Report on "How would WTO Members benefit from an Investment Facilitation for Development Agreement?"

13th public webinar (8 November 2022)

This report summarizes the main issues discussed during the 13th public webinar which took place on 8 November 2022, from 15:00 to 16:00 Geneva time. The event focused on "How would WTO Members benefit from an Investment Facilitation for Development Agreement?", and was held in the framework of the Investment Facilitation for Development project, jointly implemented by the International Trade Centre (ITC) and the German Institute of Development and Sustainability (IDOS).

The event included the following speakers: Jean-Sébastien Roure, Senior Advisor, Trade Policy, ITC; Federico Ortino, Professor of International Economic Law, King's College London; Jung Sung Park, Deputy Permanent Representative to the WTO of the Permanent Mission of Republic of Korea in Geneva and Co-coordinator of the Structured Discussions on Investment Facilitation for Development; Karl P. Sauvant, Senior Fellow, Columbia University, CCSI; Zoryana Olekseyuk, Senior Researcher, IDOS; Hania Kronfol, Private Sector Specialist in the Investment Climate Unit, World Bank Group; Michael Lim, Managing Director, Growth Consulting, Crowe Malaysia.

The programme for the event is attached to this report. The views summarised here are those of the individual speakers and do not necessarily reflect those of the organisers or the institutions with which the speakers are affiliated.

Discussion highlights

- An Investment Facilitation for Development (IFD) Agreement will bring economic benefits to participants, such as helping to attract high-quality foreign direct investment (FDI), assuming the economic investment determinants are favourable and policy frameworks enabling. Developing countries and least-developed countries (LDCs) could particularly benefit from this arrangement because they currently have fewer facilitation measures in place to reduce transactional costs and barriers for investors. Such economic benefits will not be limited to the participants, but will have a wider impact on the WTO's membership, given that an improved FDI framework benefits investors from all countries. Still, Members directly participating in the negotiations are expected to benefit more strongly.
- There is momentum for improving the implementation of investment rules and frameworks to help recover from the COVID pandemic and achieve sustainable development goals. An IFD Agreement will provide support for reform since it signals a serious and credible commitment by governments that they will undertake domestic reforms by anchoring their commitments in a shared multilateral approach. An IFD Agreement will become a reform tool, assisting FDI-competent authorities to move forward and improve the domestic investment environment.
- Flexibility, technical assistance and financial support are key for developing countries and LDCs to enjoy the benefits of an IFD Agreement. These Members will rely on self-

assessments to identify barriers to implementing commitments and require adequate support to overcome them. If proper assistance is put in place, those countries will be able to adjust their domestic regulatory environment and institutional arrangement to meet multilateral commitments. However, such support will be available only for Members that decide to join the IFD Agreement.

I. An IFD Agreement will bring economic benefits not only to participants, particularly developing countries and LDCs, but to a certain extent also to other WTO Members

An IFD Agreement will establish a multilateral benchmark for investment facilitation. Implementing investment facilitation measures contributes to reducing transaction costs for investors and can lead to higher FDI inflows, assuming the economic FDI determinants are favourable and the regulatory framework is enabling. Members that join the IFD Agreement signal their commitment to fostering confidence and predictability and improving the investment climate. Moreover, the Agreement provides for responsible business conduct (RBC) in accordance with applicable internationally recognised standards, which is the single most important approach to increase the development impact of FDI. Accordingly, an IFD Agreement will help countries to attract and retain more and higher quality FDI.

Developing countries, and LDCs in particular, would benefit the most from the implementation of an IFD Agreement because they currently have few facilitation measures in place to reduce transaction costs and barriers for investors. A lack of resources weakens governments' ability to develop an ecosystem to implement regulatory reforms, streamlining procedures and improving transparency. In this sense, the challenges faced by investors in developing countries can be summarised in three categories: i) complexity of administrative procedures; ii) discretion exercised by domestic bureaucracies; and iii) quality of laws and regulations. For governments, the main challenges to address these barriers stem from weak political and economic institutions, weak rule of law and weak implementing capacity with limited resources. For example, investment approval processes, access to information, lack of transparency, and poor dialogue between different domestic agencies are, in particular, major obstacles that result in more costs for investors. The provisions of an IFD Agreement could assist governments in addressing such shortcomings by setting minimum standards, providing guidelines, and monitoring progress. A sound regulatory and legal environment, alongside political and macroeconomic stability, is essential to attract and retain sustainable FDI, which is timely given the urgency of meeting the sustainable development goals.

