



## **Report on the 15th public webinar on the path forward for the WTO Investment Facilitation for Development Agreement**

**13 October 2023**

**The 15<sup>th</sup> public webinar on the path forward for the WTO Facilitation for Development Agreement (IFD)** took place on 13 October 2023 virtually via zoom. It hosted 135 participants online. The webinar was organised in the framework of ITC's [Investment Facilitation for Development project](#).

The webinar focused on the path forward for the WTO IFD Agreement in three key aspects. Firstly, it explored options for incorporating the Agreement into the WTO architecture. Secondly, it provided an overview of the Agreement's special and differential treatment provisions, which are meant to help developing countries, and especially the least developed among them, to implement the Agreement with a view towards attracting more and better FDI. Thirdly, it discussed issues related the self-assessments to be undertaken to determine the gaps as well as technical assistance and capacity building needs of developing country and least developed country (LDC) Members in regard to the implementation of the Agreement, particularly the lessons learnt from the ongoing self-assessments for Ecuador and the Organisation of Eastern Caribbean States (OECS) countries.

The webinar was organized to build capacities for the negotiations on Investment Facilitation for Development at the WTO and to facilitate joint learning among WTO Members as well as facilitate public discussions. The webinar was open to all WTO delegates, government representatives from capitals and the general public.

The webinar's programme is annexed to this report.

### **Summary of the main outcomes of the webinar**

#### **A. State of play and the next steps of the negotiations on the IFD Agreement**

The text negotiations on the IFD Agreement concluded on 6 July 2023. The participation in the IFD Agreement has been growing, and there are five new

Members joining the Agreement. This raises the number of IFD participants to more than 110 Members. Among them, 80 are developing country and LDC Members. In the run-up to the WTO 13<sup>th</sup> Ministerial Conference (MC13), the IFD participants are advancing their work in four key areas: (i) final refinements (legal scrubbing), including technical coherence of the proposed IFD Agreement and language consistency across the English, French and Spanish versions of the Agreement; (ii) increasing outreach activities towards all WTO Members, particularly non-participating Members; (iii) providing technical assistance and capacity building support to developing country and LDC Members in conducting self-assessments; and (iv) advancing the discussion and technical work on legal incorporation. The IFD participants decided to pursue the Annex 4 option which is to incorporate the IFD Agreement in the WTO rulebook as a stand-alone plurilateral Agreement. Working towards these goals, the IFD participants aim to have this Agreement implemented for the benefit of developing country and LDC Members.

## **B. Possible options to integrate the IFD Agreement into the WTO rulebook**

Beyond the benefits of the IFD Agreement, the legal incorporation of the IFD Agreement into the WTO legal architecture is a broader issue and critical for the WTO itself.

Two possible options were discussed:

- i. Scheduling commitments under the GATS and the GATT. The implication of this approach is that the commitments will be subject to the scope of the Agreement under which those commitments are scheduled. This approach was deemed not suitable taken into account the broader scope of the IFD Agreement, as it goes beyond the GATS.
- ii. A standalone Agreement included under Annex 4. This approach originates from the IFD participants' assumption that the IFD Agreement should (i) cover all foreign direct investment (FDI) sectors; (ii) be legally binding; and (iii) be applied on the MFN basis to all Members and remain open for acceptance by the remaining Members. The implication of including the IFD Agreement under Annex 4 is that its rights and obligations will be confined to only the signatories of the Agreement. However, it was noted that Annex 4 does not seem to reflect the assumption of the participating Members that the Agreement will be applied on an MFN basis. Despite this observation, most obligations contained in the IFD Agreement (i.e., transparency of investment measures and streamlining of the administrative procedures) and implemented by IFD participants will benefit all Members, including non-

participants. Moving forward, there is now a convergence among the IFD participants to pursue the Annex 4 approach.

