

Report on the online workshop for WTO delegates and government officials: Increasing the development impact of a multilateral framework on investment facilitation for development: concrete measures to facilitate sustainable FDI and CSR

12 May 2020

The virtual workshop on "**Increasing the development impact of a multilateral framework on investment facilitation for development: concrete measures to facilitate sustainable FDI and CSR**" took place on 12 May 2020 between 14:00 and 17:00 CET. It hosted, at its peak, 160 participants. The workshop was organised in the framework of the Investment Facilitation for Development project carried out by the International Trade Centre (ITC) and the German Development Institute / Deutsches Institut für Entwicklungspolitik (DIE). The workshop was meant for WTO delegates dealing with investment facilitation matters, as well as government representatives from capitals. It was chaired by **Mr. Axel Berger** (Senior Researcher, DIE) and **Mr. Karl P. Sauvant** (Columbia University/CCSI).

The workshop was meant to build the capacity for the negotiations of a multilateral framework on investment facilitation for development at the WTO. This workshop will be followed by a second workshop on the development dimension of a multilateral framework on investment facilitation for development, taking place later in the year; it will focus on issues related to the implementation of investment facilitation measures.

The discussions held during the workshop were informed by "An Inventory of Concrete Measures to Facilitate the Flow of Sustainable FDI: What? Why? How?" prepared for this workshop. The draft inventory will be updated in light of the discussions during the workshop, as well as other work undertaken within the ITC/DIE project.

The workshop's programme and the presentations of Mr. Sauvant and Mr. Stephenson are contained in the annexes of this report.

I. Proceedings of the meeting

Mr. Rajesh Aggarwal, Chief, Trade Facilitation & Policy for Business Section, International Trade Centre (ITC), opened the discussion. He explained that FDI will need to be an element

of post COVID19 economic reconstruction. The repercussions of the pandemic are likely to trigger competition in developing countries and least developed countries to attract FDI.

After the opening remark, **Ambassador Mathias Francke** provided a keynote address in which he highlighted that investment facilitation will contribute to efforts to counter the COVID19 economic impact and that many economies are implementing investment facilitation measures as we speak. Ambassador Francke gave an overview of the WTO discussion on investment facilitation for development. He informed participants about the Consolidated Text which contains the proposed investment facilitation provisions. He also informed participants that, while formal negotiations are on hold, China, the EU, Japan, and Turkey submitted proposals on investment facilitation.

To commence the first session, Mr. Axel Berger took over as the chair. The session benefitted from inputs by **Hilina Getachew**, Chief of Staff to the Commissioner, Ethiopian Investment Commission, **Karl P. Sauviant**, Resident Senior Fellow, Columbia University/Columbia Center on Sustainable Investment (CCSI) and **Matthew Stephenson**, Policy and Community Lead, International Trade & Investment, World Economic Forum.

After a coffee break, Mr. Sauviant took over as the chair of the second session. The session benefitted from inputs by **Valéria Mendes Costa Paranhos**, First Secretary, Ministry of Foreign Affairs, Brazil, **Ana Novik**, Head of the Investment Division, OECD and **Carlo Pettinato**, Head of Unit, Investment, Directorate General for Trade, European Commission.

After the second session had ended, Mr. Axel Berger and Mr. Karl P. Sauviant made final remarks and closed the session.

II. Summary of the main outcomes of the workshop

I.a Facilitating sustainable FDI

An instrument that could promote sustainable FDI is a **recognised sustainable investor** provision. **In a recognised sustainable investor scheme, special benefits are given to investors who meet certain criteria.** Investors qualified to be designated as recognised sustainable investors could be those who observe internationally agreed instruments of responsible business conduct (such as the UN Guiding Principles on Business and Human Rights, the ILO MNE Declaration and the OECD Guidelines for Multinational Enterprises); observe their own CSR statements to make the best effort to contribute to sustainable development; and make best efforts to contribute to country-specific FDI characteristics. These investors could be given benefits that go beyond those given to other investors within an investment facilitation framework. Such benefits could include **red carpet services**, which involve assigning individual case officers to help investors resolve difficulties that they may face; **reductions in costs and complexities in obtaining licenses**; as well as assistance in establishing backward **linkages** with domestic suppliers. Additionally, qualifying investors gain the **reputational advantage** of being designated as recognised sustainable investors. Providing extra benefits when meeting special criteria has been included in the WTO TFA, where authorised operators who meet certain criteria are provided with additional facilitation measures, as per WTO TFA Article 7.1. The inventory included in the invitation to this workshop includes in its annexes a possible formulation model provision concerning a recognised sustainable investor.

