

## Webinar report: Capacity building for investment facilitation for development

The 10<sup>th</sup> public webinar, “*Capacity building for investment facilitation for development*”, held in the framework of a joint ITC-DIE [project](#) on Investment Facilitation for Development, took place on 1 February 2022, 15:00-16:00 Central European Time (CET). The webinar hosted 200 participants.

The webinar was opened by Rajesh Aggarwal, Director (oic), Division for Market Development, International Trade Centre (ITC). It was moderated by Karl P. Sauvant, Resident Senior Fellow, Columbia University, Columbia Center on Sustainable Investment (CCSI), and included the following speakers: Mathias Francke, Ambassador, Permanent Representative of Chile to the World Trade Organisation (WTO), Coordinator of the Structured Discussion on Investment Facilitation for Development; Joel Richards, Senior Technical Specialist, Permanent Delegation of Organisation of Eastern Caribbean States (OECS) in Geneva; Sheri Rosenow, Customs Attorney and Counsellor, WTO; Vilayphone Xindavong, Deputy Director General, Department of Foreign Trade Policy, Ministry of Industry and Commerce, Lao PDR; and Ivan Nimac, Lead Private Sector Specialist and Global Lead, World Bank. Concluding remarks were provided by Karl P. Sauvant, Resident Senior Fellow, Columbia University, CCSI.

The webinar programme is annexed to this report.

### Discussion highlights

The discussions during the webinar focused on the following points, which are further elaborated upon below.

- The WTO Joint Statement on Investment Facilitation for Development (IFD) was issued on December 10, 2021, with the endorsement of more than 110 WTO Members. The statement has commitments to conclude the negotiations by the end of 2022 and to further intensify outreach efforts towards other WTO Members.
- Firm commitments for technical assistance and capacity building under the IFD Agreement are important for enabling developing country and least-developed country (LDC) Members to implement the Agreement and to fully benefit from it. Gap analyses and need assessments for the implementation of investment facilitation measures under the IFD Agreement are critical to the implementation process, and they should start as soon as possible. Most of the specific investment facilitation provisions in the current IFD text seem to command consensus. Accordingly, based on these provisions, preliminary need assessments could be undertaken.
- Important lessons related to the establishment of a need assessment programme under the IFD Agreement can be learned from the WTO Trade Facilitation Agreement (TFA). For example, all relevant governmental agencies should take part in the need assessment process; the

appropriate officials at each agency should approve implementation dates and capacity-building needs for the provisions that their agency would need to implement; the need assessment process should be based on self-assessments conducted by the Members themselves, for which a coherent template and guide would be very helpful.

- The IFD Agreement should include provisions that ensure support to conduct self-assessments. The gap analysis process under the IFD Agreement will require a detailed outlining of each measure that is included in the Agreement. Accordingly, the gap analysis process will require strong coordination across all institutions, both at the national and sub-national levels. International organisations should provide support by way of providing a template and guide for the self-assessment process and assisting governments in the implementation of the self-assessments.

## **I. The status of the WTO investment facilitation for development negotiations**

The WTO Joint Statement on IFD was issued on December 10, 2021, endorsed by more than 110 WTO Members. The statement contains a commitment to conclude the negotiations by the end of 2022 and a commitment to further intensify outreach efforts towards other WTO Members.

The Joint Statement recognises that the core objective of the IFD Agreement is to ensure that developing country and LDC Members participate in global investment flows as much as possible. The Joint Statement also recognises the importance of supporting them in implementing the IFD Agreement, by addressing their identified needs through special and differential treatment provisions, technical assistance and capacity building. Accordingly, WTO Members are discussing options for conducting gap analyses and need assessments. WTO Members share the view of the importance and urgency of developing need assessment tools (such as a template and a guide to the Agreement) that are essential to enable Members to conduct self-assessments. The WTO, international organisations, and stakeholders that have experience in the field have a role to play in this process. Hence, coordination among the different stakeholders is crucial. Nevertheless, there are some limitations in this regard, such as time, human and other resource constraints, and the lack of a final text of the IFD Agreement. It was noted that a dedicated session (14-15 February 2022) between WTO Members and international organisations was scheduled to discuss potential need assessment tools.

