WORLD TRADE ORGANIZATION

# Investment Facilitation for Development Agreement

## Information on Investment Facilitation for Development - IFD (IFD toolkit)

***This informal document is intended as a toolkit to provide information to participants and non-participants on the IFD Agreement, including on background, content and economic benefits.***

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## 1 EXECUTIVE SUMMARY

### What is the IFDA?

1.1. The Investment Facilitation for Development Agreement (IFDA) is an agreement between around 120 Members at the WTO that will improve the international business climate and make it easier for investors in all sectors to conduct business. It is intended to increase the participation of developing and least-developed WTO Members in global investment flows to promote sustainable economic development.

1.2. The IFDA also strengthens the WTO and the rules-based multilateral trading system. It is a great example of how compliance with global trade rules can provide real economic benefits to developing Members and help achieve the UN 2030 Sustainable Development Goals.

1.3. Since its inception at MC11 in 2017, the IFD initiative has been inclusive, transparent, and open to all WTO Members. Starting with 70 WTO Members in 2017, there are now around 120 participants, making it the largest Joint Initiative at the WTO. Amongst participating Members, there are more than 80 developing countries, of which 25 are LDCs.

1.4. More information about the IFDA can be found on the WTO's public pages.

### What does the IFDA cover? What does it not cover?

1.5. The IFDA aims to enhance transparency of investment measures and simplify and streamline investment-related administrative procedures.

1.6. The Agreement is made up of a range of provisions that:

- **Create** clear and consistent global standards for investment facilitation measures;
- **Enhance** transparency between governments and between governments and businesses;
- **Simplify** and speed up administrative procedures;
- **Provide** a global forum to promote best practices; and
- **Offer** developing and least-developed Members the technical assistance and capacity building support they need to implement and benefit from the Agreement.

1.7. The IFDA does not cover market access, investment protection, or investor-state dispute settlement.

1.8. Parties to the Agreement remain free to regulate in the public interest within their territories.

### What are the benefits of the IFDA?

1.9. Foreign Direct Investment (FDI) flows have been growing globally in recent decades, but developing and LDC economies still attract a relatively small proportion. The IFDA will help increase their share.

1.10. The IFDA has the potential to generate global gains between 295 and 1'041 billion US$ with most of those gains accruing to low- and middle-income countries.[1]

1.11. The IFDA also promotes principles and standards on Responsible Business Conduct and anti-corruption and aims to enhance investment in and by MSMEs. It will provide impetus to domestic reforms to improve business climate and give a strong positive signal to investors.

[1] Study available at: Investment Facilitation for Development Agreement: Potential Gains | Yeutter Institute (unl.edu)

1.12. All WTO Members will benefit from the implementation of the IFDA: its transparency and streamlining procedures that are implemented on a non-discriminatory basis. The more Members join, the greater the Agreement's benefits will be for everyone.

### What is the current status of the IFDA? What are the next steps?

1.13. The final text of the IFDA has been circulated to all WTO Members and will be made available to the public after February 25.

1.14. In line with Article X.9 of the Marrakesh Agreement Establishing the WTO (WTO Agreement), Parties will, at MC13, seek the consensus of all WTO Members to incorporate the IFDA into the WTO's legal architecture as a plurilateral agreement. Parties will then undertake domestic procedures for the acceptance of the IFDA. The IFDA will enter into force following ratification by the 75th party.

1.15. A needs-assessment process is underway to help developing and LDC Members be better prepared to implement and benefit from the IFDA. In order for this support to materialize, incorporation of the IFDA into the WTO's legal structure is critical.

### Where does the IFDA sit within the WTO's legal architecture?

1.16. The IFDA shall be added to Annex 4 of the WTO Agreement upon a multilateral decision by consensus. The IFDA is an agreement between a subset of WTO Members that is fully consistent with WTO law. There are other examples of in-force Annex 4 agreements, such as the Agreement on Government Procurement and the Agreement on Trade in Civil Aircraft.

