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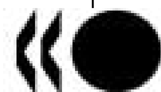

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Task Force on a Policy Framework for Investment

THE OECD INITIATIVE ON INVESTMENT FOR DEVELOPMENT

TOWARDS A POLICY FRAMEWORK FOR INVESTMENT: BACKGROUND AND GENERAL DISCUSSION

(Note by the Secretariat)

This document introduces the Policy Framework for Investment, one of three inter-related projects of the OECD Initiative on Investment for Development, called for during the 2003 OECD Ministerial and launched at the Global Forum on International Investment in Johannesburg, South Africa, in November 2003 [DAFFE/IME(2003)19]. The document has benefited from substantial inputs from other divisions in the Directorate, the Centre for Tax Policy and Administration, and the Trade Directorate, reflecting the horizontal nature of the project. The document is intended as background documentation to guide discussion under item 1 of the agenda [DAFFE/IME/TF/A(2004)1] of the first meeting of the Task Force overseeing the development of the Policy Framework for Investment [DAFFE/IME/RD(2004)1] to be held on 17 June 2004 in Paris.

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THE OECD INITIATIVE ON INVESTMENT FOR DEVELOPMENT

**TOWARDS A POLICY FRAMEWORK FOR INVESTMENT:
BACKGROUND AND GENERAL DISCUSSION**

1. Introduction

1. International investment has proven to be a powerful catalyst for innovation, sustainable growth and poverty reduction. Despite positive trends in the past decade, investment flows into non-OECD regions continue to fall short of private capital and national development needs. Attracting more investment and maximising its benefits is necessary to achieving the Millennium Development Goals. In keeping with OECD Members' commitment to achieving these Goals, and in response to calls on developed countries to provide assistance in helping less developed countries build capacity with respect to investment issues, the 2003 OECD Ministerial Meeting asked the Organisation to strengthen co-operation among Member and non-Member countries by undertaking "additional work on a strategy to promote investment in developing countries".

2. Towards this objective, three closely inter-related projects have been launched within the context of the OECD "Initiative on Investment for Development". These projects involve; 1) drawing lessons on the use of official development aid (ODA) in support of countries' efforts to mobilise investment for development; 2) sharing the OECD's experience with investment policy peer reviews as capacity building mechanisms; and 3) developing an operational guide on good policy practices for improving the policy environment for investment. The focus of this paper is on the third of these projects – the "Policy Framework for Investment".

3. The Framework will be developed by a Task Force through a partnership process involving extensive consultation between OECD Members and non-Members. It will consist of a comprehensive stocktaking of sources of good policy practices both within and outside the OECD in areas that are relevant from an investment perspective, such as investment policy, trade policy, competition policy, corporate and public governance, and taxation, among others.

4. The *Policy Framework for Investment* is intended as an evolving and non-prescriptive operational guide at the disposal of any interested governments engaged in domestic reform, regional co-operation or international policy dialogue aimed at creating an investment environment that is attractive to investors and that enhances the benefits of investment to societies. The Framework could also serve as a reference point for investment promotion agencies (IPA), ODA agencies as they assist recipient country partners in improving the business climate, and trade unions and NGOs in their dialogue with governments.

5. While the starting point for the *Framework* is experience with respect to foreign investment, it is expected that the *Framework* will have broader applicability for the creation of an environment that is conducive to investment and enterprise development more generally. The OECD is well placed to make a positive contribution in this field by building on its long-standing approach to policy development based on experience-sharing, its multidisciplinary capacity and expanding co-operation with non-Members.

6. This paper outlines the context, objectives, proposed content and architecture of the *Framework*, and concludes by raising some questions relating to the main issues covered in this paper for consideration at the meeting on 17 June 2004 convened by the Task Force[1] responsible for developing the *Framework*.