The discussion also touched upon the question on whether the status of a recognised sustainable investor is granted only in connection with a specific investment or if it applies to all investments made by the investor in a given country and granted with that status. This question is pertinent to cases where a foreign investor has made several investments in a country.

Key measures to facilitate the flow of sustainable FDI include:

- 1- **Fostering linkages.** Having capable local suppliers facilitates the operations of foreign investors. At the same time, it is exceptionally important for development that linkages between foreign investors and local suppliers are established, as this helps the development of the domestic enterprise sector, the bedrock of development. Linkages can be garnered through supplier databases, and supplier development programmes can help prepare local enterprises to become suppliers to foreign investors.
- 2- **Use of environmental and social impact assessments, *ex ante*,** to ensure that any potential negative impacts are identified and addressed. A survey by the World Association of Investment Promotion Agencies and the World Bank in 2019 found that half of surveyed IPAs evaluate investments for such impacts before deciding to provide support, be it through services or the approval of grants¹. Investors themselves

¹ WAIPA (2019). [Overview of Investment Promotion. WAIPA, 2019.](#)

increasingly use such assessments, especially for large-scale projects, and their use should be encouraged and facilitated.

- 3- **Adopting regulations to promote standards**, including quality standards and standards for responsible business conduct. Such standards could contribute to the increase of sustainable FDI.
- 4- **Behavioural incentives**. Behavioural incentives contingent on certain actions by investors, such as training, increase the development impact of FDI. The recognised sustainable investor category is one way to operationalise behavioural investment incentives.
- 5- **Supporting outward FDI through home country measures**. Outward FDI can benefit home countries in various ways, including by increasing exports and acquiring new technologies. Investment facilitation should therefore be seen as facilitating a two-way flow of investment, inward and outward. Home country measures are particularly important for outward investing SMEs. They should be made transparent. Moreover, they can be linked to the facilitation of sustainable FDI by requiring outward investors to undertake developmental, environmental and other impact assessments. By way of example, the World Bank's Multilateral Investment Guarantee Agency (MIGA) provides guarantees for outward FDI only when it is carried out according to predetermined environmental and social standards.
- 6- **Fostering partnerships between and among IPAs** that help to promote sustainable FDI outcomes. Such partnerships could provide learning opportunities. Memoranda of understanding between IPAs are becoming more frequent. .
- 7- **Aftercare** is a crucial investment facilitation measure to retain investment. In 2019, reinvestment accounted for almost half of FDI flows. This measure has not yet been included in the draft framework; nonetheless, the inventory circulated for this workshop includes in its annexes some initial elements that may be useful to support aftercare.

I.bA practitioner's perspective from Ethiopia

While a multilateral framework on investment facilitation for development should include sustainable investment criteria that allow for directly advancing development, it should also allow for **flexibilities to adapt to changes**.

For the Ethiopian IPA, the top priority is **creating decent jobs and contributing to foreign exchange reserves and the alignment with international environmental standards**. Moreover, investment facilitation policy should address the development needs regionally and nationally.

The multilateral framework should also guide countries on how to establish linkages, as there is **limited knowledge on how to transfer skills and knowledge from foreign affiliates to local enterprises**. Such guidance could include explanation of the best modalities and practices. It is worth noting that the Ethiopian IPA is focussed on providing quality aftercare services.

In regards to incentives and a recognised sustainable investor scheme, special benefits could include giving **businesses customs duty privileges and providing for lower minimum capital requirements**. Incentives should be targeted to development goals and be based on performance, i.e., benefits should only be provided upon meeting key performance indicators. Therefore, an effective monitoring system of FDI should be put in place to verify, for example, that recognised sustainable investors are not only announcing CSR policies, but also implementing them and, in this manner, contribute to the sustainable development of host countries.