1.17. The IFDA explicitly reaffirms that it will not diminish the rights and obligations of the Parties under the WTO Agreement, nor will it create either obligations or rights for Members that have not accepted it.

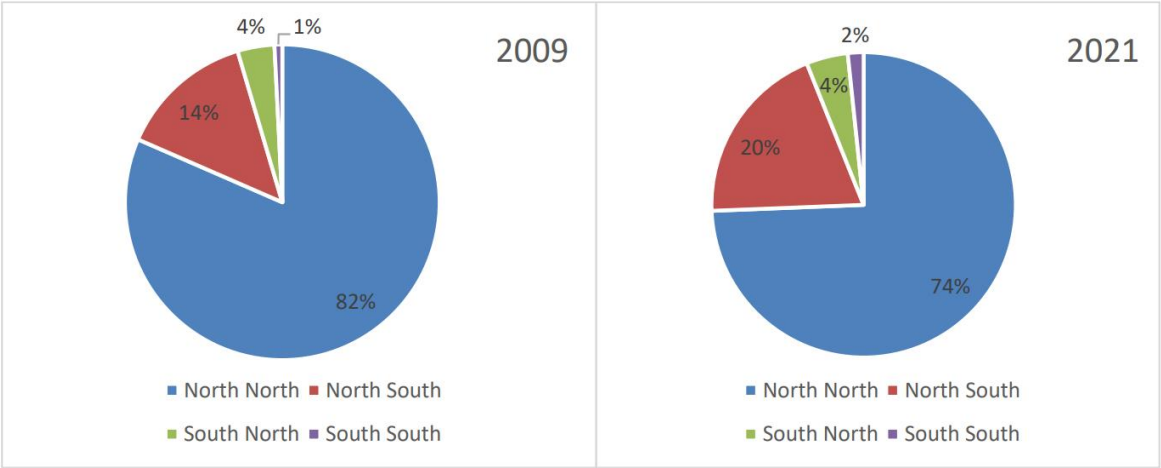
## 2 BACKGROUND

### Global Context

2.1. One striking feature of the world economy over recent decades has been the growth of FDI –faster than either world trade or world output. As FDI flows have grown, they have also become more widely dispersed among home economies. Developing countries' share in global FDI inflows have risen significantly, in particular since the start of the 21st century, changing the global FDI landscape dramatically. Also, the emergence of developing countries as a source of FDI in the last two decades has been a significant feature in this respect.

2.2. Nevertheless, most FDI still is among high-income economies. Data from the IMF[2] shows that FDI stocks among high-income economies account for roughly three quarters of all FDI stocks. Low- and middle-income economies host only 22 per cent of global FDI stock despite accounting for 38 per cent of global GDP.