2. Context

7. In September 2000 the United Nations adopted the Millennium Development Goals (United Nations, 2000).[2] These goals were elaborated on the basis of various multilateral initiatives developed during the 1990s, including the International Development Goals developed by the OECD's Development Assistance Committee in 1996 (OECD, 1996). In March 2002, heads of state met again in Monterrey, Mexico, for the International Conference on Financing for Development. This conference addressed the "dramatic shortfalls" in the financing required to meet internationally agreed development objectives and, in particular, the Millennium Development Goals (United Nations, 2002, p. 2). The outcome of this conference was a commitment to mobilise the resources necessary to achieve these development objectives – the Monterrey Consensus.

8. The Monterrey Consensus identified private capital and foreign direct investment in particular as "vital complements to national and international development efforts" and emphasised the need "to create the necessary domestic and international conditions to facilitate direct investment flows" (United Nations, 2002, p. 5). While the role of foreign investment in development has long been recognized, the Monterrey Consensus effectively served to place foreign investment at the heart of the global development agenda by recognising "its potential to transfer knowledge and technology, create jobs, boost overall productivity, enhance competitiveness and entrepreneurship, and ultimately eradicate poverty through economic growth and development" (p. 5).

9. Underpinned by the shared investment values of transparency, investment protection and appropriate assumption of responsibilities by governments and other actors,[3] the Monterrey Consensus supported the following policy approach:

10. "To attract and enhance inflows of productive capital, countries need to continue their efforts to achieve a transparent, stable and predictable investment climate, with proper contract enforcement and respect for property rights, embedded in sound macroeconomic policies and institutions that allow businesses, both domestic and international, to operate efficiently and profitably and with maximum development impact. Special efforts are required in such priority areas as economic policy and regulatory frameworks for promoting and protecting investments, including the areas of human resource development, avoidance of double taxation, corporate governance, accounting standards, and the promotion of a competitive environment. Other mechanisms, such as public/private partnerships and investment agreements, can be important." (Paragraph 21)

1. For a description of the Task Force see Annex 1.

2. The Millennium Development Goals committed the world's governments to achieving 7 specific development objectives by 2015 (at the latest), including the halving of extreme poverty and hunger, achieving universal primary education, empowering women and promoting equality, reducing under-five mortality by two-thirds, reducing maternal mortality by three-quarters, reversing the spread of diseases, especially HIV/AIDs and malaria, and ensuring environmental sustainability. In support of these more specific objectives, the Millennium Development Goals also included an eighth, overarching commitment to create a global partnership for development.

3. Upholding the Charter of the United Nations and building upon the values of the Millennium Declaration, the overarching principles on which the Monterrey Consensus was based were the following: "equity, democracy, participation, transparency, accountability and inclusion".

11. While recognising the diversity of perspectives and circumstances expressed in the preparatory work of Monterrey, these shared values and approaches provide a common basis for OECD and non-OECD governments to work together on enhancing investment for development. In particular, the proposed the *Policy Framework for Investment* would allow these governments to explore the operational implications of these values and principles in different national contexts and different policy areas.

12. While the Policy Framework for Investment is addressed to governments, it is to be seen in the broader context of other converging international initiatives to improve the investment climate, including the OECD Guidelines for Multinational Enterprises.

3. Proposed content and architecture of the Policy Framework for Investment

13. Efforts by countries to increase foreign investment mainly have included various types of incentives, active investment promotion and the liberalisation of investment regimes, both unilaterally and through the negotiation of international investment agreements (such as bilateral investment treaties and regional trade agreements that deal with investment issues, such as the NAFTA). However, few countries have adopted a “whole-of-government” approach towards improving the investment climate. The *Framework* recognizes the need for a more comprehensive and coherent approach across a range of policy domains that cut across both host and home countries.

14. A number of important policy themes will cut across all of the policy areas covered in the Framework. These mainly relate to the important role played by government with respect to the implementation and administration of policies that are relevant from an investment perspective. Therefore, in addition to considering the policy areas identified below (and possibly others) from a statutory perspective, the *Framework* will also take into account the policy processes associated with these and the important role of *regulatory reform and good public governance* in each of the more specific policy areas.

15. Many policy areas have been identified by the OECD, UNCTAD, and the World Bank, among other organizations involved in investment and development, as well as in the Monterrey Consensus, as playing an important role when it comes to creating an attractive environment for investment. These include, *inter alia*:

- Investment policy;
- Trade policy;
- Tax policy;
- Competition policy;
- Corporate governance and responsibility, and market integrity;
- Human resource and infrastructure development;
- Investment facilitation; and
- Public governance, including the fight against corruption.

