International Trade Centre

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Report on the 2nd webinar on a multilateral framework on investment facilitation for development

19 March 2020

The 2nd webinar on a multilateral framework on investment facilitation for development took place on 19 March 2020 between 16:00 to 17:00 CET and hosted about 80 participants. Mr. Rajesh Aggarwal, Chief of Trade Facilitation and Policy for Business at the International Trade Centre (ITC), opened the discussion. He explained that this discussion was part of a webinar series on a multilateral framework on investment facilitation for development, currently being negotiated at the World Trade Organization (WTO). The webinar series is part of the Investment Facilitation for Development project implemented by ITC and the German Development Institute/ Deutsches Institut für Entwicklungspolitik (DIE). The webinar was chaired by Mr. Axel Berger, Senior Researcher at DIE.

The aim of the webinar was to explore the extent to which a multilateral framework on investment facilitation for development could contribute to not only promoting the *quantity* of FDI flows, but also the *quality* of such flows; thus, contributing as much as possible to sustainable development in host countries. Special consideration was given to measures related to corporate social responsibility (CSR).

Agenda of the webinar

I. *Concrete investment facilitation measures that maximise the impact of FDI for sustainable development*
II. *The possibility of incentivising sustainable FDI through the designation of Recognised Sustainable Investors*
III. *Experiences with domestic laws on CSR*
IV. *Experiences with the inclusion of CSR provisions in international investment agreements*

Below, the main outcomes of the discussion are summarised:

I. The state of play of negotiations at the WTO

To kick-off the discussion, Felipe Henríquez, Counsellor at the Permanent Mission of Chile to the WTO and the key advisor to the Chair of the Structured Discussion, briefed participants about the progress of the Structured Discussions on Investment Facilitation for Development thus far. He explained that, in December 2019, a stocktaking meeting for investment facilitation had taken place and resulted in the decision to begin formal negotiations. A Streamlined Text was circulated among WTO members. In February 2020, an organisational meeting took place, where a working methodology and timetable were adopted by the delegates.

Mr. Henríquez also explained that the negotiations are based on the Streamlined Text; it incorporates many proposals submitted by members in the past years. The EU submitted a proposal in February, and submissions from China, Japan and Turkey are expected. The initiative has gained momentum with more members joining, including Bahrain and the Philippines, which brings the total number of participating members to 100. Due to the COVID-19 pandemic, and associated precautionary measures, the first round of negotiations on 12-13 March 2020 was suspended, along with other WTO meetings, until the end of April. The Ministerial Conference 12 in Kazakhstan was also suspended.

II. Concrete investment facilitation measures that maximise the impact of FDI for sustainable development

Investment facilitation measures can effectively maximise the impact of FDI for sustainable development.

As the discussion on international investment for development evolved, deeper issues relating to the different stages of FDI are now on the discussion table. These include the impact of value chains established by foreign investors and the observation of standards relating to development, including CSR and protection of the environment.

Governments should play an active role in ensuring that FDI transfers expertise and value to local economies **through facilitating linkages**. Such linkages could also be beneficial to investors. Utilising local talent and production would shorten the value chain for investors, saving them resources and time. Linkages could be made with local suppliers, educational institutions or host communities. Economies can promote sustainable FDI by including criteria relating to linkages in their investment authorisations processes.

Economies could also consider criteria that are based on the history of investors. **Impact assessments** that evaluate performance *ex-post* are useful tools to check the impact of FDI on society.

Promoting sustainable FDI could also involve the **home countries** of investors, as home countries are often in a stronger position to support FDI. Within an international framework, home-country measures would also ensure political balance in an agreement. This could be achieved by putting in place measures in a multilateral framework on investment facilitation for development that promote the contribution of outward investment to development.

Furthermore, measures addressing **standards of conduct** should be brought to the table, such as labour, governance, environment, and management (e.g., OECD and ILO standards). This could also apply to home-country/outward investment measures. The Dutch and the Colombia BIT models, as well as the EU-Canada agreement, are relevant examples.