In the process of integrating the IFD Agreement into the WTO rulebook, the negotiations will not only be among the IFD participants but also other WTO Members that would have to consent on the way forward on inserting any standalone Agreement in the WTO rulebook. The challenge is that the decision would have to be adopted by consensus among all WTO Members. It was also noted that, in the broader context of the WTO reform, the trade treaty system may need a variable-geometry approach that can accommodate different types of outcomes. This would respond to the increasing diversity of Membership in terms of size, power, level of developments and different kinds of needs of Members, a challenge that confronts the WTO today.

### **C. The Agreement's Special and Differential Treatment provisions**

The Special and Differential Treatment (S&DT) provisions are critical to developing country and LDC Members to implement the IFD Agreement. These provisions seek to assist these Members to assess their ability to implement the IFD Agreement; therefore, self-categorization is required for Members to signal their implementation capacity. Members can designate measures into the category that they deem most suitable for their situation:

- Category A is for measures that can be implemented immediately upon entry into force of the Agreement.
- Category B is for measures that Members require additional time to implement them.
- Category C is for measures that Members require both additional time as well as technical assistance and capacity building to implement them.

The Agreement also provides other additional flexibilities for Members that encounter any difficulty in implementing measures that have been designated in categories B and C. These include (i) an early warning mechanism that provides flexibility with respect to notifying implementation dates; (ii) an expert group that provides support to Members' implementation of measures in categories B and C if they experience any difficulty; and (iii) shifting between categories B and C which allows Members to shift their commitments taking into account their situation (i.e., moving from category C to category B as Members no longer require technical support, or from category B to category C if they recognize that there is a need for external resources).

As for the technical assistance and capacity building provided to implement the IFD Agreement, two indicative elements were emphasized, namely (i) building

expertise of relevant authorities and domestic stakeholders to maximize positive impacts of investment; and (ii) building capacity for the preparation of feasibility studies for investment projects, including environmental and social impact assessments. These were some of the areas identified as being critical to improve the wider ecosystem for investment facilitation of Members.

#### **D. Lessons learnt from the ongoing pilot projects on IF self-assessments**

The IF self-assessments are critical to developing country and LDC Members as they will provide a factual and evidential basis on which these Members can signal their capacity and needs to implement the disciplines in the IFD Agreement. Currently, the IF self-assessments are being conducted in OECS countries and Ecuador. For OECS countries, the self-assessment is funded by the European Union and supported by WTI advisors and ITC. Their assessment is now at the implementation stage. For Ecuador, the self-assessment is supported by the Inter-American Development Bank (IDB) and ITC, and is now at the stage of finalizing the collection of information according to the IF self-assessment Guide and processing all inputs for completing its first draft. Ecuador plans to organize an in-country self-assessment workshop at the end of October. Several other Members have also expressed their interest in conducting assessments. According to the IFD Self-Assessment survey by the WTO Secretariat, more than 30 Members have requested technical assistance to conduct this assessment.

Although the self-assessments for OECS countries and Ecuador are still ongoing, some lessons learnt were shared, as follows:

- While outsourcing expertise from outside is necessary for countries to conduct self-assessments, it is crucial to build expertise within the countries themselves. There needs to be a level of ownership and institutional memory and capacity building domestically as any reforms are not necessarily tied to the IFD Agreement and they are ongoing processes. Thus, domestic stakeholders will have to be able to engage in those kinds of activities.
- The availability of internal and external resources is crucial to the process. Regarding internal resources, a committed national focal point that is in charge of coordinating all the activities of the assessment is central to all assessment activities. The focal point coordinates with all national agencies as well as the international organization(s) that supports the assessment. As for external resources, support from international organization(s) is vital to the process.
- Taking the time to identify all the related and relevant institutions is crucial, as the scope of the IFD Agreement is broad and covers various agencies. In

the case of Ecuador, the list covers more than 40 agencies that are related to investment facilitation.