But it is not enough to incentivise. Investors also **need active government support** to take advantage of incentives. For example, foreign investors usually struggle to localise and contextualise their CSR efforts. A multilateral framework helping IPAs to facilitate FDI and supporting them in contextualising their CSR efforts is important. Investors are proactive in asking IPAs to acknowledge, incentivise or recognise their CSR contribution; however, it is still difficult for IPAs to provide recognition without a clear set of criteria.

I.c Examples of CSR provisions in international and regional frameworks

The OECD is studying responsible business conduct (RBC) in investment treaties. RBC does not only address the sustainable development aspect of investment, but also includes avoiding adverse impact on host countries. The concept of RBC also includes addressing societal values and needs beyond what is stated in laws and regulations, such as the concerns voiced by inter-governmental organizations, local communities, trade unions, and the media, as well as concerns raised in the workplace. Many recent treaties are now including provisions on CSR and RBC.

The most common approach to CSR and RBC in treaties is the encouragement of investors to observe internationally recognised standards of CSR and RBC in their practice and internal policy. Treaties often mention one, two or three of the international investment standards. For example, the Pacific Alliance in 2014 encouraged enterprises operating in their territories to voluntarily adopt internationally recognised standards of CSR, taking into account the OECD Guidelines for Multinational Enterprises.

Another example from 2014 is the Foreign Investment Promotion and Protection Agreement (FIPA) between Canada and Côte d'Ivoire that encourages enterprises operating in their territories voluntarily to incorporate internationally recognised standards on CSR and RBC. The same is observable in the preamble of the EU-Canada Comprehensive Economic and Trade Agreement (CETA), the Colombia BIT model and the Brazilian Investment cooperation and facilitation treaties. The Common Market for Eastern and Southern Africa (COMESA) also has a similar provision and mentions human rights.

The Morocco-Nigeria bilateral investment treaty (BIT) has a full article on CSR that establishes explicitly in a full provision on investment responsibility that investors should not only comply with applicable national laws and regulations, but also try to make a maximum feasible

contribution to the sustainable development of the host state. The Dutch Model BIT is also quite comprehensive as it includes provisions on CSR and RBC and goes further into issues relating to potential negative impacts of investor conduct and due diligence.

Brazil's Cooperation and Facilitation Investment Agreements (CFIA) are not concluded only for the purpose of increasing the flow of FDI, but also to promote development. Therefore, CSR provisions in its CFIA are a way to outline the kind of investment that the parties would like to receive. Nonetheless, there should be balance between development and business practices. On one hand, foreign investors should ensure that their business operations do not have negative impacts on the host society. On the other hand, investment may be affected if forced to contribute to the host country through requirements that are not part of its expertise. Therefore, to advance development through FDI, there is a shared responsibility between host countries and home countries in promoting and incentivising sustainable and responsible FDI.

In 2018, Brazil sent a communication to the WTO containing a proposal for a framework on investment facilitation for development.² Article 18 of this proposal addresses CSR. There are two main aspects in this Article. Firstly, the Article makes the compliance with CSR and sustainable FDI standards voluntary. Secondly, the Article contains **best endeavour language**, which states that investors and their investments “...*shall endeavour to comply with the following voluntary principles and standards of corporate social responsibility, in accordance with the laws adopted by the host Member and with Members’ international commitments on this matter:....*”. This is evident in the clear use of language such as *shall endeavour* as opposed to *should*, which introduces an obligation to make efforts, but leaves the compliance voluntary and commensurate with the capacity of foreign investors.

The EU Commission, on its part, does not think it is advisable to reproduce or summarise the content of CSR and RBC principles contained in internationally agreed international investment instruments, **such as the UN Guiding Principles on Business and Human Rights, the ILO MNE Declaration and the OECD Guidelines for Multinational Enterprises.** The reason advanced is that these instruments are comprehensive and well elaborated and already clearly define what is expected of investors, in much greater detail than could be done in an investment facilitation framework. Moreover, these instruments **are comprehensive and accepted by many, if not all, WTO members.**

In terms of the institutional dimension, the EU Commission suggests that the future WTO Investment Facilitation Committee could provide a platform to exchange best practices on the issue of due diligence, where there remains a high need for the exchange of information on how to facilitate the uptake of responsible investment. A WTO Investment Facilitation Committee could also provide a platform to discuss and coordinate technical assistance and capacity building needs and efforts.