A multilateral framework on investment facilitation for development could provide for measures that help policy-makers implement sustainable FDI standards and simultaneously facilitate cross-border investment. These tools build on similar obligations from WTO agreements as well as IIAs. Such tools include the recognised sustainable investor and CSR requirements for obtaining authorisation to invest.

III. The possibility of incentivising sustainable FDI through the designation of recognised sustainable investors

The Recognised Sustainable Investor (RSI) could be an effective policy tool to incentivise sustainable FDI.

In an RSI scheme, qualifying investors are offered benefits beyond those granted by a framework to all investors, upon their compliance with certain criteria relating to sustainable FDI and CSR. Upon obtaining this status, the benefits provided to investors could include, among others, priority access to licenses and tax incentives. Guidelines for these benefits could be outlined in a multilateral framework on investment facilitation for development.

It may be important to reconsider **sustainability standards** that have been traditionally used in incentive schemes to become obligatory, most notably, environmental standards. But politically speaking, this would reduce the chance of a framework reaching consensus. This is especially true since there are few to no bilateral and regional investment agreements that include such binding measures.

IV. Experiences with domestic laws on CSR

The implementation of domestic laws on CSR has also challenges of its own.

Implementation of policy tools could still take different forms when applied domestically. A relevant **example could be seen in India**, where the country has put in place a law that introduces obligations for companies to comply with CSR regulations. These regulations include the obligation for certain firms to establish a CSR committee and to reserve 2% of their profits for certain types of CSR activities. However, since these types of CSR activities are not necessarily related to the operations of the firms undertaking them, they are not necessarily implemented efficiently and sustainably. Drawing from this example, a multilateral framework on investment facilitation for development could use a similar model, but link any CSR activities directly to the operations of investors. It is worth noting that the Indian law only applies to firms in India (including foreign affiliates) and does not cover the foreign affiliates of Indian multinational enterprises.

V. Experiences with the inclusion of CSR provisions in international investment agreements

The inclusion of CSR provisions in international investment agreements (IIAs) is becoming more common.

Few investment facilitation measures have been part of IIAs in the past. In the past decade, however, **more IIAs** have been incorporating provisions concerning development, CSR and investment facilitation. CSR and general sustainable development provisions are becoming a trend in IIAs. The WTO should stay within this trend and ensure that a multilateral framework goes beyond increasing the flow of FDI.

Recent **examples come from the Brazilian IIAs.** For instance, the Brazilian bilateral agreements signed with Mozambique and Angola have a substantial section on CSR. These provisions were developed and articulated further in Brazil's agreement with India. Brazil brought these provisions to the WTO negotiations and they can be found in Article 18 of the Brazilian submission for an investment facilitation framework.

It was also argued in the webinar that sustainable FDI measures in a framework would **enhance the acceptability of a multilateral framework on investment facilitation for development.** The inclusion of such measures would increase the chance of such an agreement reaching consensus, since many governments are interested in advancing their sustainable development and since a strong development dimension would more likely garner more support from stakeholders.

Annex I: Invitation, agenda and speakers

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Deutsches Institut für Entwicklungspolitik

German Development Institute

The role of a multilateral framework on investment facilitation for development in facilitating sustainable FDI, including corporate social responsibility

Dear colleague,

On behalf of the International Trade Centre (ITC) and the German Development Institute / Deutsches Institut für Entwicklungspolitik (DIE), we cordially invite you to a webinar on:

The role of a multilateral framework on investment facilitation for development in facilitating sustainable FDI, including corporate social responsibility

on 19 March 2020, 16:00-17:00 CET.

This is the second of a webinar series on investment facilitation for development organised jointly by ITC and DIE. **Please register here** if you are interested in attending this webinar.

To join the meeting, kindly click on the link below at 16:00 CET on March 19 and follow the instructions.

Join Skype Meeting

After that, download and install the Skype Meetings App plug-in and click on "Join Using Skype for Business Web App instead". You could also join by phone using the number: +41 22 730 0999 or Find a local number , using the conference ID: 52133

If you would like to also send written questions or comments during the meeting, please feel free to type them in the chat window in the bottom-left corner of the Skype window.