- It is important to familiarize all relevant agencies with the IFD Agreement before the start of the self-assessment due to the unequal level of knowledge of, and familiarity with, the Agreement and the self-assessment process among the agencies/institutions.
- A multidisciplinary team needs to be established to answer questions regarding the substance and process of the self-assessment. This task could also be taken up by the focal point.
- Face to face meetings with all the relevant agencies and stakeholders are needed to drive the process forward.
- The participation of international organizations in the process creates more interest and willingness of local agencies to participate in the assessment activities.
- An in-person activity prior to the in-country self-assessment is very useful in preparing agencies with respect to the objectives of the self-assessment, and provide necessary knowledge and the required inputs.
- The IF self-assessment Guide is essential to conduct the self-assessment activity.
- It is important for developing country and LDC Members to reach out to donors/international organizations to get both financial and technical support to get the self-assessment process started.

---



**Webinar invitation: “The path forward for the WTO Investment Facilitation for Development Agreement”**

**13 October 2023**

Dear Colleagues,

On behalf of the International Trade Centre (ITC), we cordially invite you to a webinar on:

**The path forward for the WTO Investment Facilitation for Development Agreement**

**13 October 2023, 3:00 - 4:00 p.m. Central European Time (CET)**

**virtually via zoom**

This webinar is being held in the framework of the [project](#) on Investment Facilitation for Development.

**Like all ITC events, participation in the webinar is free of charge.**

**It is necessary to register for the webinar (please [click here](#)), to receive the meeting link details.**

The webinar will have the following agenda and speakers:

***Opening remarks***

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

***Moderator***

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

## *Panellists*

**Sofia Boza**, Ambassador, Permanent Representative of Chile to the WTO, co-Coordinator of the Structured Discussions on Investment Facilitation for Development – ***“The next steps after the conclusion of the text negotiations of the Agreement”***

**Hamid Mamdouh**, Senior Council at King and Spalding LLP (Geneva office), and Visiting Professor, Queen Mary University of London, Centre for Commercial Law Studies (CCLS) – ***“What are options to integrate the Agreement into the WTO rulebook?”***

**Joel Richards**, Senior Technical Specialist, Permanent Delegation of the Organisation of Eastern Caribbean States in Geneva– ***“Special and differential treatment for developing countries and LDCs for the implementation of the Agreement and the importance of self-assessments”***

**Carlos Sebastian Guevara Aguirre**, Counsellor, Permanent Delegation of Ecuador in Geneva – ***“The importance of the self-assessments and experience gained so far from Ecuador’s ongoing self-assessment”***

## **Q&A and free flow discussions**

### ***Concluding remarks***

**Jung Sung Park**, Deputy Permanent Representative to the WTO of the Permanent Mission of Republic of Korea in Geneva, co-Coordinator of the Structured Discussions on Investment Facilitation for Development – ***“Key takeaways”***

---

**To join the meeting online, kindly click on the link that will be sent to you shortly before 3:00 p.m. CET on 13 October 2023 and follow the instructions.**

The webinar will be conducted in English and in an interactive manner; it will allow for questions by participants.

The text negotiations of the WTO Investment Facilitation for Development (IFD) Agreement were [concluded on 6 July 2023](#).

This webinar focuses on the path forward for the Agreement. After a presentation of the current status of the Agreement, it will explore options for incorporating the

Agreement into the WTO architecture. Secondly, it will discuss the Agreement's special and differential treatment provisions, which are meant to help developing countries, and especially the least developed among them, to implement the Agreement with a view toward attracting more and better FDI. Thirdly, the webinar will discuss issues related to the self-assessments to be undertaken to determine the technical assistance and capacity building needs of developing countries in regard to the implementation of the Agreement.