**FDI Stock by Source and Destination**



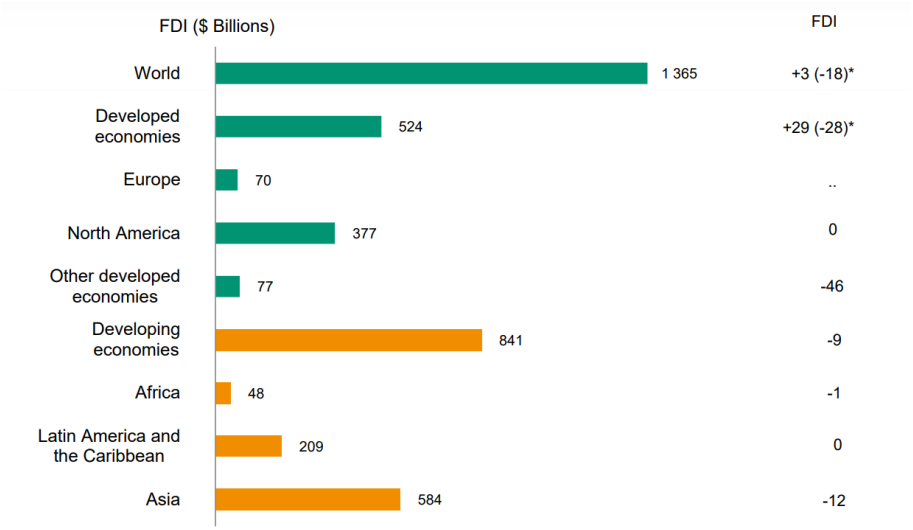

**Source**: WTO Staff Working Paper

2.3. According to UNCTAD,[3] global FDI in 2023 was weak, with lower FDI flows to developing countries. In 2023, IFD flows to developing countries fell by 9%, to $ 841 billion, compared to 2022, with decreasing or stagnating flows in most parts of the developing world. For example, FDI decreased by 12% in developing Asia and by 1% in Africa.

[2] 'Foreign Direct Investment, Trade and Economic Development: An Overview', WTO Staff Working Paper: Policy ERSD-2023-11, December 2023, p.7 (based on data from the IMF Coordinated Direct Investment Survey (CDIS)), available at: https://www.wto.org/english/res_e/reser_e/ersd202311_e.pdf.

[3] UNCTAD, Investment Trends Monitor, Issue 46, January 2024, p.1, available at: https://unctad.org/system/files/official-document/diaeiainf2024d1_en.pdf.

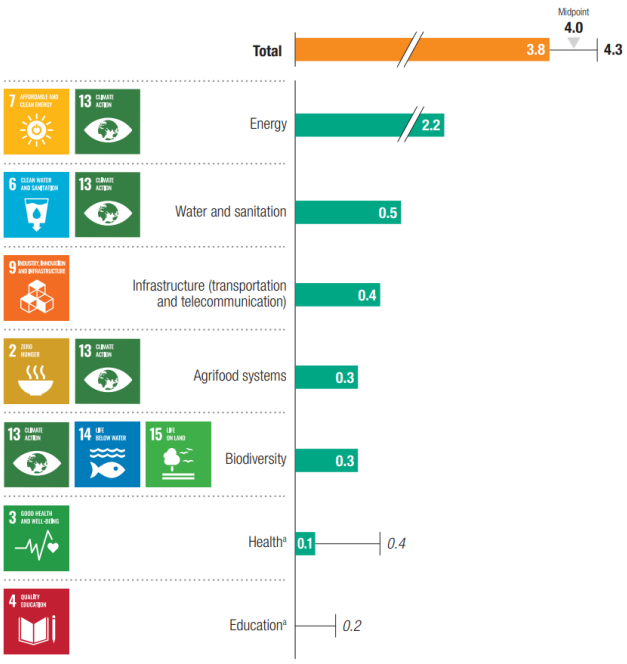
**Investment Trends by Region, 2023 vs 2022**




**Source**: UNCTAD, Investment Trends Monitor

2.4. Finally, according to UNCTAD,[4] the annual SDG investment gap in developing countries in 2023 increased to about $4 trillion per year, with more than half of the gap, or $2.2 trillion, relating to the energy transition alone.

**Key SDG sectors: Estimated Annual Investment Gap in Developing Countries, Capital Expenditure, 2023-2030** (Trillions of Dollars)




**Source**: UNCTAD, World Investment Report 2023

[4] UNCTAD, World Investment Report 2023, p.31, available at: https://unctad.org/system/files/official-document/wir2023_en.pdf.

2.5. The importance of FDI has been recognized in the promotion of sustainable development, economic growth, poverty reduction, job creation, technology transfer, the expansion and diversification of productive capacity and trade, as well as for the achievement of the United Nations 2030 Agenda for Sustainable Development and its Sustainable Development Goals.

2.6. With this growing demand for FDI, it is important to recognize the reinforcing relationship between trade and investment and their key role to leverage development in today's global economy, as well as the need for closer international cooperation at the global level to create a more transparent, efficient, and predictable environment to facilitate cross-border investment.