16. Although the chapters of the Framework covering specific policy areas will have their own unique structure depending on the nature of the topic being addressed, each chapter will nonetheless aim to

provide answers to the following questions: 1) What is the scope of the policy area in question and how is it relevant to creating an attractive environment for foreign investment and enhancing the developmental benefits of existing investments? 2) How can international co-operation between host and home countries contribute to achieving the desired policy outcomes? 3) What is OECD and non-OECD experience, especially with respect to operational guidance, with the policy area in question from an investment perspective?

17. As mentioned above, a number of policy issues, such as regulatory reform and public governance, including the fight against corruption – recognised as a major obstacle against achieving an attractive environment for FDI – cut across many of the policy areas identified above. Transparency and policy coherence are also integral elements of sound public governance. Horizontal issues such as these are important insofar as the key to implementing good policies for foreign investment consists not just in identifying good policy practice but then also *achieving* good policy practice and addressing horizontal issues can be critical in this regard. Furthermore, good policy practice is not a static concept. Policy needs to evolve in the face of changing economic and social conditions and policy objectives. By incorporating the regulatory reform and public governance dimensions, including the need for transparency and measures to combat corruption, in each of the more specific policy chapters, the *Framework* aims to go beyond simply listing examples of good practice by providing practical policy advice on how to achieve and sustain good practice.

18. The policy issues identified above should not be viewed as an exhaustive or exclusive set. Rather, these policy issues reflect the focus of current efforts, both within and outside the OECD, to create attractive environments for foreign (and domestic) investors as well as priorities identified during the development of the Monterrey Consensus.[4] Furthermore, the Framework recognises that, depending upon levels of development, different economic and social priorities, and the particular circumstances and challenges faced by any given country, different parts of the Framework will hold greater relevance for different governments.

19. The proposed architecture of the *Policy Framework for Investment* would consist of two parts. Subject to on-going deliberation by the Task Force, these would cover:

- Part 1. A scene-setting introduction
- Part 2. A set of operational policy issues that policy makers should take into consideration for creating an attractive investment environment

20. A background report will contain detailed analytical, stocktaking papers on specific policy areas and upon which the operational policy issues outlined in Part 2 are based.

21. Part 1 could introduce the current international investment context and outline the shared values and the goals to which the international investment community aspires, as elaborated, for example, in the Monterrey Consensus. This scene setting text would note *inter alia* that a healthy investment climate relies on effective public policies of all sorts (e.g. stable macro-environment; protection of economic, civil,

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4. For example, the conference report of the International Conference on Financing for Development identified well established property rights (which is an element in investment policy) as "indispensable for productive private investment" (p.59), the enlargement of markets through trade policy in order to "achieve the scale economies necessary…to attract foreign direct investment inflows" (p. 68), the need for good governance policies since "a key obstacle to FDI is the lack of certainty and predictability of the legal and institutional framework" (p. 68), and suggested that certain issues relating to tax policies in the context of foreign direct investment need to be considered (see, e.g. p. 53).

political and labour rights; effective delivery of public services; appropriate regulation; an efficient and disciplined tax system). It would also note the diversity of countries that now interact in the international economy (e.g. in their endowments of human and physical capital, sectoral orientations, political systems, public sectors and degree of openness) and the great variety of institutions and practices that countries may rely upon in order to translate basic investment values and principles into policy practice.

22. Part 2 would identify the key policy issues that emerge during the development of the *Framework* and the deliberations of the Task Force. Part 2 would also include accompanying commentary on the key policy issues like the annotations that have been added to the OECD Principles on Corporate Governance or the OECD Guidelines for Multinational Enterprises fro instance. It could also put forward different national policy options and information on successful national policies and international initiatives.