The EU Commission also thinks that it is important to address the issue of illicit financial flows, as evidence shows that illicit financial flows make the financial sector unattractive for

² Structured Discussions on Investment Facilitation, Communication from Brazil (JOB/GC/169).

investment. Investment facilitation measures relating to transparency, for instance, could reduce the possibility of illicit financial flows.

The EU proposal makes reference to international instruments, such as OECD guidelines for MNEs. Nonetheless, during the discussion it was argued that most developing countries are not part of that instrument and therefore would have difficulty to refer to it in an investment facilitation framework.

Annex I: Workshop programme and bios



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Deutsches Institut für
Entwicklungspolitik



German Development
Institute

International Trade Centre and the German Development Institute

Workshop on increasing the development impact of a multilateral framework on investment facilitation for development: concrete measures to facilitate sustainable FDI and CSR

Online workshop for WTO delegates and government officials

12 May 2020

The workshop is meant to make an input into the negotiations of a framework on investment facilitation for development at the WTO. The workshop is open to all WTO delegates and government representatives from capitals. Another workshop on the development dimension of a multilateral framework on investment facilitation for development, scheduled for June, will focus on issues related to the implementation of investment facilitation measures.

The discussions are partly informed by “An Inventory of Concrete Measures to Facilitate the Flow of Sustainable FDI: What? Why? How?” prepared for this workshop (attached). The inventory will be updated in light of the discussions at the workshop, as well as other work.

The workshop is carried out in the framework of the ITC/DIE project on Investment Facilitation for Development.

Programme

14:00-14:15 Opening, objectives and keynotes

Rajesh Aggarwal, Chief, Trade Facilitation & Policy for Business Section, International Trade Centre (ITC)

Ambassador Mathias Francke of Chile, Coordinator of the Structured Discussions on Investment Facilitation for Development

14:15-15:30 Session I: Identifying key concrete investment facilitation measures to facilitate the flow of sustainable FDI

Chair: Axel Berger, Senior Researcher, German Development Institute (DIE)

Panellists:

Karl P. Sauvant, Resident Senior Fellow, Columbia University/Columbia Center on Sustainable Investment (CCSI) - *Facilitating sustainable FDI*

Matthew Stephenson, Policy and Community Lead, International Trade & Investment, World Economic Forum - *Key measures to facilitate the flow of sustainable FDI*

Hilina Getachew, Chief of Staff to the Commissioner, Chief of Staff to the Commissioner, Ethiopian Investment Commission - *A practitioner's perspective*

Discussion

15:30 -15:40 Coffee break

15:40 -16:50 Session II: A provision on corporate social responsibility in a multilateral framework on investment facilitation for development

Chair: Karl P. Sauvant, Columbia University/CCSI

Panellists:

Ana Novik, Head of the Investment Division, OECD - *CSR clauses in IIAs*

Valéria Mendes Costa Paranhos, First Secretary, Ministry of Foreign Affairs, Brazil - *The Brazilian perspective*

Carlo Pettinato, Head of Unit, Investment, Directorate General for Trade, European Commission - *The EU perspective*

Discussion

16:50-17:00 Closing remarks

Karl P. Sauvant, Columbia University/CCSI, and **Axel Berger**, DIE

Bios:

Rajesh Aggarwal

Rajesh Aggarwal is Chief of the Trade Facilitation & Policy for Business Section of the International Trade Centre (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 the business interests. Before joining the ITC, he worked for the Indian Government and participated in 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.

Valéria Mendes Costa Paranhos

Ms. Costa is diplomat at the Brazilian Ministry of Foreign Affairs. She currently works in the Services and Industry Promotion Department, dealing with investment issues. Previously, she served in the Brazilian Mission to the WTO, where she was in charge of dispute settlement. Ms. Costa has a Bachelor's degree in law from the Catholic University of São Paulo, a Master Degree in Political Science from Sciences Po - Paris and a Master Degree in International Dispute Settlement from the Graduate Institute - Geneva.