## **II. The importance of gap analyses, need assessments and capacity building in implementing a future IFD Agreement**

The IFD Agreement aims at facilitating sustainable FDI flows that will allow WTO Members to derive more benefits from FDI and to increase its development impact, including through job creation, skill development, knowledge transfer, technology transfer, and economic diversification. However, it is important to ensure that the unique needs and challenges of developing country and LDC Members in implementing the IFD Agreement are addressed properly. In particular, the IFD Agreement needs to provide technical assistance for capacity building for developing country and LDC Members to be able to implement the Agreement.

It was emphasised that the implementation of the commitments under the IFD Agreement requires more technical assistance and capacity building than under the TFA, because the latter primarily focuses on trade facilitation measures at the border. The implementation of investment facilitation measures under the IFD Agreement requires the implementation of measures that touch on the entire lifecycle of FDI projects and involves multiple ministries and agencies across the whole

government, both at the national level and sub-national levels. Accordingly, the IFD Agreement should include strong commitments for technical assistance and capacity building to ensure developing country and LDC Members are able to implement the outcome of the negotiations and enhance the contribution of the Agreement to sustainable development.

As in the TFA negotiations, a gap analysis and an identification of technical assistance and capacity building needs should begin in parallel with finalising the IFD Agreement negotiations. This gap analysis and need assessment process will enable developing country and LDC Members to have a clear understanding of their current level of implementation of investment facilitation measures. It will also enable Members to estimate the size and shape of technical and financial assistance that is required for implementing the IFD Agreement and for them to self-designate the implementation pace of measures under the Agreement. It was noted that the gap analysis and need assessments process should take into consideration WTO Members' sustainable development strategies and goals. It is important to have a structured approach for conducting these needs assessments. The current IFD text includes provisions that have reached a consensus; accordingly, based on these provisions, preliminary needs assessments can be undertaken.

### **III. Lessons from implementing the Trade Facilitation Agreement**

The TFA needs assessment programme began during the negotiations to help WTO Members negotiate more effectively. However, the TFA text changed as the negotiations progressed, and, accordingly, a second round of assessments were undertaken about a year before the negotiations were concluded. These assessments not only supported the negotiations, but also identified and collected information that was needed for the A, B and C category notifications. The need assessments were conducted in each country and took around a week. Participants included representatives from border agencies dealing with trading goods, relevant ministries, private sector representatives, officials based in Geneva, and the WTO Secretariat.

When the need assessment programme began, there were almost 90 provisions in the TFA text that included very technical issues. In addition, trade facilitation issues were often thought of as a customs agreement, and accordingly border agencies had not paid close attention to the negotiations. The need assessment process created awareness at the national level and helped all the participants, including the Geneva delegates, to have a better understanding of the provisions in the text that would need to be implemented and the relevant entity that would need to implement each specific provision. The needs assessment process also helped build a stakeholder network and strengthen the relationship between each capital and the Geneva delegates.

In order to mobilise political will for the need assessment process at the national level, it was important to include high level officials in the process. Each needs assessment started with a presentation of the TFA negotiations and the negotiating text. Usually, three facilitators with expertise in the negotiations guided the process and helped participants understand the provisions.

In order to standardise the needs assessment process and ensure coherence, the WTO developed a template and guide that were based on the (draft) negotiating text and were periodically updated. In order to be able to use the assessment results to prepare for the self-designation category notifications, it was important to take a whole of government approach. Accordingly, for each provision of the TFA Agreement, the first step was to assess the current implementation status for each measure. In the event that a given measure was fully implemented, the assessment of that measure was concluded. However, if there was an agency that had not fully implemented a specific provision, participants had to assess the gap and determine its category by determining the time it

would take to implement the provision and the technical assistance that would be needed. The next step usually included a review of the results by relevant stakeholders. Many Members conducted follow up workshops to review their self-designated categories before submitting notifications. It was important that the appropriate officials at each agency approve the implementation dates and the support needs for provisions that the agency would need to implement. Some Members, after having undertaken the needs assessments and realizing that they had already implemented a number of measures, became fully supportive of the TFA.