23. A merit of the separation of key policy issues in Part 2 from the analytical and stocktaking background report is to allow for a distinction between generally accepted policy issues that need to be addressed in the context of efforts to create an attractive environment for investment and the range of experience both within and outside the OECD with respect to the actual implementation of these policy issues which will be documented in the background report. It allows for flexibility to reflect the fact that, while all or most countries might agree that particular policy issues are important, experience in terms of addressing and implementing various issues is likely to vary. For example, while countries might agree on the importance of "meaningful trade liberalization" in support of "increased trade and foreign direct investment"[5] they might have different policy "paths" by which they seek to achieve this objective, or even disagree as to the meaning of "meaningful trade liberalisation" from an investment perspective.

24. The following sections briefly motivate each of the proposed policy areas covered in the *Framework*.

i. Investment policy

25. For the purpose of the project, investment policy is defined as covering non-discriminatory treatment and protection of investment. Investment policy is at the heart of an economy's investment regime. A country's investment policies include its national and sub-national laws and regulations on investment and its international obligations as reflected in international agreements covering investment issues. A defining feature of a country's policies for creating an attractive environment for foreign investment concerns the extent to which these policies provide for different treatment of domestic and foreign investors and their investments (including investment in intellectual property) and the extent to which these different "rules of the game" serve as the basis for discriminatory policies against foreign investment.[6]

26. All governments exercise their right to restrict or otherwise control the business activities of non-nationals (as well as nationals) to some extent. The specific reasons for doing so are numerous but can generally be traced back to the (perceived) need for the state to control certain resources in order to fulfil certain functions or achieve certain objectives. For example, governments often discriminate against foreign investors in industries considered to be of strategic importance (e.g. defence-related industries, oil and gas, transportation) and in areas that are otherwise considered to be closely tied to some dimension of national welfare (e.g. cultural industries).

5. Monterrey Consensus, United Nations, 2002, paragraph 27.

6. A critical issue in this regard also concerns the extent to which such differences are transparent.

27. When governments make a distinction between foreign and domestic investors and investments for policy purposes this can manifest itself in different levels of restrictiveness. For example, special registration requirements for foreign investors or perfunctory screening can be relatively minor impediments to foreign investment. Other investment policies, such as performance requirements, can be more onerous and, in the absence of off-setting incentives, can act to discourage foreign investment. Finally, foreign investors are sometimes simply prohibited in particular industries or areas.

28. A considerable body of experience has been developed with respect to international investment rules. This experience has been developed at the regional level through bilateral investment treaties (BIT) and regional trade agreements dealing with investment as well as at the multilateral level in investment-related agreements at the World Trade Organization (especially the General Agreement on Trade in Services). The OECD itself adopted and has amended over time a binding Code of Liberalisation of Capital Movements and a political Declaration on International Investment and Multinational Enterprises, including a National Treatment instrument, which Members have to adhere to. Investment protection is a well-established principle in international investment law. OECD is developing work to enhance common understanding of the lines of demarcation between "indirect expropriation" giving rise to compensation and the "right to regulate".

29. International agreements aimed at encouraging foreign investment have evolved significantly in recent decades and emerging common features include:

- A broad definition of investment, including in some cases intellectual property;
- Provisions on non-discrimination, a growing number of which cover pre- and post-establishment;
- Provisions on transparency, both with respect to the statutory framework and procedural issues (such as those associated with dispute settlement);
- Prohibitions on certain performance requirements that go beyond obligations contained in the WTO TRIMs Agreement;
- Some form of dispute settlement system, often involving third-party arbitration; and
- Modalities for the progressive phasing out of non conforming measures.

30. A concurrent trend has been the involvement of more developing countries in this process, both in terms of agreements between developed and developing countries, and between developing countries. At the same time, the coverage of investment rules at the international level and the general trend towards more liberal investment regimes has been uneven. Furthermore, a number of new issues have emerged in recent international investment agreements and initiatives, some of which have proved contentious, including the recognition that intellectual property is closely related to FDI[7] and, in some cases, the linking of environmental, social, and labour standards to investment rules. As such, there remains considerable scope for building consensus on investment policies and for a careful reappraisal of current and emerging approaches with a view to identifying opportunities for reform aimed at enhancing the investment environment.