Mathias Francke

Mathias Francke is Coordinator of the Structured Discussions on Investment Facilitation for Development and the 2019 APEC SOM Chair. Previously, he was 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 has been posted to the Chilean Embassy to the UK as Deputy Head of Mission (2014 to

2018), the Permanent Mission of Chile to the WTO (2000 to 2005 and as Deputy Head of Mission from 2006 to 2010) and the Trade Office of the Chilean Embassy to the USA (1992 to 1996). Mr. Francke is a lawyer from the Catholic University of Chile and has a graduate degree from the School of Foreign Service at Georgetown University.

Hilina Getachew

Ms. Getachew is currently serving as an advisor to the Ethiopian Investment Commission in the role of Chief of Staff Commission to the Commissioner where she oversees the grievance and aftercare work of the Commission. She is also currently serving as the Secretariat and member to the Legal Counsel in charge of revising the Investment Legal Framework of the Country. Before she assumed her current position, she served as an Intervention Manager in a project that supported clients in the garment sector, creating a liaison between job seeking, unskilled labour and investors in Ethiopia for better livelihood.

Ana Novik

Ana Novik, as Head of the Investment Division of the Directorate for Financial and Enterprise Affairs, supports the Director in DAF's contribution to the strategic orientations of the Secretary General, with a focus on improving the international investment climate, promoting good domestic policies to support investment and Responsible Business Conduct. She establishes strategies for the OECD to secure a leadership role in the international investment debate and to advance a more structured economic analysis of investment flows and impact. She also contributes to OECD-wide initiatives, including horizontal work streams on competitive neutrality, global value chains and Enter contributions to the G20. Prior to joining the OECD, Ms. Novik was the Ambassador Director of Multilateral Economic Affairs in the Economics Directorate of Chile's Ministry of Foreign Affairs and Trade from 2011 to 2014.

Carlo Pettinato

Carlo Pettinato is Head of the Unit responsible for investment policy, in the Directorate General for Trade, European Commission. Before this post he was Deputy Head of Unit responsible for trade relations with Latin America. He started his EU career in the trade defence department in DG Trade and then moved to become EU negotiator on investment issues in the WTO, OECD, ASEM, and in the context of the EU-Chile and EU-Mercosur negotiations (1998-2004). Between 2005 and 2011, he was posted as economic counsellor in the EU Delegations to Jamaica (Kingston) and Central America (Managua).

Karl P. Sauvnt

Karl P. Sauvnt 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), stepping down as its Executive Director in 2012, to focus his work, as a CCSI Resident Senior Fellow, on teaching, research and writing.

Matthew Stephenson

Matthew Stephenson is Policy and Community Lead for International Trade and Investment at the World Economic Forum, where he manages the [Global Investment Policy and Practice](#) initiative. He works closely with governments, firms and civil society in several emerging markets to identify measures that facilitate investment and maximise investment's sustainable development impact. Previously, he worked at the IFC, where he led the workstream on outward FDI. He has also worked at the OECD on Africa and investment and served as a diplomat for the U.S. Department of State, leading an economic team on Afghanistan and managing economic programmes in the Middle East. He is a member of the T20 Task Force on Trade and Investment. Mr. Stephenson has a PhD from the Graduate Institute in Geneva, a master's from the Harvard Kennedy School and a bachelor's from Oxford University.

Background material

“An Inventory of Concrete Measures to Facilitate the Flow of Sustainable FDI: What? Why? How?”

[“Advancing Sustainable Development by Facilitating Sustainable FDI, Promoting CSR, Designating Recognized Sustainable Investors, and Giving Home Countries a Role”, Karl P. Sauvant and Evan Gabor \(December 2019\).](#)

[“Investment Facilitation for Sustainable Development: Index Maps Adoption at Domestic Level,” Axel Berger \(October 2019\).](#)

[“Business Responsibilities and Investment Treaties Consultation”, paper by the OECD Secretariat \(2020\).](#)

[“What can Governments Do to Facilitate Investment? Important Measures Identified through Surveys”, Matthew Stephenson and Ahmed Omics \(December 2019\).](#)

[WTO Joint Ministerial Statement on Investment Facilitation for Development \(December 2017\).](#)

[WTO Joint Ministerial Statement on Investment Facilitation for Development \(November 2019\).](#)

[EU Proposal for WTO disciplines and commitments relating to investment facilitation for development. \(INF-IFD-RD46 – EU\) \(February 2020\).](#)

Annex II: Speeches

Virtual workshop for WTO delegates and government officials
on

Increasing the development impact of a multilateral framework on investment facilitation for development: concrete measures to facilitate sustainable FDI and CSR
Organized by the International Trade Centre and the German Development Institute
12 May 2020

Facilitating sustainable FDI: increasing the development impact of FDI through an Investment Facilitation Framework for Development
by

Karl P. Sauvant*

Let me begin by reminding all of us that advancing development requires investment. To be sure, investment is not everything, but everything is nothing without investment.