2.7. In particular, having global benchmarks on investment facilitation will support developing and LDC Member's efforts towards attracting and retaining investment in order to promote recovery and resilience in the aftermath of the COVID, financial and energy poly-crises.

### Explaining the IFDA

2.8. The IFDA is a plurilateral Joint Initiative that counts around 120 participating WTO Members, making it the largest Joint Initiative. Amongst participating Members, there are more than 80 developing countries, of which 25 are LDCs.

2.9. The IFDA aims to create a more transparent, efficient, and predictable domestic regulatory environments to encourage cross-border investment. It will be easier for investors in all sectors of the economy to create, manage, and sell their investments, which in turn will help grow economies. The ultimate goal of the IFDA is to help achieve developmental objectives, including the UN's Sustainable Development Goals, by facilitating investment into developing and LDC Members.

2.10. IFDA explicitly excludes market access, investment protections, and investor-State dispute settlement (ISDS). Government procurement and subsidies available only to domestic economic operators are also excluded from the scope of the Agreement.

2.11. The Agreement promotes **transparency** (Section II). Members are required to publish information about investing in their territory, such as how an investor may be expected to meet certain standards before investing. The establishment of single online information portals is encouraged and key information is required for notification to the WTO. In practice, these provisions will reduce uncertainty and risk for investors by clarifying how the regulatory environment operates.

2.12. The Agreement **streamlines and accelerates** administrative procedures (Section III). Authorisations are required to be objective, transparent, and impartial. The use of ICT is encouraged and any fees for authorisations must be reasonable. In practice, procedures will be less complicated and burdensome for investors, reducing transaction costs and encouraging investment.

2.13. The Agreement improves **regulatory coherence** and encourages **cross-border co-operation** (Section IV). Members are encouraged to undertake consultations on major new regulations. Co-operation across borders, between Members and through investor-facing national focal points, will further improve investors' access to the information they need.

2.14. Detailed provisions on '**Special and Differential Treatment' (S&DT)** (Section V)**,** provide implementation flexibilities for developing and LDC Parties tailored to their capacity and resources. This ensures that this is truly an Agreement with development at its heart. With support available for Needs Assessments, developing and LDC Members can delay implementation of selected provisions either by a period of time or until the provision of technical assistance and capacity building (TACB).

2.15. The Agreement promotes **sustainable investment** (Section VI)**.** Novel WTO text on Responsible Business Conduct and anti-corruption measures will ensure that the Agreement facilitates not only more investment, but *better* investment.

**IFD Needs Assessment**

The IFD Needs Assessment is aimed at assisting developing and LDC Members, who so request, in identifying possible implementation gaps, assessing their technical assistance and capacity building needs and priorities, and categorizing the provisions of the IFD Agreement in view of future implementation.

In cooperation with seven partner international organizations,[5] an Investment Facilitation Self-Assessment Guide was developed to be used as a basis and common methodology to conduct the IFD Needs Assessments.

### Economic benefits of the IFDA

2.16. According to a recently updated study by the German Institute of Development and Sustainable (IDOS), full implementation of the Investment Facilitation for Development (IFD) Agreement has the potential to generate **substantial economic gains for WTO Members.**

2.17. According to IDOS, the IFDA could generate **global welfare gains between 0.63% and 1.73%** (295 and 1'041 billion US$) with most gains accruing to low- and middle-income countries.[6] The IFD-induced improvements of investment facilitation frameworks range from 10% for the Republic of Korea to over 130% for low and middle-income participant countries from Africa.

