

## **Webinar Report: Implementing an Investment Facilitation Framework – Learning from the TFA Experience**

The 8<sup>th</sup> public webinar “**Implementing an investment facilitation framework – Learning from the TFA experience**”, held in the framework of the joint ITC/DIE [project](#) on Investment Facilitation for Development, took place on 15 September 2021, 15:00-16:15 Central European Time (CET). The webinar hosted 180 participants.

The webinar focused on implementing an investment facilitation framework for development, while learning from the WTO Trade Facilitation Agreement (TFA) experience. The WTO Investment Facilitation for Development (IFD) framework includes provisions related to issues such as improving the transparency and predictability of investment frameworks; streamlining procedures related to foreign investors; providing focal points for domestic regulatory coherence and cross-border cooperation; and encouraging sustainable investment. Such investment facilitation provisions are designed to increase foreign direct investment (FDI) flows that contribute to development. Many developing countries, and especially least developed countries (LDCs), will have to make substantial efforts to implement the IFD framework, and these efforts will need to be supported by considerable technical assistance and capacity building, to ensure that host countries benefit from the agreement. The webinar addressed these issues, while discussing lessons learned from the implementation of the WTO Trade Facilitation Agreement (TFA) and the role of special and differential treatment.

The webinar began with an introduction by Rajesh Aggarwal, Officer in Charge, Director, Division for Market Development, ITC. It was moderated by Karl P. Sauvart, Resident Senior Fellow, Columbia University, CCSI, and included the following speakers: Mathias Francke, Ambassador, Permanent Representative of Chile to the WTO, Coordinator of the Structured Discussions on Investment Facilitation for Development; Mohammad Saeed, Senior Trade Facilitation Officer, ITC; Bernard Hoekman, Professor and Director of Global Economics, Robert Schuman Centre for Advanced Studies, European University Institute, Italy; Kayula Siame, Permanent Secretary, Zambia Ministry of Higher Education; and Yardenne Kagan, Project Officer, ITC/DIE Project on Investment Facilitation for Development, ITC. Concluding remarks were provided by Axel Berger, Senior Researcher, German Development Institute/Deutsches Institut für Entwicklungspolitik (DIE).

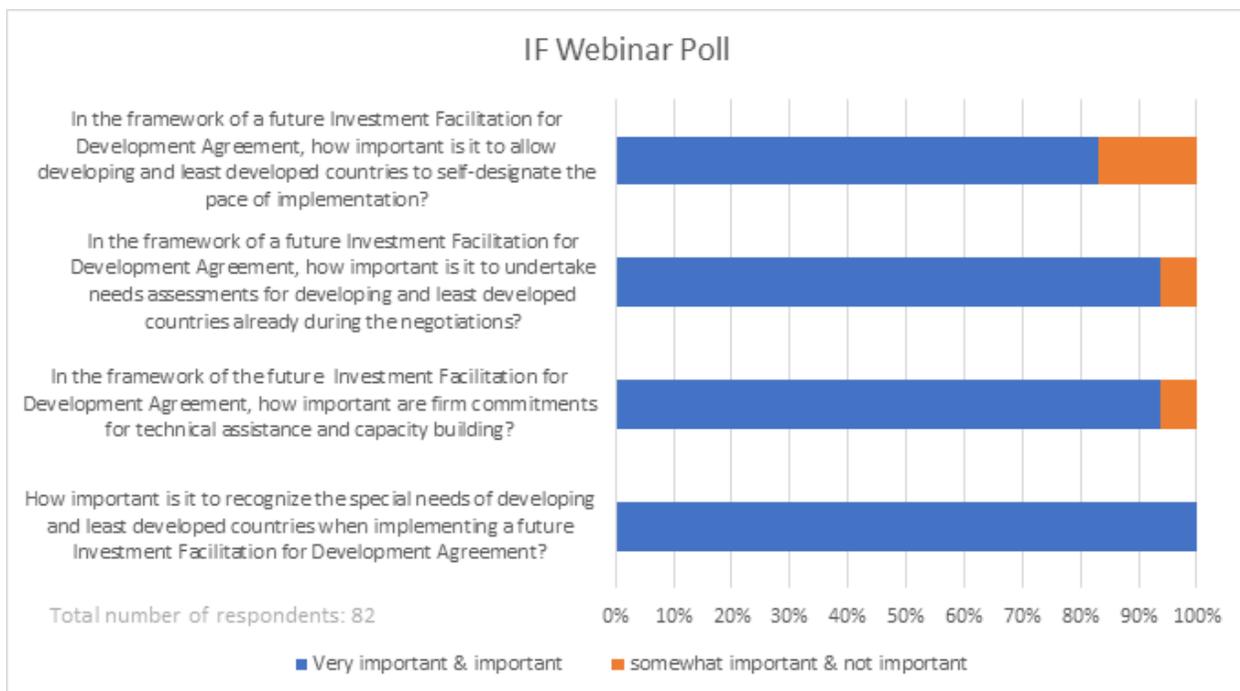
The webinar programme is annexed to this report.

