

## APPENDIX 4

### APEC NON-BINDING INVESTMENT PRINCIPLES

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In the spirit of APEC's underlying approach of open regionalism,

Recognising the importance of investment to economic development, the stimulation of growth, the creation of jobs and the flow of technology in the Asia-Pacific region,

Emphasising the importance of promoting domestic environments that are conducive to attracting foreign investment, such as stable growth with low inflation, adequate infrastructure, adequately developed human resources, and protection of intellectual property rights,

Reflecting that most APEC economies are both sources and recipients of foreign investment,

Aiming to increase investment including investment in small and medium enterprises, and to develop supporting industries,

Acknowledging the diversity in the level and pace of development of member economies as may be reflected in their investment regimes, and committed to ongoing efforts towards the improvement and further liberalisation of their investment regimes,

Without prejudice to applicable bilateral and multilateral treaties and other international instruments,

Recognising the importance of adherence to the WTO Agreement on Trade-Related Investment Measures,

APEC members aspire to the following non-binding principles:

#### **Transparency**

- Member economies will make all laws, regulations, administrative guidelines and policies pertaining to investment in their economies publicly available in a prompt, transparent and readily accessible manner.

#### **Consistency of Interpretation and Implementation**

- Member economies will seek to ensure consistent interpretation of laws, regulations, administrative procedures and policies governing foreign investment, as well as prompt, transparent, and predictable licensing and approval processes, coordinated across all levels of government.

#### **Non-discrimination**

- Member economies will extend to investors from any economy treatment in relation to the establishment, expansion and operation of their investments that is no less favourable than that

accorded to investors from any other economy in like circumstances, without prejudice to relevant international obligations and principles.

#### **National Treatment**

- With exceptions as clearly provided for in domestic laws, regulations and policies, member economies will accord to foreign investors in relation to the establishment, expansion, operation and protection of their investments, treatment no less favourable than that accorded in like circumstances to domestic investors.

#### **Regulatory Protections**

- Member economies will not relax health, safety, labour, and environmental regulations as an encouragement to foreign investment.

#### **Investment Incentives**

- With limited and specified exceptions, member economies will avoid the use of investment incentives which distort fair competition within or between their economies, or which are inconsistent with these principles.

#### **Performance Requirements**

- Member economies will minimise the use of performance requirements that distort or limit expansion of trade and investment.

#### **Expropriation and Compensation**

- Member economies will not expropriate foreign investments or take measures that have a similar effect, except for a public purpose and on a non-discriminatory basis, in accordance with the laws of each economy and principles of international law and against the prompt payment of adequate and effective compensation.

#### **Transfers and Convertibility**

- Member economies will maintain their goal of the free and prompt transfer of funds related to foreign investment, such as capital contributions, profits, dividends, royalties, loan payments and liquidations, in freely convertible currency.

#### **Settlement of Disputes**

- Member economies accept that disputes arising in connection with a foreign investment will be settled promptly through consultations and negotiations between the parties to the dispute or, failing this, through procedures for arbitration in accordance with members' international commitments or through other arbitration procedures acceptable to both parties.

#### **Protection and Enforcement of Rights**

- Member economies will ensure non-discriminatory access to dispute resolution mechanisms, including tribunals, courts, and appeal processes, and, with due regard to judicial independence,

will seek to ensure the availability of resources to enable timely delivery and enforcement of judgments and arbitration awards.

**Entry and Sojourn of Personnel**

- Member economies will permit, in a timely manner, the temporary entry and sojourn of key foreign technical and managerial personnel for the purpose of engaging in activities connected with foreign investment, subject to relevant laws and regulations.

**Avoidance of Double Taxation**

- Member economies will endeavour to avoid double taxation related to foreign investment.

**Investor Behaviour**

- Acceptance of foreign investment is facilitated when foreign investors abide by the host economy's laws, regulations, administrative guidelines and policies, just as domestic investors should, and when investors take into account guidelines related to CSR that have been developed by multilateral bodies, as appropriate.

**Removal of Barriers to Capital Exports**

- Member economies accept that regulatory and institutional barriers to the outflow of investment will be minimised.