Foreign *direct* investment—as part of overall investment—can help to advance development. Consequently, all countries—without exception—seek to attract FDI: there may be as many as 10,000 institutions worldwide, at national and sub-national levels, that have, as part of their mandate, the task of facilitating investment flows.

Facilitating FDI flows therefore not only makes sense, but is simply good policy—it helps to advance development. And as we emerge from the current pandemic, substantial investment (including FDI) will be needed more than ever to restart the world economy and especially growth in developing countries.

Therefore, putting in place a multilateral Investment Facilitation Framework makes sense—and is important.

Importantly, however, the framers of the Joint Ministerial Statement that launched the discussions in the WTO spoke not only about *facilitating* investment flows, they also gave a *specific purpose* for which FDI flows should be facilitated, namely “development”. This suggests to me that negotiators of an Investment Facilitation Framework *for Development* need to pay special attention to the development dimension of this Framework.

The obvious question is: how to do that?

I think we need to begin by looking at individual FDI projects, because it is at the level of the individual investment project—and this is particularly true for big projects—that investment impacts development.

The challenge then becomes to increase the positive development impact of investment projects and reach beyond the benefits that automatically flow from FDI. Or, to put it differently (and providing a formal definition), the challenge is to encourage investment projects that—while

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commercially viable—involve best efforts to make a reasonable contribution to the economic, social and environmental development of host countries and that take place in the framework of good governance mechanisms. I call such investment “sustainable FDI”, as it is investment that is characterised by direct corporate action that increases the development impact of FDI.

What does “best efforts to make a reasonable contribution” to development mean in the context of FDI projects?

Well, governments have indicated, including in various agreements that they have negotiated over the years as well as in various inter-governmental instruments, *what they seek* from FDI and international investors. International investors, in turn, have indicated, including in CSR statements, industry codes and global business codes such as the Guidelines for International Investments adopted by the international Chamber of Commerce, what they say *they bring to* host countries.

Importantly, there is considerable overlap between what governments seek from FDI and what international investors say they bring to host countries. And this overlap revolves around such contributions—such FDI characteristics—as providing training; observing supply-chain standards; and creating linkages with domestic firms (as a result of linkages, domestic firms, often SMEs, benefit from the tangible and intangible assets of the foreign affiliates for which they become suppliers). FDI that scores well on such FDI sustainability characteristic—that is, sustainable FDI—can be described as reflecting best efforts in making a reasonable contribution to development. It is therefore investment that is particularly desirable from the point of view of host countries.

The challenge then becomes: how can we facilitate not only flows of FDI in general, but in particular the flow of sustainable FDI?

No doubt, increasing transparency and predictability; streamlining and speeding up administrative procedures and requirements; establishing contacts points; etc. help to facilitate investment flows.

But to incentivise international investors to undertake *sustainable* FDI to make a reasonable contribution to development (while, of course, remaining commercially viable) requires more than increasing transparency, etc.

So, how to incentivise investors to undertake sustainable FDI?

Perhaps one can incentivise investors by granting special benefits to those investors that meet certain criteria, criteria that require investors to make special efforts to undertake sustainable FDI. And, of course, investors that meet these criteria and make special efforts to undertake sustainable FDI should then be entitled to special benefits, including that they would be designated as “recognised sustainable investors”.

Let me elaborate briefly, addressing first the criteria/special efforts required to be considered a Recognised Sustainable Investor and then turn to the benefits that would be associated with the status of being a Recognised Sustainable Investor.

The criteria that would have to be met to be designated a Recognized Sustainable Investor could include that investors commit themselves to observe, for example, their own CSR

statements as well as such internationally agreed instruments as the UN Guiding Principles on Business and Human Rights or the OECD Guidelines for Multinational Enterprises. They could also commit themselves to make reasonable best efforts to maximise certain of the sustainability characteristics connected to their investments—and all of that, of course, while remaining commercially viable.