Negotiations on a multilateral framework on investment facilitation for development will start in the World Trade Organization (WTO) among 100 WTO members. The main objective of the WTO negotiations is to increase the flow of sustainable foreign direct investment (FDI) with a view toward advancing sustainable development.

This webinar is held in the framework of the joint project of the International Trade Centre (ITC) and the German Development Institute / Deutsches Institut für Entwicklungspolitik (DIE) on Investment Facilitation for Development. It will discuss how the WTO negotiations of such a framework can be used not only to facilitate FDI in general, but also to increase its contribution to sustainable development in host countries. This is particularly important as home countries and international investors, apart from host countries, also play an important role in facilitating sustainable FDI. The webinar will therefore also discuss the role of corporate social responsibility (CSR) in the emerging multilateral framework on investment facilitation for development.

The webinar will be conducted in an interactive manner and allow for questions by participants. After an introduction to brief the webinar participants about the state of play of the investment facilitation negotiations, some key issues will be discussed, including:

- Concrete investment facilitation measures that maximise the impact of FDI for sustainable development.
- The possibility of incentivising sustainable FDI through the designation of Recognized Sustainable Investors.
- Experiences with domestic laws on CSR and their relevance for the multilateral framework.
- Experiences with the inclusion of CSR provisions in international investment agreements and their relevance for the multilateral framework.

Keynote delivered by:

- Rajesh Aggarwal, Chief of Trade Facilitation and Policy for Business, ITC

Chair:

- Axel Berger, Senior Researcher, DIE

Panellists:

- Evan Gabor, Columbia Law School
- Samo S. Gonçalves, Second Secretary, Mission of Brazil to the WTO
- Felipe Henriquez, Counsellor at the Permanent Mission of Chile to the WTO and Advisor to the Coordinator of the Structured Discussions
- Premila Nazareth Satyanand, Non-resident Senior Fellow at India's National Council of Applied Economic Research
- Karl P. Sauvant, Resident Senior Fellow, CCSI
- Matthew Stephenson, Policy and Community Lead, International Trade & Investment, WEF

Background materials

WTO Joint Ministerial Statement on Investment Facilitation for Development (December 2017).
WTO Joint Ministerial Statement on Investment Facilitation for Development (November 2019).
Advancing Sustainable Development by Facilitating Sustainable FDI, Promoting CSR, Designating Recognized Sustainable Investors, and Giving Home Countries a Role.
Investment Facilitation for Sustainable Development: Index Maps Adoption at Domestic Level, DIE Longread

Kind regards,

Rajesh Aggarwal, Axel Berger, Karl P. Sauvant

Rajesh Aggarwal is Officer-in-charge of the Business & Trade Policy Section of the International Trade Centre (ITC), Geneva. He is leading a programme of assisting the private sector in developing countries to be the change agent for trade policy reform and engage in business advocacy with their governments in design and implementation of trade policies and negotiating positions that reflect the business interests. Before joining the ITC, he worked for the Indian Government and participated in WTO Doha Round of trade negotiations. He has published papers in the area of trade negotiations including a paper titled 'Dynamics of Agriculture Negotiations in WTO' in the Journal of World Trade.

Axel Berger is a Senior Researcher at the German Development Institute / Deutsches Institut für Entwicklungspolitik (DIE), Programme Transformation of Economic and Social Systems. He is heading the G20 Policy Research Group at DIE and led the T20 Task Force on Trade, Investment and Tax in 2017, 2018 and 2019. Axel holds a doctorate in political science from the University of Duisburg-Essen and a Master's degree from the Munich Ludwig-Maximilians-University in political science, economics and modern history. He works on the design, effects and diffusion patterns of international trade and investment agreements, with a focus on emerging markets and developing countries. Other areas of current research include the effects of an international investment facilitation framework, the impact of free trade agreements on upgrading within global value chains and the role of the G20 in global governance. He teaches international political economy at the University of Bonn and regularly advises developing countries, development agencies and international organisations on trade and investment matters.

