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 to attract, retain and expand 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.

Discussions on investment facilitation have made steady progress in the WTO. At the 11th W TO Ministerial Conference (MC11) held in Buenos Aires in December 2017, 70 W TO 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.

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 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.

Currently ‘co-coordinated’ (chaired) by H.E. Ambassador Sofia Boza (Chile) and H.E. Ambassador Jung Sung Park (Republic of Korea), the IFD initiative counts over 110 participating WTO Members,1 (over 2/3 of the WTO Membership), including more than 70 developing countries, among which 20 LDCs.

Following the July Statement by the co-Coordinators, IFD participants concluded the technical adjustments and legal review of the English text of the open-ended plurilateral IFD Agreement in November 2023. The review of the French and Spanish versions of the IFD Agreement is on-going. With the finalization of the IFD Agreement, participants aim to achieve another key landmark at the WTO’s 13th Ministerial Conference (MC13) in Abu Dhabi in February 2024, including by organizing a Ministerial side-event at MC13 in order for IFD participants to endorse a Joint Ministerial Declaration including the ‘final’ IFD Agreement. Participants will continue stepping up their outreach efforts towards other WTO Members and intensifying their support to the IFD needs assessment process for developing and LDC Members.

The potential benefits of an Investment Facilitation Agreement 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), as well as for host and home governments to work cooperatively and in mutually beneficial ways to facilitate not only more, but also more sustainable investment. The focus of the Joint Statement Initiative (JSI) on IFD is not on changing Members’ investment policies in substance, but on making such investment policies more transparent and 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 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

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1 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/invest_e/invest_e.htm.
processes, not primarily on liberalizing policies. By aligning facilitation policies with global benchmarks, investment facilitation measures can help countries to attract, retain and expand 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. The aftereffects of the pandemic coupled with rising inflation, high food and energy prices and debt pressures have further widened the investment gap in developing countries to meet the 2030 Sustainable Development Goals (SDGs) to $4 trillion per year - from $2.5 trillion in 2015.2

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 IFD Agreement.

Emphasizing the significant role of investment and trade for inclusive economic growth and poverty reduction, the Agreement will help attract not only more but **better, long-term investment, contributing to achieving the Sustainable Development Goals.**

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

**Overview of the IFD Agreement**

In July 2023, the co-Coordinators circulated the text of the IFD Agreement to all WTO Members, which reflects the outcome of the conclusion of text-based negotiations among IFD participants. The adjacent table provides an overview of the proposed disciplines contained in the text. The text of the IFD Agreement does not prejudice the procedures for its future incorporation into the WTO legal architecture.

The IFD Agreement focuses on foreign direct investment (FDI); it applies to FDI in all economic sectors. As clearly stated by IFD participants since the beginning of the initiative, the IFD Agreement explicitly **excludes** market access, investment protection, and investor-State dispute settlement (ISDS). Government procurement and certain subsidies are also excluded from the scope of the Agreement.

The IFD Agreement also includes a so-called 'firewall provision', aimed at insulating the Agreement from International Investment Agreements (IIAs) to prevent spill over effects of the IFD Agreement on IIAs and vice-versa.

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The key pillars of the IFD Agreement are the sections on the transparency of investment measures; speeding-up and streamlining investment-related administrative procedures; enhancing international cooperation, information sharing, and the exchange of best practices; as well as sustainable investment.

Indeed, participating WTO Members have also included provisions encouraging the uptake of responsible business conduct principles and standards by investors and enterprises, as well as the adoption of anti-corruption measures by Members. The aim is to help Members attract not only more, but also better, higher quality investment that contributes to sustainable development.

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

### In a nutshell

The purpose of the IFD Agreement in the WTO is to improve the investment climate and to promote international cooperation in order to facilitate the flow of foreign direct investment between WTO Members, particularly to developing and least developed country Members, with the aim of fostering sustainable development.

### An Agreement for development

Since the outset, facilitating greater developing and least-developed Members' participation in global investment flows constitutes a core objective of the IFD Agreement.

- The IFD Agreement includes a **dedicated Section on 'Special and Differential Treatment'** (S&DT), modelled on the one contained in the Trade Facilitation Agreement (TFA). It provides that the extent and timing of implementation of the provisions of the IFD Agreement shall be related to the implementation capacities of developing and LDC Members. Where a Member continues to lack the necessary capacity, implementation of the provisions concerned will not be required until implementation capacity has been acquired. Furthermore, LDCs will only be required to undertake commitments to the extent consistent with their individual development and financial needs or their administrative and institutional capabilities. The S&DT Section provides that developing and LDC Members will be allowed to designate the provisions of the IFD Agreement under one of the three categories (A, B, C), and, by doing so, request additional time and/or the provision of technical assistance and capacity building (TACB) to implement the provisions. Likewise, as in the TFA, this Section would include other flexibilities such as an 'Early Warning Mechanism' and the possibility to shift between categories B and C.

- Based on the IFD Agreement's comprehensive special and differential treatment provisions, participants have highlighted the **importance of investment facilitation 'Needs Assessments'** to assist developing and least-developed WTO Members who so request self-assess their needs and priorities regarding each of the substantial provisions of the IFD Agreement, to enable them to effectively implement the Agreement. In particular, the needs assessments will help developing and LDC Members identify possible implementation gaps, assess their technical assistance and capacity building support needs, and categorize the provisions in categories A, B, and C. To this end, the WTO Secretariat, in cooperation with seven partner international organizations, developed an Investment Facilitation Self-Assessment Guide, drawing on the extensive experience of the TFA Self-Assessment Guide. The aim is to use the Investment Facilitation Self-Assessment Guide as the basis for conducting the IFD Needs Assessments in those developing and LDC Members who so request.

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3 The International Trade Centre (ITC); the Organisation for Economic Co-operation and Development (OECD); the United Nations Conference on Trade and Development (UNCTAD); the United Nations Economic Commission for Africa (UNECA); the World Bank Group (WBG); the Inter-American Development Bank (IDB); and the World Economic Forum (WEF).