



**TPSA** | CANADA-INDONESIA TRADE AND  
PRIVATE SECTOR ASSISTANCE PROJECT

# SESSION 5

## MEASURES FOR STREAMLINING ADMINISTRATIVE PROCEDURES

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**Canada**

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# UNCTAD's Global Action Menu for Investment Facilitation

## Action line 3

Improve the efficiency of investment administrative procedures

## Action line 5

Designate a lead agency, focal point or investment facilitator

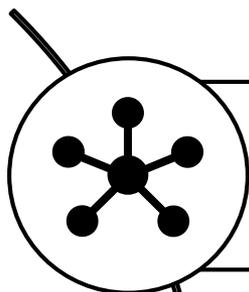
Measures for streamlining administrative procedures



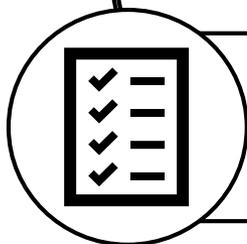
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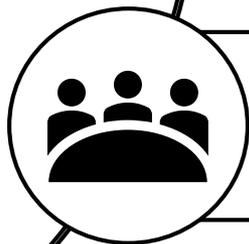
# Measures for streamlining administrative procedures



Mechanism to streamline and simplify investment applications and approval processes



Review of licensing and qualifications, and formalities and documentation requirements



One-stop shop/single window for foreign investors



# SIMPLIFY INVESTMENT APPLICATIONS AND APPROVALS

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## Measure 4



# iv Simplify investment applications and approvals

## Background

- Applications and approvals processes can be complicated and time-consuming.
- As more ministries are involved the possibility for bureaucratic holdups – and corruption – rises.
- Time, cost, and arbitrary exercise of bureaucratic power are all barriers to investment.

## Rationale

- By simplifying the applications and approvals process, countries can reduce costs for both investors and themselves.
- This makes the country a more attractive investment destination.
- Simplification does not mean giving up control over policy.



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# iv Simplify investment applications and approvals

## India Simplified Proforma for Incorporating Company Electronically (2016)

## Analysis

The Ministry of Corporate Affairs has notified a new e-form... with the objective of providing speedy incorporation in line with international best practices. The salient features of SPICe are:

- Standardised format of e-Memorandum of Association (eMoA) and e-Articles of Association (eAoA) as per Companies Act, 2013 as linked e-forms.
- Provision to apply for Company Incorporation with a pre-approved Company Name.
- Mandatory usage of Digital Signature Certificates (DSCs) by Subscribers and Witnesses (max 7+1) in SPICe eMOA and SPICe eAOA instead of ink signed signatures.
- Standardisation and machine tracking of changes made by stakeholders to standardised eMoA and eAoA.

**Objective:** Making it quicker for investors to incorporate by reducing barriers to registration.

### Nature of measures:

- 1) standardized forms;
- 2) pre-approval for incorporated company names;
- 3) standardized digital signatures replace ink signatures;
- 4) electronic submission of standardized forms.

Source: <http://www.pib.nic.in/Pressreleaseshare.aspx?PRID=1519388>



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# Example from Canada



The agency

Invest in Canada is a federal agency aimed at **facilitating foreign direct investment** to spur job growth in Canada. Through strong collaboration with



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# iv Simplify investment applications and approvals

## Implementation considerations

To implement this measure consider some of the following:

- ❑ Establish a committee to evaluate all application requirements and eliminate portions that are not necessary.
- ❑ Consider methods to enforce a short, standardized timeframe for approvals.
- ❑ Eliminate special incentive schemes in favour of broad-based incentives.
- ❑ Keep fees to a minimum, and make sure they are no more than the administrative cost of processing the application.
- ❑ Digitize and allow digital signatures to have the same force as regular signatures.

## Situation in Indonesia

*Discussion with workshop participants*



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MINISTRY OF TRADE

# REVIEW OF LICENSING, QUALIFICATION, AND DOCUMENTATION REQUIREMENTS

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## Measure 5



# v Review of licensing, qualification, and documentation requirements

## Background

- Investors face a variety of obstacles to getting their investments set up, including:
  - Licenses for their activities,
  - Qualification requirements they must meet to be recognized as foreign investors,
  - Disclosure of information about the investor's business,
  - Documentation to prove all of the above.
- Typical IIAs have spent little time focusing on ground-level obstacles to investment like these.

## Rationale

- Eliminating small barriers to investment is easier than taking huge leaps.
- Licensing and documentation are important for countries, but it is worth re-evaluating whether all existing requirements continue to be necessary.
- This should be treated as a constant process of re-evaluation rather than a one-time review, as what is reasonable is always evolving.