Investors from all Members will benefit from the improvements the implementation of an IFD Agreement will bring, regardless of whether their headquarters are in countries signatories to the Agreement or not. However, the benefits of an IFD Agreement are higher for Members that join the Agreement. For instance, the benefits for India would be five times higher if the country decided to join the IFD Agreement, according to quantitative analysis by IDOS. Likewise, the full implementation of an IFD Agreement and all its provisions, including best endeavour measures, can result in higher benefits for developing countries. Accordingly, studies suggest that the deeper the coverage of the Agreement's provisions, the higher the benefits for all participating countries.

The benefits an IFD Agreement can bring are even the more important given the current situation in which countries are striving to advance sustainable development amidst the COVID pandemic. For investors, economic recovery will most likely have a 'K curve' shape, according to which investors doing well will follow an upward trend, while those struggling will follow a downward trend. In this context, investment facilitation measures can help the latter category to recover from the economic crisis caused by the pandemic and worsened by the war in Ukraine, strengthening their resilience by giving investors a clearer understanding of the investment climate in a particular country. As investors seek stable and sound policies, an enabling framework, covering regulatory approval for instance, contributes to investors' decisions on where to invest. Putting in place processes that streamline the implementation of the regulatory framework makes investing more efficient for investors. Small and medium-sized enterprises (SMEs) are particularly interested in such improvements.

II. There is momentum for improving the implementation of investment rules

An IFD Agreement can help promote awareness around investment facilitation and highlight it as a priority for governments, which benefits especially developing countries. It generates political momentum for governments to improve the implementation of rules and regulations, becoming itself a reform tool to help FDI-competent authorities to move forward and undertake improvements in the domestic investment environment. This, in turn, sends a positive signal to international investors, increasing their confidence in a given investment location. For investors, the fact that a particular country has subscribed to a multilateral framework for investment facilitation will itself be a proxy for administrative efficiency of the destination country. Whether or not a country is a party to the IFD Agreement may become a box to check before making investment decisions. Signatories of the Agreement will have an advantage in the highly competitive world FDI market when seeking to attract investment. Conversely, governments that are not signatories to the IFD Agreement will not benefit from the effects of such a credible reform commitment and may not send a positive signal to investors.

Joining the IFD Agreement represents a credible and strong reform commitment by a government. Many of the concrete and practical measures identified in the Agreement could be implemented by governments unilaterally. However, signing up for the IFD Agreement, as an international instrument, is evidence of a serious commitment on the part of governments that they will actually do what they pledged themselves to do by anchoring their commitments to a shared multilateral approach. While investment facilitation reforms may improve the overall investment climate, the benefits to domestic investors may be even more significant as they will benefit in the same way from increased transparency and streamlined administrative procedures. This is particularly true for SMEs, which rely on their own limited resources to navigate through complex regulatory requirements and demonstrate regulatory compliance.

Implementing investment facilitation measures increases the confidence of investors and makes developing countries more attractive for FDI, which is important for economic growth and recovery. It will make it easier for investors to conduct their day-to-day business, by creating a standardised investment environment. The World Bank 2019-2020 Global Investment Competitiveness Report's survey results and complementary empirical studies highlight that the regulatory environment is a key factor in investment decision-making, along with political and macroeconomic stability. It is also important for retaining existing foreign investors. A large body of research shows that the quality of a country's regulatory environment is positively associated with FDI.

III. Flexibility, technical assistance and financial support are key for developing countries and LDCs to enjoy the benefits of an IFD Agreement

The IFD Agreement could bring great economic benefits to developing countries and LDCs, but only if the measures are fully implemented, which will require substantial efforts. Challenges are higher for LDCs because they face a greater reform gap to implement the commitments of a future IFD Agreement. This puts reform pressure on those countries, but they will also be the ones benefiting the most since they have more room to improve the state of institutions, governance and the investment climate at large. Capacity development and technical assistance will be key to supporting reforms.

The IFD Agreement provides for flexibility and technical assistance to implement reforms, given the potential high costs associated with implementation. It, therefore, recognises the need for flexibility and assistance by providing for special and differential treatment of developing countries. Specifically, it allows signatories to self-designate the pace at which they will implement the Agreement's various provisions. As part of the self-designation process, Members can identify the measures whose implementation depends on their capacity to meet the requirements and the availability of technical assistance. Support is especially needed for strengthening human resources through training and capacity development in information and communication technology (ICT) and investment-related topics. Other areas requiring assistance include finance for ICT infrastructure, equipment, digitalisation, and automatisation. As the IFD Agreement establishes a set of benchmarks and standards, it will require countries to undertake an in-depth self-assessment on the basis of these benchmarks, to identify barriers and suitable support. This analysis will then provide data and analytics needed to establish technical assistance and capacity development needs. It is noteworthy to mention that technical assistance for implementing the Agreement will only be available to signatories.