## Discussion highlights

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

- Firm commitments for technical assistance and capacity building under the IFD are crucial for developing countries and LDCs in particular to be able to fully benefit from the agreement.
- Gap analyses and needs assessments are key for supporting the implementation of the agreement and should start as soon as possible.
- The special difficulties in implementing the TFA by developing countries and LDCs are explicitly recognized under the self-designation sections of the TFA. Such recognition should be explicitly included in the IFD as well.
- The implementation of the IFD requires even more technical assistance and capacity building than the TFA as it involves substantial behind-the-border reforms and regulatory changes; multiple ministries, agencies and departments; the entire life-cycle of an investment; dispute prevention and management mechanisms at the national level; strengthening investment promotion agencies (IPAs); help in establishing national investment facilitation committees; and, accordingly, self-designation when it comes to the pace of implementation that is possible.
- In order to assist WTO Members in the implementation of the agreement, an epistemic community, involving governments, IPAs, international organizations, the private sector, and other experts should be established.

During the webinar, a poll was conducted on the importance of technical assistance and capacity building for the implementation of an IFD Agreement; 82 participants responded. The results are contained in the figure below.



## **I. Learning from the experience of implementing technical assistance in the WTO Trade Facilitation Agreement**

*The need for gap analyses and needs assessments:* Gap analyses and needs assessments should take place already during the negotiating stage. Such a process will provide multiple benefits, such as ensuring effective participation in the negotiations; determining the overall compliance of WTO Members; and identifying special and differential treatment needs, including measures needing more time to be implemented and measures that require technical assistance. Under the TFA, needs assessments took place between 2008-2012. More than 100 countries participated in that process. The process was important for creating the necessity momentum for concluding the agreement and its implementation. Accordingly, gap analyses and needs assessments for developing countries and LDCs should start as soon as possible. From the developing country's experience in implementing the TFA, it was emphasized that needs assessments were also important for engaging stakeholders to help raise resources and ensure that technical assistance was provided.

*Flexibility in implementation:* Implementation should be within the timeframe of each country and its implementation capacity. The special and differential treatment clause in the TFA gave confidence to WTO Members that the implementation process would not impose timeframes that could not be met. Such flexibility in implementation encouraged other developing countries and LDCs to become signatories of the TFA. It was noted that the IFD should include a recognition of the special challenges that developing countries and LDCs face in implementing the agreement and specifically measures that facilitate sustainable FDI.

*Adopting a whole-of-government approach:* The implementation of the TFA involved multiple agencies within governments. Similarly, the IFD requires coordination not only among different government authorities, but also between different levels of government, including national and sub-national IPAs. The TFA experience shows that, to implement an agreement, there is a need for a whole-of-government approach. Such an approach involves all relevant government agencies, because the "weakest link" determines the efficiency of the process. It was indicated that a national high-level investment committee that provides overall oversight regarding the implementation process should be established. Such a committee should involve the public sector, including representatives from all relevant government levels, as well as representatives of the private sector who can discuss what is working and what needs to be done to improve the business environment. In this regard, a monitoring mechanism should be established as well. It should monitor the investment facilitation measures that have been implemented and the impact they have had on the economy, as well as track the issues that require additional attention and resources to resolve. Such information can also serve to bring additional stakeholders on board.