After its formal launch in September 2020, the negotiations among over 110 WTO Members on the text of the IFD Agreement were successfully concluded in July 2023. The Agreement aims to facilitate greater developing and least-developed countries' participation in global investment flows by improving their investment climate. More specifically, it focusses (among other things) on improving the transparency of investment facilitation measures, simplifying and speeding up investment-related administrative procedures, strengthening the dialogue between governments and investors, and promoting the uptake by companies of responsible business conduct practices, to encourage sustainable FDI for sustainable development. The Agreement's special and differential treatment provisions for developing and least developing countries are particularly important as they greatly facilitate the implementation of the Agreement by these groups of countries.

We look forward to welcoming you to the webinar!

With kind regards,

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

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

### **Background information:**

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

Axel Berger, Ann-Margret Bolmer and Zoryana Olekseyuk, *“Implementing an Investment Facilitation for Development Agreement: How to self-assess implementation gaps and technical assistance needs”* (Geneva: ITC, 2022), [available here](#).

Hamid Mamdouh, *“Legal options for integrating a new investment facilitation Agreement into the WTO structure”* (Geneva: ITC, 2021), [available here](#).



Hamid Mamdouh, *“Implementing the Investment Facilitation for Development Agreement: practical legal considerations of provisional application”* (Geneva: ITC, 2023), [available here](#).

Karl P. Sauvart, *“[The new WTO Investment Facilitation for Development Agreement](#)”*, *Columbia FDI Perspective*, no. 363, 7 August 2023.

## **Bios:**

### **Rajesh Aggarwal**

Rajesh Aggarwal is Officer in Charge, Director, Division for Market Development, ITC. He is leading a programme 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 in the area of trade negotiations, including on “Dynamics of agriculture negotiations in WTO” in the *Journal of World Trade*.

### **Carlos Sebastian Guevara Aguirre**

Carlos Guevara entered the Ecuadorian Foreign Service in 2006. Currently, he is Counsellor at the Permanent Mission of Ecuador to the WTO. Previously, he served at his country’s Embassy in Japan. He has a bachelor’s degree in Economics from the Ecuadorian National Polytechnic School, and a master’s degree in the same field from the University of Tsukuba (Japan). During his career, he has specialized in trade and trade related matters, working in both, Ecuador’s Ministry of Foreign Affairs and the Ministry of Foreign Trade. He has been involved in the investment facilitation negotiations since 2019.

### **Sofia Boza**

Sofia Boza is the Ambassador of Chile to the World Trade Organization since July 2022. She has also taken over the co-Coordination of the Structured Discussions on Investment Facilitation for Development. Prior to that, she was an Associate Professor and Chief at the Department of Rural Management and Innovation at the University of Chile and Professor at the Institute of International Studies at the same University. She holds a bachelor’s degree in economics from the University of Seville and a PhD in Economics from the Autonomous University of Madrid.

### **Hamid Mamdouh**

Hamid Mamdouh is Senior Council at King and Spalding LLP (Geneva office) and Visiting Professor, Queen Mary University of London, Centre for Commercial Law Studies (CCLS). Prior to retirement from the WTO at the end of September 2017, he was Director of the Trade in Services and Investment Division, since May 2001. Previously, he was Senior Counsellor in the Trade in Services Division and had been the Secretary of the WTO Council for Trade in Services since the establishment of the WTO in 1995. During that time, he was also responsible for legal affairs relating to Trade in Services.

### **Jung Sung Park**

Jung Sung Park has been the Deputy Permanent Representative to the WTO of the Permanent Mission of the Republic of Korea in Geneva since January 2022. He has been the co-Coordinator of the Structured Discussions on Investment Facilitation for Development since June 2022. His previous positions include Director-General for policy coordination in industry, energy, trade, science ITC, and SMEs under the Prime Minister; Director for trade policy, Ministry of Trade, Industry and Energy; and Director for trade industry, Office of the President. He had participated in various bilateral FTA negotiations and led the single window team at Invest Korea.

### **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 (CARICOM) 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 international bodies.

### **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 (<https://ssrn.com/author=2461782>) and currently assists ITC 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 on teaching, research and writing.