WTO Members in a position to do so should coordinate as soon as possible to make firm commitments to provide substantial funds for needs assessments and the technical assistance support required for the implementation of the IFD Agreement. This could be done, for example, through an updated joint ministerial statement at the end of this year when negotiators report on the progress of the initiative. Moreover, support measures should be identified in cooperation with international and domestic partners, following a multi-stakeholder approach to achieve the desired objective.

Annex I: Public webinar invitation and agenda

Invitation: How would WTO Members benefit from an Investment Facilitation for Development Agreement?

3:00-4:00pm CET, 8 November 2022

Dear Colleagues,

On behalf of the International Trade Centre (ITC) and the German Institute of Development and Sustainability (IDOS), we cordially invite you to a webinar on:

How would WTO Members benefit from an Investment Facilitation for Development Agreement?

8 November 2022, 3:00-4:00pm Central European Time (CET)

This is the 13th of a webinar series on investment facilitation for development, held in the framework of a joint ITC/IDOS project on Investment Facilitation for Development. The reports of all previous events are available on the project's website.

Like all ITC/IDOS events, participation in the webinar is free of charge. However, it is necessary to register for the event (please click here), to receive the meeting link details.

The long-term objective of strengthening investment facilitation is to foster sustainable development. An Investment Facilitation for Development (IFD) Agreement, currently under negotiation in the World Trade Organization (WTO), seeks to support this objective. The webinar will discuss, from different stakeholder-perspectives, the various benefits of an Agreement. It will report about research simulating the economic impact of an Agreement, showing that WTO Members participating in it, and low-income countries in particular, will potentially benefit from it. By streamlining domestic procedures to enhance transparency, efficiency and predictability, as well as promoting coordination and dialogue, participating Members can enjoy economic benefits resulting, among other things, from a reduction in transaction costs. The webinar will highlight the crucial importance of support mechanisms to help implement the Agreement in developing countries.

As usual, the results of the discussion will be communicated to the negotiators of the IFD Agreement.

The webinar will have the following agenda and speakers:

Opening remarks

Jean-Sébastien Roure, Senior Advisor, Trade Policy, ITC

Moderator

Federico Ortino, Professor of International Economic Law, King's College London

Speakers

- **Jung Sung Park,** Deputy Permanent Representative to the WTO of the Permanent Mission of Republic of Korea in Geneva and Co-coordinator of the Structured Discussions on Investment Facilitation for Development — ***"The status of the WTO investment facilitation negotiations".***
- **Karl P. Sauvant**, Senior Fellow, Columbia University, CCSI — **"Reasons to join the IFD Agreement"**
- **Zoryana Olekseyuk**, Senior Researcher, IDOS — ***"Assessing the economic benefits of an IFD Agreement"***
- **Hania Kronfol,** Private Sector Specialist in the Investment Climate Unit, World Bank Group — **"*How an IFD Agreement can help Members facilitate FDI by tackling investment barriers and reducing transaction costs*"**
- **Michael Lim,** Managing Director, Growth Consulting, Crowe Malaysia — ***"The business perspective: how an IFD Agreement helps in foreign investors' locational decision making"***

Concluding remarks

Federico Ortino, Professor of International Economic Law, King's College London

To join the meeting, kindly click on the link that will be sent to you shortly before **3:00 pm CET on 8 November** and follow the instructions.

We look forward to welcoming you to the webinar!

With kind regards,

Rajesh Aggarwal, Director (oic), Division for Market Development, ITC

Axel Berger, Deputy Director (interim), IDOS

Karl P. Sauvant, Senior Fellow, Columbia University, CCSI

Background materials

ITC-IDOS project on Investment Facilitation for Development.

Edward J. Balistreri & Zoryana Olekseyuk, 2021. "Economic impacts of investment facilitation", Center for Agricultural and Rural Development (CARD) Publications 21-wp615, Center for Agricultural and Rural Development (CARD) at Iowa State University.

Axel Berger, Yardenne Kagan and Karl P. Sauvant, eds., Investment Facilitation for Development: A Toolkit for Policymakers (Geneva: ITC, 2022), second edition.

Karl P. Sauvant and Federico Ortino, "The WTO Investment Facilitation for Development Agreement needs a strong provision on responsible business conduct", *Columbia FDI Perspective*, no. 335 (11 July 2022).