7. See, e.g., TD/TC/WP(2002)42/FINAL, which finds that countries with strong protection of intellectual property rights tend to attract more FDI (p.18).

ii. Trade policy

31. A country's trade policy determines the conditions under which goods and services are allowed into its national market. The relevance of trade policy from an investment perspective owes to the complex economic relationship between trade and foreign investment. Depending upon the motives behind foreign investment and the exact form that the foreign investment takes (e.g. fully-owned subsidiary versus a strategic alliance involving a minority equity stake), foreign affiliates are likely to exhibit different patterns of behaviour with respect to trade.

32. Nevertheless, the secular trend has been in the direction of more trade-intensive foreign investment. This is reflected, for example, in the growing share of intermediate inputs in U.S. affiliate trade beginning in the late 1980s and the doubling of intra-firm exports in Japanese trade during the 1990s. The highest rates of growth in intra-firm trade, albeit starting from lower levels, have been in developing countries. This general trend suggests that the foreign investment choices of MNEs will have become more sensitive to trade policies.

33. While trade agreements such as the WTO Agreement on Trade-Related Investment Measures are concerned with investment polices which may have the effect of discriminating against foreign trade, there are also many examples of trade policies that are discouraging foreign investment. One of the most notable among these involves intra-regional impediments to trade among developing countries that have the effect of restricting the size of these markets, even though market size is one of the key determinants of foreign investment. For example, the highest tariff barriers faced by African exports globally are in Africa itself (World Bank, 2003). Another important impediment to foreign investment consists in impediments to trade faced by developing country exporters in the larger, more advanced economies. If foreign investors cannot access the world's largest markets by exporting from smaller, developing economies, the incentive for firms to invest in these is significantly reduced.

iii. Competition policy

34. The main focus of competition law and policy is the efficient functioning of markets. This involves the prevention of private (and sometimes public) practices that adversely affect the competitive process, and, in some cases, intervention in the economy, as for example with respect to mergers and acquisitions, with a view to preventing levels of concentration that could undermine competition. The main relevance of competition law and policy from a foreign investment perspective therefore pertains to its implications for market entry by foreign investors (in the same way as it has implications for market entry by domestic investors). More generally, competition authorities can play an important advocacy role across a range of policy areas that are important from a foreign investment perspective (e.g. with respect to trade policy).

35. Certain specific aspects of competition policy are of particular relevance from a foreign investment perspective. This is most notably the case in the exercise of competition policy with respect to mergers and acquisitions. Mergers and acquisitions are the predominant mode of MNE expansion into foreign markets, accounting for 57 per cent of FDI inflows in 2002 and approximately one third of global M&A activity is cross-border (UNCTAD, 2003). As such, competition policy with respect to mergers and acquisitions can and has acted as an important factor in shaping FDI flows.

36. Despite the generally recognized positive role that competition authorities can play with respect to foreign investment and the important development role ascribed to competition policy in OECD Recommendations and the *Framework for the Design and Implementation of Competition Law and Policy*, developed jointly by the OECD and the World Bank, many countries have not yet implemented

competition laws or established competition authorities. Considerable scope therefore remains for the extension of good policy experience with competition policy to countries that have yet to develop either competition laws or policies.

iv. Tax policy

37. Tax policy is relevant to creating an attractive environment for FDI first and foremost by establishing a transparent, stable and fair tax system that encourages enterprise development, both by domestic firms and foreign investors. As more countries seek to actively promote FDI, a range of different tax policy approaches have been used, including the use of a variety of tax incentives. Tax incentives may be introduced on the grounds that they are needed to correct for instances of market failure, where markets do not yield a socially optimal level of investment. However, in the absence of parallel efforts in other policy areas towards ensuring an attractive FDI environment, incentives alone cannot be expected to swing manufacturing and other business location decisions. Even where incentives can be expected to have some effect, it is also necessary to recognize that investment is also attracted by infrastructure development and the funding of other social programs supportive of business. Thus host countries should take into consideration the need to balance strategies aimed at attracting investment against the need to collect corporate tax revenues to contribute, at least in part, towards infrastructure and human resource development.