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# Example from Canada



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## Activities under the *Investment Canada Act* in 2017–18

### Recent Policy Developments

During the fiscal year 2017–18, a number of policy changes were introduced, reflecting Government commitments to encourage Canada as a destination of choice for investment.

As part of Budget 2017, the Government implemented its commitment originally made in the 2016 Fall Economic Statement to increase the net benefit review threshold for private sector WTO investors to \$1 billion in Enterprise Value in 2017, two years ahead of schedule. The \$1 billion threshold came into force upon Royal Assent of Bill C-44, the Budget Implementation Act, on June 22, 2017. As of January 1, 2019, this threshold will be adjusted annually to reflect changes in nominal gross domestic product according to a formula set out in the Act.

As part of the CETA, the net benefit review threshold for private sector CETA investors increased to \$1.5 billion in Enterprise Value. Private sector investors from other free trade agreement partners with relevant most-favoured nation provisions also received the same threshold. These are: Chile, Colombia, Honduras, Mexico, Panama, Peru, South Korea and the United States. Required legislative amendments were introduced in Bill C-30, CETA Implementation Act, which received Royal Assent on May 16, 2017, and associated regulatory amendments were made. The new threshold came into force on September 21, 2017, the date agreed upon by Canada and the European Union for application of CETA.

Finally, the Government's commitment to make reporting on the administration of the national security provisions of the Act mandatory was also implemented, making it consistent with the reporting requirement already in place for the administration of the net benefit review provisions. The amendment to require reporting on national security reviews came into effect upon Royal Assent of Bill C-44.

[https://www.ic.gc.ca/eic/site/ica-lic.nsf/eng/h\\_lk81126.html#Toc528931163](https://www.ic.gc.ca/eic/site/ica-lic.nsf/eng/h_lk81126.html#Toc528931163)



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# v Review of licensing, qualification, and documentation requirements

## Implementation considerations

The process for review could include:

- ❑ Ensure that requirements are clear and consistent to enhance predictability and avoid opportunities for arbitrary use of discretion.
- ❑ Provide a reasonable timeframe for processing and provide timely notice to investor once a decision has been made.
- ❑ Establish performance benchmarks to evaluate institutions involved in licensing / qualification / documentation.

## Situation in Indonesia

*Discussion with workshop participants*



# SINGLE WINDOW FOR FOREIGN INVESTORS

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## Measure 6



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# vi Single window for foreign investors

## Background

- Many countries have a variety of registrations and applications that potential investors must complete.
- A large number of different application points may considerably lengthen the approval process for the investor.
- For host countries, the lack of centralized application process may be perceived as a lack of coordination and unfriendly to business.

## Rationale

- Single windows are agencies where investors can go to complete all of the required applications and permits in one place, making the process easier for the investor.
- Single windows create an automated and centralized process, which can also reduce processing costs for the host government.
- Single windows are not the same as enquiry points, though they are related and can be combined.



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# vi Single window for foreign investors

## Brazil's proposal for an IFA (circulated on 31 January 2018)

## Analysis

### Article 9 (Single Electronic Window)

1. The Single Electronic Window (SEW) shall constitute a single entry point for the submission of all documents required by the agencies or regulatory bodies involved in the admission, establishment, acquisition and expansion of investments. Documents uploaded through the SEW shall not be subsequently required by any agency or regulatory body by any other means, except in cases in which the authenticity of the electronic document cannot be established or ensured through electronic means alone.

2. The SEW website shall provide information regarding policy, laws and regulations relating to the admission, establishment, acquisition and expansion of investments. Members shall endeavour to include subnational information regarding policy, laws and regulations relating to the admission, establishment, acquisition and expansion of investments.

**Objective:** Establish a single point of entry for the submission of all documents required for an investment.

**Nature of obligation:** At this single window, investors can obtain and submit all documents, both at the federal and subnational levels, required to establish their investment; agencies are prohibited from subsequently requiring additional application documents.

**Not covered:** This measure does not alter governments' right to regulate, nor does it require them to reduce the total amount of registrations and applications required.

Source: <https://bit.ly/2HNJyAj>



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# Example from Canada



Invest in Canada is a federal agency aimed at **facilitating foreign direct investment** to spur job growth in Canada. Through strong collaboration with



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# vi Single window for foreign investors

## Implementation considerations

In the process of establishing single windows, consider the following:

- ❑ Establishing a single window is a complex reform project. Challenges can be technical, like combining regulations or writing necessary legislation empowering the single window.
- ❑ Some of these challenges require political will, like taking power away from existing ministries and forcing competing agencies to collaborate.
- ❑ Developing adequate technology systems will greatly ease the implementation process.

## Situation in Indonesia

*Discussion with workshop participants*



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**Many thanks for your attention!**



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