What could be the benefit for investors in return for making such commitments, involving, as they do, extra efforts? Obviously, the benefits need to go beyond those that all investors receive on the basis of an Investment Facilitation Framework. And, indeed, one could think about a number of such benefits—basically, “red carpet” services for qualifying investors.

For example, extra benefits for investors could include that IPAs assign individual case officers to qualifying investors; such case officers would assist qualifying investors in all matters related to the establishment and operation of their projects throughout their investment life-cycles, and help investors resolve any difficulties they might experience. Extra benefits could also include assisting qualifying investors, on a priority basis (and at reduced fees and/or charges), in obtaining licenses. Or, qualifying investors could receive assistance in establishing local backward linkages through help in connecting with local suppliers that meet the required price and quality standards of foreign affiliates.

And, of course, qualifying investors would reap the reputational advantage of being designated as “Recognised Sustainable Investors”.

I think it is only appropriate that, if investors meet certain criteria and make special efforts to support sustainable development, they should also get extra benefits.

Let me hasten to add that providing extra benefits when meeting special criteria is nothing new in the WTO rule-book: as you know better than I do, the Trade Facilitation Agreement bestows the recognition of “Authorised Operator” on those operators that meet certain criteria and grants them various additional benefits. To quote Art. 7.1 of the TFA: “Each Member shall provide additional trade facilitation measures related to import, export, or transit formalities and procedures ... to operators who meet specified criteria, hereinafter called authorized operators.”

In other words, if negotiators should decide to include a provision on a Recognised Sustainable Investor in an Investment Facilitation Framework, they are on solid grounds, following the precedent of the TFA. (BTW, we included a possible formulation of a provision concerning the Recognised Sustainable Investor in one of the annexes of the Inventory that was distributed to you.)

The bottom line, I submit to you, is that an Investment Facilitation Framework *for Development* needs to pay special attention to the development dimension. Paying special attention to development is important in and by itself to advance development. It also makes an Investment Facilitation Framework more interesting and acceptable to a wider group of Members and, for that matter, to the public at large.

In sum, incentivising international investors to undertake sustainable FDI and to observe CSR standards by granting them special benefits would increase the development impact of FDI through an Investment Facilitation Framework for Development. This approach is encapsulated in the concept of the Recognised Sustainable Investor.

Precisely because we should pay special attention to the development dimension of an Investment Facilitation Framework, this workshop looks, in this first session, at what concrete investment facilitation measures are particularly important to advance sustainable development. In the second session, then, we focus on the broader concept of CSR. The concept of CSR—which, after all, is widely accepted, including increasingly in international investment agreements—encapsulates, after all, the idea that investors should not only look after their own commercial interests and viability but should also look after broader community interests, including development.

Thank you very much for your attention.

Key measures to facilitate the flow of sustainable investment

by
Matthew Stephenson

I believe we are facing two huge shifts, simultaneously, and that these can give impulse to developing and concluding an investment facilitation framework for development.

On the one hand, there is a shift from shareholder capitalism to stakeholder capitalism. Some of the largest firms have endorsed a new approach to business that puts sustainability on an equal footing with profitability, as reflected in statements of the Business Roundtable, Blackrock, or the new Davos Manifesto. In this context, identifying investment facilitation measures that support sustainable development is likely seeding a ploughed field, where these measures are more likely to take root.

On the other hand, COVID-19 is creating huge challenges for the global economy: in this context, measures to make investment flow easily are key to restarting the economy. This is especially important for developing countries, as OECD and UNCTAD projections indicate they are likely to lose relatively more investment flows.

It seems to me that these two shifts can lead to the political will to conclude an investment facilitation framework, and that to do so is more important than ever.

So the question becomes, what measures may be worth including as provisions to increase the flows of sustainable investment?

Today I will mention seven measures. I want to clarify that *all* measures that facilitate investment are likely to lead to more development, with the right regulatory frameworks. *However*, some measures have a *direct* effect on sustainable development, and some a more *indirect* effect. So today I will talk about those with a more direct effect.

These measures were identified through a project the Forum has been carrying out with the support of the Governments of Denmark and the Netherlands, including country-level work and consultations with multinational firms and other investment practitioners, which has evolved into the Commentary Group.