Evan Gabor is a J.D. Candidate, class of 2020, at Columbia Law School where he is the Senior Business Relations and Digital Editor of the Columbia Business Law Review. He received his B.A. in economics from Boston College in 2012 and was previously a summer associate at Cravath, Swaine & Moore, a judicial intern for the Honourable Carol Bagley Amon, E.D.N.Y., a project controls specialist for FieldCore, and the operations manager for Khunu, Ltd. Publications to which he has contributed are available at: https://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=3137986.

Samo S. Gonçalves is a Second Secretary at the Mission of Brazil to the WTO. Samo has been a Brazilian Diplomat for the last 10 years and is currently in charge of Brazil's involvement in the investment facilitation discussion. He used to work at the Financial Division of the Brazilian Mission to the WTO and was part of the team in charge of the negotiations related to the New Development Bank (BRICS). Previously, Samo has worked in the Foreign Trade Board, where he was part of team responsible for providing economic assessment on Brazil's trade and investment policies. Samo holds a Ph.D. in economics, a Master's degree in in international relations, and an undergraduate degree in Economics and International Relations.

Felipe Henríquez is a Counsellor at the Permanent Mission of Chile to the WTO, in charge of Trade in Services, Investment, E-commerce, Trade and Environment and Government Procurement. He has professional experience as negotiator and head of negotiating teams of Free Trade Agreements (chapters on investment, services, temporary entry for business persons, telecommunications and e-commerce), participant in plurilateral and multilateral fora (TPP, Pacific Alliance, WTO, OECD, APEC, UNASUR) and negotiator of air services agreements and mutual recognition agreements.

Premila Nazareth Satyanand is Non-resident Senior Fellow at India's National Council of Applied Economic Research (NCAER), where she conceived and led a project that identified significant limitations in Indian FDI statistics and suggested targeted reform to the Indian Government. Currently, she is also the India partner, and member of the managing team, for the Columbia University Centre for Sustainable International Investment project: Emerging Market Global Players, ranking outward foreign direct investors from emerging economies. She has a B.A. in History from St. Stephen's College, New Delhi, and an M.A. in International Relations from Columbia University, New York. Previously, Premila worked with the United Nations Centre on Transnational Corporations, New York; the United Nations electoral missions in South Africa and the Western Sahara; and the Economist Intelligence Unit (now IMA India), New Delhi. She has consulted for MIGA, UNCTAD, UNDP and the World Bank, and was a Member of the Indian Planning Commission's Twelfth Plan Task Force on simplifying India's business regulatory framework.

Karl P. Sauvant, Ph.D., introduced the idea of an International Support Program for Sustainable Investment Facilitation in the E15 Task Force on Investment Policy in 2015. From there, the proposal was taken forward in the WTO. He has written extensively on this subject (see https://ssrn.com/author=2461782), participated in various events relating to it and currently assists the ITC and DIE on a project on Investment Facilitation for Development. He retired in 2005 as Director of UNCTAD's Investment Division and established, in 2006, what is now the Columbia Center on Sustainable Investment (CCSI), stepping down as its Executive Director in 2012, to focus his work, as a CCSI Resident Senior Fellow, on teaching, research and writing.

Matthew Stephenson, PhD., is Policy and Community Lead for International Trade and Investment at the World Economic Forum, where he manages the Global Investment Policy initiative. In that capacity, he works closely with governments, firms and civil society in several emerging markets to identify measures that facilitate investment and maximize investment's sustainable development impact. This work led to the publishing of a white paper, together with WAIPA, in December 2019 entitled *"What can governments do to facilitate investment? Important measures identified through surveys"*. Previously, Matthew worked at the IFC on advisory services for investment policy, where he led the workstream on outward FDI. He has also worked at the OECD on Africa and investment and served as a diplomat for the U.S. Department of State, leading the economic team on Afghanistan and managing economic programs in the Middle East. He is a member of the T20 Task Force on Trade and Investment, where he has authored several policy proposals for the G20. Matthew has a PhD from the Graduate Institute of International and Development Studies, a master's from the Harvard Kennedy School and a bachelor's from the University of Oxford.