38. Another issue that is specific to FDI concerns double taxation. From a development perspective the sharing of tax revenues from FDI between host and home countries, the avoidance of double taxation, and ensuring single taxation, are important considerations in creating an attractive environment for foreign investment and ensuring a positive contribution of FDI to development. One of the policy implications of increased cross-border investment and ongoing development of new financial instruments and structures is the need to engage in greater international co-operation on tax issues, including the signing of tax treaties, and implementation of transfer pricing rules, with practical assistance provided by the OECD's Centre for Tax Policy and Administration (and its partnership programme involving over 70 non-Members) and the World Bank's Foreign Investment Advisory Service (FIAS).

v. Corporate governance and responsibility, and market integrity

39. From a policy perspective, corporate governance systems encompass the rules, regulations and practices that govern interactions between different actors, including managers, boards, shareholders, and other stakeholders involved in the activities of firms. These can take the form of company law, securities regulations and the broader system of rights that determines who can influence business conduct (e.g. whistle-blowing protection). The policies and management and reporting practices of businesses themselves are, of course, an essential part of this system.

40. Corporate governance has become an increasingly relevant policy area from a foreign investment perspective in a context of the relative growth of the private sector in many economies, due in part to the extensive privatisation programmes of the 1990s. Foreign investors have played an important role in this process, going from virtually no privatisation-related FDI in the late 1980s to over $45 billion by the late 1990s (most of which was in developing countries). Good corporate governance, within a company and across an economy as a whole, especially in the context of the transition from an economy with substantial involvement of the state to one in which the private sector takes the lead, helps to provide a degree of confidence that is necessary for the proper functioning of a market economy. This can contribute, among other benefits, to reduced costs of capital and to the more efficient use of resources by firms, thereby underpinning economic growth.

41. Efforts to promote good corporate governance and broader corporate responsibilities, such as the OECD Principles of Corporate Governance, the OECD Convention on Combating Bribery, and the OECD Guidelines for Multinational Enterprises, have important roles to play for both creating an attractive environment for FDI and for ensuring the benefits of FDI to host economies. They do so by promoting transparency, financial stability, and adherence to agreed international norms for business conduct and safeguarding the long-term health of firms by encouraging the involvement of all relevant stakeholders. From the perspective of foreign investors, corporate governance can play an important role not only in ensuring clear and transparent rules of the game in foreign markets but also in ensuring mutually beneficial linkages between foreign investors and the local economy.

vi. Human resource and infrastructure development

42. A range of government policies can promote FDI by creating the domestic absorptive capacity that is essential for attracting and benefiting from FDI. These include, *inter alia*, the development of the necessary physical infrastructure (e.g. transportation, energy distribution, communication networks) as well as human capital development.

43. With respect to the latter, one of the most important assets of many countries is the labour force. From a policy perspective, FDI and human resource development are inter-related and complementary issues. Human resources include several types of intangible assets that differ in terms of how they are acquired (e.g. through formal learning acquired in schools, university and other learning environments; on the job learning acquired in the work place) and in which contexts they have economic value (some types of human skills, such as literacy, can be used in many different situations while others are specific to a specific workplace).

44. Governments, businesses and, in many cases, the non profit sector play varied and distinctive roles in the accumulation and development of human resources and infrastructure. Multinational enterprises can be significant providers of skills to the labour-force and human capital is an important factor in attracting foreign investment. Likewise, MNEs can provide an important source of financing for infrastructure projects, often in conjunction with governments and international lenders. Such projects can in turn attract further investment.

vii. Investment facilitation

45. In their efforts to attract FDI, many host countries have implemented investment facilitation policies including, *inter alia*, the establishment of investment promotion agencies, the setting-up of on-line databases of investment opportunities and prospective local business partners, and the streamlining of regulatory requirements, including through so-called one-stop shops. Some home countries have also contributed to investment facilitation through similar initiatives, including on-line databases of particular trade opportunities made available through GSP schemes.