Karl P. Sauvant, "How would a future WTO Agreement on Investment Facilitation for Development encourage sustainable FDI flows, and how could it be further strengthened?", in Kabir Duggal, Gustavo Vaughn, Elora Farias, Mateo Verdías, and Gino Rivas, *What Does It Mean to be "Pro Arbitration"? Reflections on George Bermann's Legacy by Columbia Law School Community* (forthcoming 2022).

Karl P. Sauvant and Evan Gabor, "Facilitating sustainable FDI for sustainable development in a WTO Investment Facilitation Framework: Four concrete proposals", *Journal of World Trade*, vol. 55 (2021), pp. 261-286.

Karl P. Sauvant, "The potential value-added of a Multilateral Framework on Investment Facilitation for Development", *Transnational Dispute Management,* 2 (2020).

Bios:

Hania Kronfol

Hania Kronfol is a Private Sector Specialist in the Investment Climate Unit of the World Bank Group, where she leads analytic, lending and advisory projects on investment policy and promotion. Her areas of expertise include FDI-led development, investment attraction and incentives, institutional strengthening, and trade and investment policy reform. Working across regions, she has supported over 30 developing countries implement investment climate reforms. She holds a bachelor's degree in Government from Cornell University and a master's degree in public policy from Harvard University.

Michael Lim, Jr.

Michael Lim is the Managing Director for Crowe Growth Consulting, a division covering regional markets focused on assisting companies to catalyse growth through improving performance, innovating itself or accelerating business expansion. He is the youngest to have graduated at the age of 17, summa cum laude, from the University of Queensland, the faculty of Business & Economics School, in the field of Accounting and Finance, with scientific research in the field of Artificial Intelligence. His working experiences include working with top notch research company, a world-class consulting firm and well-known global accounting firms before he was head-hunted to be a Global Associate Director and head the first ever turnaround consulting division globally.

Zoryana Olekseyuk

Zoryana Olekseyuk is a Senior Researcher at DIE. Her work focuses on economic integration/disintegration, trade, FDI, and investment facilitation, mainly with respect to developing and emerging economies. Being an experienced computable general equilibrium (CGE) modeler, she developed many innovative CGE models, e.g., incorporating data from heterogeneous firms and FDI in services. She has contributed to many international research projects and acts as a consultant for the World Bank. Her research is published in such journals as World Economy, Empirica, Review of Development Economics, Economic Modeling, and the Journal of International Trade and Economic Development

Federico Ortino

Federico Ortino is Professor of International Economic Law at The Dickson Poon School of Law, King's College London. He is a member of the ILA Committee on the Rule of Law and International Investment Law; founding Committee Member (and former co-Treasurer) of the Society of International Economic Law; consultative member of the Investment Treaty Forum; general co-editor of the International Trade and Investment Law Series with Hart Publishing; editorial board member of the Journal of International Economic Law, Journal of International Dispute Settlement and Journal of World Investment and Trade. He has been involved as expert in projects with UNCTAD, ITC, OECD, IISD, and WEF. He is a consultant to Clifford Chance.

Jung Sung Park

Jung Sung Park is the Deputy Permanent Representative to the WTO of the Permanent Mission of Republic of Korea in Geneva since February 2022. His previous positions include Director-General for policy coordination in industry, energy, trade, science ITC, and SMEs under the Prime Minister; Director for trade policy, Ministry of Trade, Industry and Energy; Director for trade industry, Office of the President; and Economic Counsellor of the Korean Embassy in Malaysia. He also participated in various bilateral FTA negotiations and led Invest Korea. He has a bachelor's degree in economics from Seoul National University and a J.D. from Nova Southeastern University. He is a member of N.Y. Bar, and N.J. Bar.

Jean-Sébastien Roure

Jean-Sébastien Roure is Senior Officer at the Trade Facilitation and Policy for Business Section at the International Trade Centre (ITC). For the past 20 years, he has provided technical support through programmes aimed at building capacity of the private sector in developing countries to effectively engage in business advocacy with their governments on multilateral (e.g., WTO accession) and regional/bilateral trade negotiations, as well as on domestic policy and regulatory reforms. The programmes encompass engaging the private sector in dialogue with their governments on these issues, developing technical policy papers and organising training programmes.

Karl P. Sauvant

Karl P. Sauvant 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 IDOS 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). He stepped down as the Center's Executive Director in 2012, to focus his work, as a CCSI Senior Fellow, on teaching, research and writing.