectives in a manner consistent with their obligations and commitments under this Agreement.
5. Without prejudice to the rights and obligations arising from Chapter 8 (Trade in Services), nothing in this Chapter shall be construed to confer any rights for market access.
6. This Chapter shall not apply to government procurement and public concessions, including public-private partnership projects.
7. [Placeholder for BIT references]

ARTICLE XX.3 **Transparency and Predictability**

1. Each Party shall ensure that its laws, regulations, procedures, and other measures of general application, as well as international agreements, affecting investment activities are published or otherwise made available in a manner that enables interested persons and the other Party to become acquainted with them.
2. If a Party requires authorisation for investment activities, the Party shall publish or otherwise make publicly available in writing¹ the information necessary to comply with the requirements and the procedures for obtaining, maintaining, amending, or renewing such authorisation. Such information shall include, *inter alia*, where it exists:
 - (a) the requirements applicable to investment activities and the procedures needed to comply with those requirements;
 - (b) the contact information of relevant competent authorities;
 - (c) fees;
 - (d) technical standards;
 - (e) the procedures for appeal or review of decisions concerning applications;
 - (f) the procedures for monitoring or enforcing compliance with the terms and conditions of licences or qualifications; and

¹ "In writing" may include electronic form.

- (g) the indicative timeframes for the processing of an application.
3. Each Party shall endeavour to ensure that laws and regulations it proposes to adopt in relation to matters falling within the scope of this Chapter are published in advance in electronic form.

ARTICLE XX.4 Procedures

Submission of Applications

1. Each Party shall, to the extent practicable, endeavour to avoid requiring an applicant to approach more than one competent authority for each application to comply with licencing and qualification requirements.²
2. To the extent practicable, the competent authorities shall accept applications in electronic format under the same conditions of authenticity as paper submissions.

Application Timeframes

3. The competent authorities shall, to the extent practicable, permit an applicant to submit an application at any time. Where specific time periods for applications exist, they shall be of reasonable length.

Processing of Applications

4. If a Party requires authorisation, it shall ensure that its competent authorities:
- (a) to the extent practicable, provide an indicative timeframe for the processing of an application;
 - (b) to the extent practicable, ascertain without undue delay the completeness of an application for processing under the Party's domestic laws and regulations;
 - (c) at the request of the applicant, provide without undue delay information concerning the status of the application, if possible in electronic form;
 - (d) process an application which they consider complete under the Party's domestic laws and regulations, as expeditiously as possible; and
 - (e) inform the applicant of the final decision³ in writing⁴ without undue delay.
5. Each Party shall ensure that an authorisation is granted when all the applicable requirements have been fulfilled and, once granted, enters into effect without undue delay in accordance with the terms and conditions specified therein.

² For both Parties, there may be more than one competent authority that the investors apply to.

³ Competent authorities may meet this requirement by informing an applicant in advance in writing, including through a published measure, that lack of response after a specified period of time from the date of submission of the application indicates either acceptance or rejection of the application.

⁴ "In writing" may include electronic form.

6. The competent authorities shall, within a reasonable period of time after the receipt of an application which they consider incomplete:
 - (a) inform the applicant that the application is considered incomplete;
 - (b) identify the additional information required to complete the application or otherwise provide guidance on why the application is considered incomplete; and
 - (c) provide the applicant the opportunity to complete its application within a reasonable period of time or, if appropriate, to submit a new application.
7. If the competent authorities reject an application, they shall inform the applicant in writing⁵ of:
 - (a) the reasons for rejection of the application and, if applicable, the procedures for resubmission of an application; and
 - (b) the timeframe and procedures for any available review or appeal against the decision.
8. An applicant should not be prevented from submitting another application solely on the basis of a previously rejected application.

ARTICLE XX.5 Appeal and Review

1. Each Party shall provide that an investor to whom a competent authority issues a decision has the right, within its territory, to:
 - (a) an administrative appeal to the competent authority that issued the decision or review by an administrative authority higher than or independent of the competent authority that issued the decision; and/or
 - (b) a judicial appeal or review of the decision.
2. Each Party shall ensure that its procedures for appeal or review are carried out in a non-discriminatory manner.

ARTICLE XX.6 Independence and Impartiality

1. Each Party shall ensure that the procedures and decisions of its competent authorities are impartial with respect to all applicants.
2. The competent authorities should be operationally independent of, and not accountable to, any investor for which the authorisation is required.

⁵ "In writing" may include electronic form.

ARTICLE XX.7
Digitalisation and Electronic Governance

1. The Parties shall endeavour to reach the highest possible level of digitalisation of procedures related to investments.
2. For the purposes of this Chapter, electronic documents and electronic signatures shall produce the same legal effect as those of paper documents and handwritten signatures, subject to the Party's domestic laws and regulations on electronic documents and electronic signatures.
3. [Placeholder: Digital Government]

[PLACEHOLDER:
ARTICLE XX.8
GREEN INVESTMENT & FINANCE]

[PLACEHOLDER:
ARTICLE XX.9
RESPONSIBLE BUSINESS CONDUCT]

[PLACEHOLDER:
ARTICLE XX.10
HOME COUNTRY OBLIGATIONS ON OUTWARD FDI]

Article XX.8
Subcommittee for Trade- Investment Facilitation Matters

1. For the purposes of the effective implementation and operation of this Chapter, Subcommittee for Trade established by Chapter YY of this Agreement will handle, among others, Investment Facilitation matters.
2. These matters include the objectives below:
 - (a) promote and enhance investment cooperation and facilitation between the Parties;
 - (b) monitor investment relations, identify opportunities for expanding investment, and identify issues relevant to investment that may be appropriate for further discussion in the Committee;
 - (c) monitor the implementation of the provisions of this Chapter;
 - (d) identify and work toward the removal of impediments and facilitate investment flows, including proposing an agenda for cooperation and facilitation, which may include issues such as transfer of funds, personnel mobility and logistical matters, among others;
 - (e) hold consultations on specific investment matters of interest to the Parties;

- (f) seek the views of the private sector, where appropriate, on matters related to the work of the Committee; and
- (g) work toward the promotion of investment flows.