*Stakeholder consultation:* In order to ensure efficient implementation, stakeholder consultations are required. Such consultations should not be on an ad hoc basis, but rather structured by institutional mechanisms to ensure collaboration among regulators, IPAs and the private sector.

*Technical assistance and capacity building:* It was emphasized that the implementation of measures under the IFD requires even more technical assistance and capacity building than the TFA, as implementation may include substantial behind-the-border reforms and regulatory

changes; the involvement of multiple ministries, agencies and departments; facilitation during the entire life-cycle of investments; dispute prevention and management mechanisms at the national level; the strengthening of IPAs; and the establishment of national investment facilitation committees. Accordingly, the IFD should include self-designation clauses regarding the pace of implementation and firm commitments for technical assistance and capacity building. Such commitments are crucial for developing countries and LDCs to be able to fully benefit from the agreement. Implementation assistance should not only be available, but should be easily accessible. In this regard, similar to the TFA, a Central Technical Assistance Fund should be established. It was noted that it is also important to establish performance indicators for implementation; this will generate credibility not only for donors but for the private sector as well. Performance indicators will also enable governments to track the progress of implementation.

## **II. Operationalizing implementation in the context of the IFD**

The TFA was perhaps the first WTO agreement to take implementation dimensions seriously. Given the focus on implementation, governments agreed to follow a set of “good practice” principles, and there was a collective effort to achieve the implementation of the agreement. Accordingly, the following key inputs were provided as important for operationalizing implementation in the context of the IFD:

*Independent monitoring and evaluation:* Independent monitoring should be undertaken to evaluate the development impact of the implementation of the IFD, including its sustainable development and corporate social responsibility dimensions. Such a process requires the allocation of resources to generate the requisite information, which includes baseline investment facilitation performance indicators that are updated annually. When establishing such a process, representatives of IPAs and the international business community should be part of the deliberations to determine the entity, approach and associated governance structure.

*Establishing an epistemic community:* A mechanism that brings together all stakeholders should be established. In contrast to trade facilitation measures, investment facilitation measures should focus more on the responsibilities and conduct of investors throughout the supply chain, which was not an issue under the TFA. This requires information that can be provided from an epistemic community. To facilitate this community, the WTO Investment Facilitation Committee should hold regular sessions at which stakeholders can express their views. Such a discussion would enable an open knowledge platform to support engagement by the stakeholders concerned with FDI.

*Consider a code of conduct/reference paper:* A reference paper should be agreed upon by signatories of the IFD, laying out principles to be adhered to with regard to accession, transparency and the provision of technical assistance.

Annex 1: Invitation



**Webinar invitation: Implementing an investment facilitation framework – Learning from the TFA experience**

**15 September 2021, 15:00-16:15 Central European Time (CET)**

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 public webinar on:

**Implementing an investment facilitation framework – Learning from the TFA experience**

**15 September 2021, 15:00-16:15 Central European Time (CET)**

This is the 8<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 (please [click here](#)), to receive the meeting link details.**

The webinar will focus on **implementing an investment facilitation framework for development, while learning from the WTO Trade Facilitation Agreement (TFA) experience.** The WTO Investment Facilitation Framework for Development (IFD) includes investment facilitation provisions dealing, among others, with improving the transparency and predictability of investment frameworks; streamlining procedures related to foreign investors; focal points, domestic regulatory coherence and cross-border cooperation; special and differential treatment for developing and least developed countries (LDCs); and sustainable investment—with a view towards increasing foreign direct investment (FDI) flows that contributes to development.

Many developing countries and especially LDCs will have to make substantial efforts to implement an IFD, and these efforts will need to be supported by considerable technical assistance for capacity building, to ensure that host countries benefit from the agreement. The webinar will discuss some of the issues that will need to be considered in this respect, in particular lessons learned from the implementation of the WTO Trade Facilitation Agreement and the role of special and differential treatment.