First, fostering linkages between foreign investors and domestic suppliers. This can be done through supplier **databases** or a more low-tech version can be **lists** managed by business associations. Importantly, databases or lists can be coupled with **supplier development programs** to help more domestic firms produce at the quality, cost, and scale necessary to contract with foreign investors. Linkages will create jobs, knowledge transfer, and upgrading. **Second, use of environmental and social impact assessments**, *ex ante*, to ensure any potential negative impact is identified and addressed. A survey by the World Association of Investment Promotion Agencies and the World Bank in 2019 found that 54% of IPAs evaluate investments for such impact before deciding to provide support, whether services or approval of grants. Investors themselves increasingly use such assessments, especially for large-scale projects, and their use should be encouraged and facilitated.

Third, adoption and use of standards. The word ‘standard’ can refer to two very different things: quality standards and standards relating to responsible business conduct, including managing the supply chain. *Both* are important and can increase investment flows and thus development impact. However, encouraging investors to ensure supply chains observe labour,

environmental, and governance standards may have the more direct effect on sustainability, with quality standards having a relatively more indirect effect.

Fourth, smarter investment incentives, either through **behavioural** incentives or **targeted** incentives. Behavioural incentives means making incentives conditional on certain actions by investors, such as training. Targeted incentives means focusing incentives on investors or investments that are more aligned with the development goals of the economy, whether by sector or investor type, such as impact investors. The Recognised Sustainable Investor category, which Karl talked about, is one way to operationalise or land the idea of smarter investment incentives. From my conversations with policymakers in developing countries, there is significant interest in this space.

Fifth, supporting outward FDI through home-country measures. There is strong evidence that outward FDI can bring development to the home economy, and thus should be facilitated. This can include through information, various services (for instance matchmaking), capital, etc. Investment facilitation should therefore be seen as facilitating a two-way flow of investment, inward and outward. There are dozens of empirical studies on how outward FDI can support home development through increasing exports, innovation, growth, moving up the value chain, increasing competitiveness that benefits employment, etc. So an investment facilitation framework for development may wish to cover home-country measures.

Sixth, home-country measures can be made conditional on firms following international standards of responsible business conduct. This can be complementary to the RSI, which makes host-country measures conditional on firms embracing such standards.

International investment agreements are starting to include the role of home governments in encouraging, or requiring, that their firms observe international standards, for example EU-Canada CETA or the Dutch Model BIT. There is strong precedent for this practice in the way IOs carry out their work, for instance, the World Bank's MIGA only provides guarantees on outward FDI that is carried out according to environmental and social standards.

Seventh, and last, fostering partnerships between investment promotion agencies can help increase sustainable outcomes. Such partnership is envisaged under cross-border cooperation, but I think it is worth bringing attention to it, as it is an area where there can be clear win-win between economies.

Given the two-way nature of investment flows, IPAs can *jointly* develop projects that contribute to sustainable development, and as Karl mentioned, it is at the project level that development impact happens. IPA-IPA partnership can help with matchmaking between foreign investors and domestic suppliers, as well as provide learning opportunities, whether North-South, South-South, or North-North. We see the thirst for this cooperation in an increasing number of MOUs between IPAs.

It is clear such partnership is good for development, as IPAs will only undertake joint activities if aligned with the development goals of their economy.

Allow me to conclude with two thoughts.

First, I have only highlighted today the measures that may have the most *direct* impact on sustainable development; however, all measures that increase investment flows are likely to contribute to development outcomes, and so are also important. In this regard, I would like to

mention the *Inventory* that aims to be the one-stop-shop of measures to consider as provisions. For instance, we have provided draft legal text for possible provisions on silent yes, risk-based assessment, investment grievance and investment alert mechanisms, amongst other. These measures will all indirectly contribute to sustainable development through increasing investment flows and investment retained.

Second, while the WTO framework focuses on facilitating cross-border investment, I would encourage us to think – and talk – about this framework as facilitating direct investment flows, and not just *foreign* direct investment flows. From my conversations with domestic investors, I think this may be an important political consideration to get their support: they want to know that these measures will benefit not just foreign investors but also domestic investors, and apart from measures related to entry, I believe they can.

Thank you very much, and I look forward to our exchange.