2.18. The benefits for all regions increase together with the coverage of the implemented IFDA provisions. Moreover, the **overall gains increase significantly when additional WTO Members join the Agreement.** Members currently taking no action may substantially increase their gains compared to the relatively smaller spillover gains they would experience when staying outside the IFDA. This provides a strong incentive for non-participating developing countries to join the IFDA, reform their investment frameworks and use the support structure contained in Section V of the IFDA on 'Special and Differential Treatment for Developing and LDC Members' to implement the Agreement, which also includes the possibility for these countries to undertake a Needs Assessment to identify implementation gaps and technical assistance needs. Indeed, technical assistance and capacity building programs will be essential for on–the-ground implementation of investment facilitation provisions. Thus, the expected benefits from the IFDA strongly depend on the implementation of the negotiated reforms.

2.19. While the IFDA is a plurilateral agreement, in practice, **all WTO Members will benefit from the implementation of the IFDA**. This is because the IFDA includes regulatory disciplines that are generally implemented on a non-discriminatory basis (i.e., it would be costly and inefficient to discriminate). The latter is also in line with the purpose of the IFDA which is to help Members attract and retain quality investment. For the same reasons, it is worth noting that domestic investors will also benefit from the IFDA.

2.20. For further benefits of the Agreement, in particular for developing and Least Developed Countries, please see **Annex A**.

[5] 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).
[6] Edward J. Balistreri and Zoryana Olekseyuk, 'Investment Facilitation for Development Agreement: Potential Gains'', Study carried out with the German Institute of Development and Sustainability (IDOS). Latest version available at: Investment Facilitation for Development Agreement: Potential Gains | Yeutter Institute (unl.edu)

## 3 NEXT STEPS

3.1. At MC13, participating Members will make a request for incorporating the IFDA as a Plurilateral Trade Agreement. The IFDA shall be added to Annex 4 of the WTO Agreement upon a multilateral decision by consensus. We hope all WTO Members can favourably consider the request.

3.2. A multilateral decision to add the IFDA to Annex 4 of the WTO Agreement will enable domestic procedures for acceptance of the IFDA to proceed, with a view to ensuring its timely entry into force. The IFDA shall enter into force on the 30th day following the deposit of instrument of acceptance by the 75th Member.

3.3. The IFDA is open for acceptance by all WTO Members. WTO Members who are interested to join the IFDA may simply deposit an instrument of acceptance with the DG. This step is enough for becoming a new party to the agreement as there is no "accession" process per se (or lengthy process of negotiations for accession).

3.4. When implementing the IFDA, Developing Countries and LDCs can benefit from the dedicated section on SDT. Developing Countries and LDCs can self-designate the provisions of the IFDA into three categories (A, B, C) and, by so doing, request additional time and/or the provision of technical assistance and capacity building to implement the provisions. With the support of partner international organizations and donor Members, an IFD needs assessment process is in place to help Developing Countries and LDCs identify the implementation gaps. Some pilot projects are already underway in Ecuador and Eastern Caribbean States. A multilateral decision will facilitate the rolling out of more such projects on the ground.

## 4 WHERE DOES THE IFDA SIT WITHIN THE WTO'S LEGAL ARCHITECTURE?

4.1. The IFDA is the result of more than six years of intense work and negotiations among participating Members, conducted in an **open, transparent and inclusive** manner. The objective of IFD participating Members is to incorporate the IFDA as a plurilateral agreement under Annex 4 of the WTO Agreement.

4.2. WTO **Members' right to request the incorporation** of a plurilateral agreement into the WTO rulebook is **recognized in Article X.9** of the WTO Agreement. At the same time, Article X.9 makes clear that the decision to incorporate a plurilateral agreement into the WTO shall be taken by **consensus** of the Membership.

4.3. In line with Article II.3 of the WTO Agreement, Article 45.3 of the IFDA explicitly reaffirms that the IFDA **does not create either obligations or rights for Members that have not accepted it**. The IFDA also states that it will not diminish the rights and obligations of the Parties under the WTO Agreement (which includes all WTO agreements).

4.4. Only after a plurilateral agreement is added to the WTO rulebook by consensus, it will become a binding agreement of the WTO. Examples of existing Annex 4 plurilateral agreements in the WTO are the Agreement on Government Procurement and the Agreement on Trade in Civil Aircraft.