The need assessment programme was funded by donations from donor Members through a WTO trust fund that was established for the needs assessment project. In addition to funding, international and regional organisations provided experts to facilitate the needs assessments.

It was noted that it was important that the process of the needs assessments be based on self-assessments. In order to get successful results, it was crucial to make sure the right people participated in the process, including the private sector and Geneva delegates involved in the negotiations.

#### **IV. Practical issues in conducting gap analyses and need assessments**

It was emphasised that WTO Members should not underestimate the complexity and importance of the gap analysis and need assessment process. This process under the IFD Agreement will require a detailed outlining of each measure that is included in the Agreement. Accordingly, the gap analysis process requires involvement and strong coordination across all FDI-competent institutions, both at the national and sub-national levels. It was noted that Members should leverage existing communication mechanisms and dialogue processes.

International organisations can provide support by way of providing technical inputs for undertaking the gap analysis and needs assessment process, beginning by providing a template and guide and, eventually, assisting with coordination and consensus building. External experts can operate as neutral facilitators and can also provide support with respect to in-depth diagnostics of specific measures that are included in the IFD Agreement. There should be coordination and alignment on how to develop a template and guide by international organisations.

In order to provide the relevant support for Members to undertake the need assessment process, a trust fund should be established. It was emphasised that the IFD Agreement should include provisions that ensure support to conduct self-assessments and for implementation needs. In addition, it is important to include provisions in the IFD Agreement that allow developing country and LDC Members to self-designation the pace at which they implement the Agreement and to permit the shifting between different categories. (The TFA experience has shown that, in some cases, commitments were miscategorised.)

## Webinar invitation: Capacity building for investment facilitation for development

1 February 2022

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:

### Capacity building for investment facilitation for development

1 February 2022, 15:00-16:00 Central European Time (CET)

This is the 10<sup>th</sup> of a webinar series on investment facilitation for development, held in the framework of a joint ITC/DIE [project](#) on Investment Facilitation for Development.

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

The public webinar will discuss capacity building for investment facilitation for development. In particular, it will focus on issues related to analysing gaps and assessing needs of developing WTO Members. Special attention will be given to least-developed country Members with regard to the implementation of a future Investment Facilitation for Development (IFD) Agreement.

The negotiations on an IFD Agreement ongoing at the World Trade Organisation (WTO) focus on a range of investment facilitation measures relating to the entire life-cycle of investment projects. While a number of these measures have been implemented to a certain extent by a number of developing countries, many others will still have to be implemented or have to be strengthened.

Yet, many foreign direct investment competent authorities in developing countries – including investment promotion agencies – have very limited resources, and implementing the Agreement might require a whole-of-government approach. Participating WTO Members will have to undertake self-assessment analyses of the gaps in implementation that have to be addressed and, following from these analyses, to identify their needs for technical assistance and support for capacity building. This, in turn, is not only important to benefit fully from the Agreement, but also to be able to self-designate the speed with which various investment facilitation measures can be implemented. Such gap analyses and needs assessment are potentially also relevant in the context

of other (bilateral and regional) agreements negotiated by individual countries, e.g., by African countries.

The webinar will therefore discuss key issues regarding how to undertake self-assessments of implementation gaps and technical assistance needs. 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:

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

**Moderator:** Karl P. Sauvant, Resident Senior Fellow, Columbia University, CCSI

**Speakers:**

**Mathias Francke**, Ambassador, Permanent Representative of Chile to the WTO, Coordinator of the Structured Discussion on Investment Facilitation for Development — “*The status of the WTO investment facilitation negotiations*”

**Joel Richards**, Senior Technical Specialist, Permanent Delegation of OECS in Geneva — “*The importance of self-designation, gap analyses and need assessments*”