The webinar will have the following agenda and speakers:

**Introduction: Rajesh Aggarwal**, Officer in Charge, Director, 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 Discussions on Investment Facilitation for Development – *“The state of play of the WTO negotiations of an Investment Facilitation Framework for Development”*

**Mohammad Saeed**, Senior Trade Facilitation Officer, ITC – *“Learning from the experience of implementing technical assistance in the WTO Trade Facilitation Agreement”*

**Bernard Hoekman**, Professor and Director of Global Economics, Robert Schuman Centre for Advanced Studies, European University Institute, Italy – *“What kind of special and differential treatment provisions should be included in an IFD”*

**Kayula Siame**, Permanent Secretary, Zambia Ministry of Higher Education – *“The experience gained with implementing the TFA in Zambia: lessons for implementing the IFD”*

**Yardenne Kagan**, Project Officer, ITC/DIE Project on Investment Facilitation for Development, ITC— *“Lessons learned from the ITC/DIE investment facilitation project for implementing the IFD”*

**Concluding remarks: Axel Berger**, Senior Researcher, German Development Institute

If you would like to send written questions or comments during the webinar, please feel free to type them into the chat window by clicking on the “chat” button on the middle-bottom pane of the Zoom window.

To join the meeting, kindly click on the link that will be sent to you shortly before **15:00 pm CET on 15 September** and follow the instructions. If you are not able to connect online, you could connect using the dial-up options provided in the email that you will receive after completing the registration.

We look forward to welcoming you to the webinar!

With kind regards,

Rajesh Aggarwal, Officer in Charge, Director, 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](#)

Bernard Hoekman, “From trade to investment facilitation: parallels and differences”, Chapter 3, pp. 24-42, in 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 reform and engage in business advocacy with their governments in 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.

#### **Axel Berger**

Axel Berger is a Senior Researcher at the German Development Institute / Deutsches Institut für Entwicklungspolitik (DIE). 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.

#### **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.

#### **Bernard Hoekman**

Bernard Hoekman is Professor and Director of Global Economics at the Robert Schuman Centre for Advanced Studies, European University Institute in Florence, Italy, where he also serves as the

Dean for External Relations. Previous positions include Director of the International Trade Department (2008-2013) and Research Manager in the Development Research Group (2001-2008) at the World Bank. He is a Centre for Economic Policy Research Fellow, and holds a Ph.D. in economics from the University of Michigan (Ann Arbor, MI).

### **Yardenne Kagan**

Yardenne Kagan is a Project Officer at ITC, working on the ITC/DIE Project on Investment Facilitation for Development. Previously, as a fellow at the Columbia Center on Sustainable Investment, she focused her research on human rights, and sustainable investment and development. As a lawyer, she worked for HFN's Capital Markets Department and served as the Trade and Investment Policy Officer of Israel's Permanent Delegation to the OECD. She is an LLM graduate student of Columbia University and a LLB graduate of Tel Aviv University's Law Faculty. She is member of the Israel Bar Association since 2015 and is an admitted lawyer under the New York State Bar since 2021.

### **Mohammad Saeed**

Mohammad Saeed is Senior Adviser on Trade Facilitation and Policy for Business with ITC, where he leads its trade facilitation team. His work focuses on assisting beneficiary countries to promote trade through improving the competitiveness of private businesses. He has provided advisory services to 50+ developing countries for their trade policy reforms. Before this assignment, he served as Senior Technical Adviser on trade and transport facilitation at UNCTAD. He has extensive experience in handling the complex issues of international trade law. He served on six Dispute Panels of the WTO, including four as Chair. He worked as trade negotiator of Pakistan in the WTO Doha Round Negotiations.

### **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.

### **Kayula Siame**

Kayula Siame is an economist by profession, with over fifteen years of experience in private sector development, trade, investment climate, business regulatory reform, business development, policy formulation, budget administration, strategic planning, and management. She has been a strategic leader of many trade and investment climate initiatives and programmes at national and regional levels, including coordinating the implementation of the TFA and the African Continental Free Trade Area Agreement at the national level. She is currently the Permanent Secretary at the

Ministry of Higher Education in Zambia and was previously Permanent Secretary in the Ministry of Commerce Trade and Industry.