

# Investment Facilitation for Development in the WTO

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Investment facilitation in the WTO must be seen against the backdrop of the complementary and reinforcing relationship between trade and investment, as well as their potential for promoting sustainable development. Over the last decades, many countries have adopted policies aimed at facilitating investment with the aim of attracting and retaining foreign investment flows. In that context, in April 2017, a group of developing and least-developed country Members launched an Informal Dialogue on Investment Facilitation for Development in the WTO. The Coordinator of the initiative is H.E. Ambassador Mathias Francke (Chile).

Discussions on investment facilitation have made steady progress in the WTO. At the 11th WTO Ministerial Conference held in Buenos Aires in December 2017 (MC11), 70 WTO Members co-sponsored a [Joint Ministerial Statement](#) calling for the start of Structured Discussions with the aim of developing a multilateral framework on investment facilitation. The Investment Facilitation for Development Initiative does not address market access, investment protection, nor investor-State dispute settlement (ISDS).

After over two years of preparatory work and discussions, the participants formally launched negotiations on an 'Agreement on Investment Facilitation for Development' (IFD Agreement) in September 2020. Since then, participants have been developing the provisions of the future IFD Agreement. Participation in this joint initiative is open to all WTO Members. Given the inclusive and pro-multilateral nature of the initiative, the negotiating process is open and transparent, and emphasis is put on outreach efforts.

The IFD initiative currently has over 100 Members.<sup>1</sup> Participants aim to achieve a 'concrete outcome' at the **12<sup>th</sup> WTO Ministerial Conference**. In this context, they have agreed that Ministers should be presented with an "as clean as possible text" based on a revised version of the so-called "[Easter text](#)" – the document serving as a basis for the negotiations. The revised text incorporates provisions and sections where convergence could be achieved since September 2020 and also highlights those areas where further work is needed post-MC12. At MC12, participating Members will also adopt a '[Joint Ministerial Statement](#)' on IFD, acknowledging the progress made in the negotiations and providing the necessary political mandate and impetus to finalize the text negotiations at the latest by the end of 2022.

## Road to Negotiations on IFD – Key milestones

<b>April 2017</b>	The 'Friends of Investment Facilitation for Development' (FIFD) launched discussions on Investment Facilitation for Development.
<b>December 2017 MC11, Buenos Aires</b>	70 WTO Members co-sponsored a <a href="#">Joint Ministerial Statement</a> calling for structured discussions on IFD.
<b>November 2019 Shanghai</b>	98 WTO Members issued a <a href="#">second Joint Ministerial Statement</a> committing to work towards a 'concrete outcome' on IFD at MC12.
<b>September 2020</b>	The initiative formally launched negotiations on a future IFD Agreement.

<sup>1</sup> For more information on the IFD initiative, including the updated list of participating Members, please refer to the WTO IFD portal: [https://www.wto.org/english/tratop\\_e/invfac\\_public\\_e/invfac\\_e.htm](https://www.wto.org/english/tratop_e/invfac_public_e/invfac_e.htm).

# The potential benefits of an Agreement on Investment Facilitation for Development in the WTO

In the WTO context, the concept of investment facilitation means the setting up of a **more transparent, efficient and investment-friendly business climate** – by making it easier for investors to invest, conduct their day-to-day business and to expand their existing investments (whole-investment-lifecycle approach). Its focus is **not on changing Members' investment policies**, but on making investment policies more transparent and predictable, as well as investment-related administrative procedures more streamlined and efficient – which according to numerous surveys is where investors and businesses most want to see investment reforms.

The World Bank Group's 2018 Global Investment Competitiveness Survey showed that 45% of surveyed investors considered transparency and predictability in the conduct of public agencies as an important investment climate factor for choosing an investment location. Moreover, 37% rated transparency and predictability as critically important.

The focus on investment facilitation comes with the recognition that in today's integrated global economy, expanding investment flows, like trade flows, depends crucially on simplifying, speeding up and coordinating processes, not primarily on liberalizing policies. By aligning facilitation policies with global benchmarks, investment facilitation measures can help countries to attract, expand and retain investment, which is key for diversifying and expanding production capacities and exports, promoting economic growth, building-up critical infrastructure and creating more resilient economies – especially in the context of recovery from the COVID-19 crisis. Indeed, the pandemic has provoked the steepest fall in global trade and investment on record. It has acted as a supply, demand and policy shock for FDI,

which is the largest and most constant external source of finance for many developing countries and least-developed countries (LDCs).

The WTO Agreements, in particular the GATS, already contain obligations that can facilitate investments.