4.5. The Preamble to the IFDA explicitly recognizes the complementary relationship between investment and trade and their key role in advancing development in the global economy. By facilitating inward investment, the IFD can help countries, particularly Developing and LDC Members, increase their productive capacity and diversify their exports. It can also help them to better integrate into global value chains given that the inputs of domestic producers will become part of the goods and services produced and exported by foreign investors.

4.6. The IFDA will be the first global agreement to help countries facilitate cross-border investment in all sectors of the economy. However, the WTO agreements already address investment in services (GATS) and investment measures related to trade in goods (TRIMs). The preamble of TRIMS notes Members' desire to "facilitate investment across international frontiers so as to increase the growth of all trading partners, particularly developing country Members".

**Background: Relevant Provisions**

Article X.9 of WTO Agreement

"The Ministerial Conference, upon the request of the Members parties to a trade agreement, may decide exclusively by consensus to add that agreement to Annex 4. The Ministerial Conference, upon the request of the Members parties to a Plurilateral Trade Agreement, may decide to delete that Agreement from Annex 4."

Article II.3 of WTO Agreement

"The agreements and associated legal instruments included in Annex 4 (hereinafter referred to as "Plurilateral Trade Agreements") are also part of this Agreement for those Members that have accepted them, and are binding on those Members. The Plurilateral Trade Agreements do not create either obligations or rights for Members that have not accepted them."

## ANNEX A - ADDITIONAL BENEFITS OF THE IFDA

### Maximizing benefits for developing countries

- The IFDA aims at increasing the participation of Members, particularly developing and LDC Members, in investment flows through a more transparent and efficient investment environment. Having global benchmarks on investment facilitation will support developing and LDC Members' efforts towards attracting and retaining investment in order to promote recovery and resilience in the aftermath of the COVID, financial and energy poly-crises. More broadly, the objective of the IFDA is to help countries increase their production capacity and diversify exports in order to promote economic growth and sustainable development. By the same token, the IFDA has the potential to contribute to poverty reduction, job creation, technology transfer and the achievement of the UN Sustainable Development Goals.
- The IFDA seeks not only to increase the quantity of investment in developing countries, but also to improve its quality, and maximise the positive contribution of investment to domestic economies. In that regard, the IFDA also contains provisions on domestic suppliers databases directed at creating linkages between foreign investors with domestic suppliers, including micro, small and medium enterprises (MSMEs). The IFDA also aims at enhancing investment, including investment in and by MSMEs.

### Providing improvements to investment climate and impetus to domestic reforms

- The IFDA confirms a trend in investment policy-making highlighted by UNCTAD in its 2023 World Investment Report, which stated that *"Investment facilitation measures featured prominently in developing countries and, for the first time since the pandemic, also in developed nations."*
- The Agreement encourages cooperation among all governmental bodies, including investment promotion agencies, and will serve as a platform for discussing best practices among partners. By anchoring domestic investment facilitation reforms in shared international commitments, thus decreasing policy uncertainty, the IFDA will strengthen Members' reform efforts and send a positive signal to investors.
- For investors already present on the ground, the agreement should lead to a better dialogue with the administration and encourage them to expand their operations. But the ambition of the agreement is also to attract new investors, who are less familiar with investing in developing countries and still hesitate. This is for instance the case of investment by small and medium size enterprises, which do not have the means to go through lengthy and complex procedures to invest abroad. By setting transparency commitments and practical focal points, giving access to all relevant information for setting a business, the agreement should help investment make better informed decisions and facilitate their operations abroad.
- Besides foreign investors, the agreement is also expected to benefit local entrepreneurs, as the improvements in the business climate will benefit everyone, foreign and domestic firms alike. The objective is also that foreign investors stay for a longer time in a country, so that they can make a more permanent contribution to its sustainable development, reinforcing the resilience of domestic economies.