46. Investment facilitation initiatives, like trade facilitation initiatives, have been motivated to a large extent by the recognition that the costs for prospective foreign investors associated with collecting information on particular market opportunities can be substantial and that these costs can, at the margin, influence decisions whether to invest or not. Indeed, a lack of information not only means that certain opportunities go unnoticed but also that the perceived risks of investing in certain markets will be higher. Recognition of the importance of these issues has given impetus to the growing importance and spread of investment promotion agencies, as well as to the expanding range of services that these offer to foreign investors. However, it remains that experience with investment facilitation remains in its infancy in many

countries and that considerable scope exists for the dissemination of good practice based upon the experiences of countries that have been leaders in this field, as well as organisations such as the World Association of Investment Promotion Agencies (WAIPA).

4. Issues for consideration and next steps

47. This paper has elaborated an initial conceptual outline of the *Policy Framework for Investment*. It has sketched out the context in which the *Framework* was initiated at the OECD, its objectives, and proposed content and architecture. Seven policy areas have been identified and proposed for inclusion in the *Framework*. Within this context, and with a view to identifying next steps, members of the Task Force are invited to consider the following questions:

a) Do these policy areas reflect the priorities of OECD Members and non-Members when it comes to creating an attractive policy environment for investment?

b) Are there other policy areas that should be included in the Framework?

c) What sources on good practice in these policy areas can members of the Task Force highlight?

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ANNEX 1.

TASK FORCE ON A POLICY FRAMEWORK FOR INVESTMENT: DRAFT TERMS OF REFERENCE (APRIL, 2004)

The development of the *Policy Framework for Investment* will be assisted by a Task Force comprised of representatives from Member and Non-Member countries. This annex explains the composition of the Task Force and the modalities according to which it will operate.

Composition of the Task Force

The Task Force will be composed of both Members and non-Members. The Task Force is co-chaired by Japan and Chile in 2004. Non-Member government partners will include the eight adherents to the OECD Declaration on International Investment and Multinational Enterprises (Argentina, Brazil, Chile, Estonia, Israel, Lithuania, Latvia, and Slovenia), the Russian Federation, China, India, South Africa, Singapore, and representatives of NEPAD, APEC and other intergovernmental initiatives. The World Bank and UNCTAD are invited to meetings, as well as the Business and Industry and Trade Union Advisory Committees to the OECD (BIAC and TUAC) and NGO partners depending on the agenda items concerned.

On the OECD side, the Investment Committee has oversight responsibility for the project. In addition to Investment Committee delegates' involvement, Members will be expected to arrange their participation in Task Force meetings in such a way to include delegates to Development Assistance Committee and other relevant OECD Committees as required.

Task Force modalities

The work of the Task Force will be undertaken through three channels. First, given the broad composition of the Task Force and, hence, the considerable geographic distances separating Task Force members, electronic discussion arrangements will be used to facilitate both the distribution of *Framework* materials as these are developed and on-going consultation and dialogue. Second, Task Force co-chairs and other members are invited to seize the opportunity of their involvement in OECD and other events held outside Paris to arrange consultations and presentation of the *Framework* as it evolves. In this context, the Task Force will benefit from the network and activities of the OECD Global Forum on International Investment and its regional outreach chapters. Third, the Task Force can hold one annual plenary meeting in Paris, usually in conjunction with regular meetings of the Investment Committee. The work of the Task Force is serviced by the Investment Committee Secretariat.

The first plenary meeting of the Task Force is scheduled to take place at the OECD in Paris on 17 June in order to take advantage of the presence of Member delegates and non-Member officials for a meeting of the Investment Committee as well as the National Contact Points for the Guidelines. The purpose of the first meeting will be to discuss the proposed format and coverage of the *Framework*, to address initial inputs covering particular policy areas covered in the *Framework*, to identify specific issues calling for further analytical support and possible input from other OECD committees and organisations, and agree on

next steps. The discussion will be supported by a draft of a possible introductory chapter, and analytical background reports on selected policy areas to the *Framework* prepared by the Secretariat.

A progress report on the Initiative on Investment for Development will be made available by the time of the 2005 OECD Ministerial Meeting, with the aim of completing work on the *Framework* in 2006.