The WTO is also facilitating global trade through the Trade Facilitation Agreement (TFA). An IFD Agreement in the WTO could complement and reinforce Members' existing efforts to facilitate investment by:

- **Creating clear and consistent global benchmarks for investment facilitation**, thus ensuring that minimum common standards are applied across economies, reducing regulatory uncertainty, minimizing transaction costs, and making it easier for investors to invest.
- **Anchoring domestic investment facilitation reforms in shared international commitments**, thus decreasing policy uncertainty, strengthening Members' reform efforts, and sending a positive signal to investors.
- **Providing a global forum to promote best investment facilitation practices**, thus enhancing cross-border regulatory cooperation and improving information exchanges.
- Linking multilateral investment facilitation reforms to Members' ability to implement them, **allowing developing and least-developed country Members to receive the technical assistance and capacity building support they need to implement** and benefit from the future IFD Agreement.

Investment facilitation reforms are inherently non-discriminatory and benefit all investors – foreign as well as domestic ones.

Many developing, and least-developed countries are already implementing or developing national investment facilitation reforms with the aim of encouraging inward FDI. For example, according to UNCTAD (<https://ger.co/>), as of September 2021, 132 countries have established online “information portals” to make information more accessible for investors.

A recent study analysing the economic impacts of a multilateral Agreement on Investment Facilitation in the WTO, shows empirically relevant gains associated with the removal of investment barriers (e.g., publication of information/measures and procedures affecting investment; focal points providing guidance on related legislation, processes, and responsible agencies). According to this study, the expected global welfare gains range between 0.56% and 1.74% depending on the depth of a potential Agreement – Edward J. Balistreri and Zoryana Oleksyuk, 'Economic impacts of investment facilitation', Center for Agricultural and Rural Development, Iowa State University, February 2021, available on [Deutsches Institut für Entwicklungspolitik \(DIE\)/ German Development Institute Website](https://www.die-gdi.de/).

# Overview of the future IFD Agreement

In April 2021, the Coordinator circulated a 'Consolidated Document by the Coordinator', referred to as the 'Easter Text', aimed at facilitating the negotiations on the basis of one single text, allowing participants to further visualize the contours of the future Agreement. The latest revision of the 'Easter Text' reflects the progress achieved so far in the negotiations, also highlighting those provisions that will require further discussion after MC12. The adjacent table provides an overview of the proposed disciplines contained in the latest negotiating text.

The key pillars of the future IFD Agreement are the sections on the transparency of investment measures; speeding-up and streamlining investment-related administrative procedures; as well as enhancing international cooperation, information sharing, and the exchange of best practices. Participating WTO Members are also discussing means of promoting sustainable investment, notably by promoting responsible business conduct practices, as well as by preventing and fighting corruption.

Providing special and differential treatment, including technical assistance and support for capacity building, to developing and least-developed country Members is a key component of the Agreement.

## IN A NUTSHELL

The purpose of the future IFD Agreement in the WTO is to help WTO Members, particularly developing and LDC Members, to implement investment facilitation measures, through its provisions promoting good governance and sustainable investment, as well as through technical assistance and capacity building, with the aim of facilitating investment flows.

### Proposed Disciplines on IFD Consolidated Text ('Easter Text')

#### Preamble

#### Section I: Scope and General Principles

- Scope of application; exclusion of market access, investment protection and ISDS;
- Firewall provision (aimed at insulating the Agreement from investment agreements);
- Most-favoured-nation (MFN)/non-discrimination

#### Section II: Transparency of Investment Measures

- Publication of measures and relevant information (including online publication)
- Publication of proposed/draft measures and opportunity for comments
- Single information portals
- WTO notification

#### Section III: Streamlining and Speeding up Administrative Procedures

- General principles for authorization procedures
- Processing of applications, acceptance of authenticated copies; authorization fees; submission of applications online
- Independence of competent authorities
- Appeal or review

#### Section IV: Focal Points, Domestic Regulatory Coherence and Cross-border Cooperation

- Focal points for assisting investors and persons seeking to invest
- Promoting domestic regulatory coherence
- Domestic supplier databases (including MSMEs)
- Cross-border cooperation on investment facilitation

#### Section V: Special and Differential Treatment for Developing and Least-developed country (LDC) Members

- General principles on SD&T
- Notification and implementation based on categorization of provisions
- Technical assistance and support for capacity building

#### Section VI: Sustainable Investment

- Responsible business conduct (RBC)
- Measures against corruption

#### Section VII: Institutional arrangements and final provisions

- WTO IFD Committee
- Exceptions
- Dispute settlement