**Sheri Rosenow**, Customs Attorney and Counsellor, WTO – “*Lessons from implementing the Trade Facilitation Agreement*”

**Vilayphone Xindavong**, Deputy Director General, Department of Foreign Trade Policy, Ministry of Industry and Commerce, Lao PDR – “*Implementing the IFD Agreement: The need for technical assistance and capacity building – an LDC’s perspective*”

**Ivan Nimac**, Lead Private Sector Specialist and Global Lead, World Bank — “*Practical issues in conducting gap analyses and need assessments*”

**Concluding remarks:** Karl P. Sauvant, Resident Senior Fellow, Columbia University, CCSI

To join the meeting, kindly click on the link that will be sent to you shortly before **15:00 pm CET on 1 February** 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, Senior Researcher, DIE

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

## **Background material**

ITC-DIE project on [Investment Facilitation for Development](#)

Axel Berger and Karl P. Sauvant, eds., *Investment Facilitation for Development: A Toolkit for Policymakers* (Geneva: ITC, 2021), [available here](#).

### **Bios:**

#### **Rajesh Aggarwal**

Rajesh Aggarwal is Officer in Charge, Director, Division for Market Development, ITC, Geneva. He is leading a programme of assisting the private sector in developing countries to be the change agent for trade policy reforms and engage in business advocacy with their governments in the design and implementation of trade policies and negotiating positions that reflect business interests. Before joining the ITC, he worked for the Indian Government and participated in the 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.

#### **Mathias Francke**

Mathias Francke is Ambassador and Permanent Representative of Chile to the WTO and Coordinator of the Structured Discussions on Investment Facilitation for Development. Previously, he was APEC SOM Chair (2019), Director General for Multilateral Economic Affairs, Director for Bilateral Economic Affairs, Chief of Cabinet, and senior advisor at the Chilean Vice Minister of Trade. As a Foreign Service officer since 1989, he was posted at the Embassy of Chile in the UK (2014 to 2018), Chile’s Permanent Mission to the WTO (2000 to 2005, and as Deputy Head of Mission from 2006 to 2010) and the Trade Office of the Embassy of Chile in the USA (1992 to 1996). He is a lawyer from the Catholic University of Chile.

#### **Ivan Anton Nimac**

Ivan Anton Nimac has been the World Bank Group’s (WBG) Global Lead for Investment Policy and Promotion since July 2018. His team supports a portfolio of activities, including government advisory, development lending and an array of learning and knowledge activities to help countries attract and retain FDI. Before joining the WBG in 2006, he held positions in law, diplomacy and international development with the Australian and Croatian governments and the United Nations. He holds degrees in economics, law and international relations.

#### **Joel Richards**

Joel Richards is an international trade policy and private sector development professional with over 12 years of advising senior government officials and business executives within the Caribbean Community bloc on issues relating to trade and competitiveness. He is currently a senior advisor to the Organisation of Eastern Caribbean States (OECS) Commission's Diplomatic Mission in Geneva where he represents OECS member states at the World Trade Organization and other relevant international bodies.

#### **Sheri Rosenow**

Sheri Rosenow is a customs attorney and counsellor at the WTO. She has been involved in issues related to the WTO Trade Facilitation Agreement since the negotiations began. She was responsible for the trade facilitation needs assessment programme and is currently responsible for

the WTO Trade Facilitation Agreement Facility. Prior to joining the WTO Secretariat, she worked as an advisor on customs and WTO accession issues for USAID projects in Central Asia and the Middle East. She started her career on the commercial legal staff of the US Customs Service.

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

### **Vilayphone Xindavong**

Vilayphone Xindavong is a Deputy Director General of the Department of Foreign Trade Policy, Ministry of Industry and Commerce, Lao PDR. She obtained her Master's Degree in International and Development Economics from the Australian National University in 2006. She has been working in the ministry since 2007 as a member of the negotiating team for Lao's WTO accession. Currently, she is working on WTO-related areas such as investment facilitation for development; trade remedies; e-commerce; MSMEs; and WTO reform. Apart from WTO matters, she was also a Lead Negotiator for Trade Remedies, Sub-Working Group, under the Regional Comprehensive Economic Partnership Agreement.