Negotiations on Investment Facilitation for Development (IFD) at the WTO

(Joint Statement Initiative on IFD)

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Topics

1. **Origin and objective of the ‘Structured Discussions on Investment Facilitation for Development’ (IFD)**
   - Main proponents and other participating WTO Members; What do they seek to achieve?

2. **What does IFD cover/exclude? What is being discussed?**
   - Examples of elements currently being discussed by participating Members

3. **IFD negotiating process**
   - How is process being conducted? Main documents

4. **Next steps in the run-up to MC12**
Origin and nature of the Joint Statement Initiative (‘JSI’) on investment facilitation for development

- Launched by a group of **developing** countries (notably ARG, BRA, CHN, COL, HKC, MEX, NGA, PAK) ➔ later supported by a growing group of developing and developed WTO Members.

- Launched by a subset of (not all 164) WTO Members

- Background: increasingly integrated and interdependent trade and investment flows in GVCs. Chinese (2016) and German (2017) G20 presidencies

- MC11, Dec. 2017: 70 WTO Members co-sponsored Joint Ministerial Statement ➔ "beginning structured discussions with the aim of developing a multilateral framework on investment facilitation"

- **Objective:** Multilateral Framework on Investment Facilitation for Development that can benefit all WTO Members
MC11, Dec. 2017
Joint Ministerial Statement

- WTO document WT/MIN(17)/59
- Co-sponsored in 2017 by 72 Members (EU=29). **LDCs in green; FIFD members**

1. Argentina
2. Australia
3. Benin
4. Brazil
5. Cambodia
6. Canada
7. Chile
8. China
9. Colombia
10. Costa Rica
11. El Salvador
40. European Union (EU + 28 Member States)
41. Guatemala
42. Guinea
43. Honduras
44. Hong Kong, China
45. Japan
46. Kazakhstan
47. Korea
48. Kuwait
49. Kyrgyz Republic
50. Lao PDR
51. Liberia
52. Macao, China
53. Malaysia
54. Mexico;
55. Moldova,
56. Republic of Montenegro
57. Myanmar
58. New Zealand
59. Nicaragua
60. Nigeria
61. Pakistan
62. Panama
63. Paraguay
64. Qatar
65. Russian Federation
66. Saudi Arabia
67. Singapore
68. Switzerland
69. Tajikistan
70. Togo
71. Turkey
72. Uruguay
Today – negotiations on an IFDA (launched Sept. 2020)

- **106 Members participants** in the negotiations, wide geographic representation
- Meetings conducted online ➔ many capital-based investment experts participating, including from developing and LDC Members

Afghanistan; Argentina; Australia; Austria; Bahrain, Kingdom of; Barbados; Belgium; Benin; Brazil; Bulgaria; Burundi; Cabo Verde; Cambodia; Canada; Central African Republic; Chad; Chile; China; Colombia; Congo; Costa Rica; Croatia; Cyprus; Czech Republic; Denmark; Djibouti; Dominica; Dominican Republic; Ecuador; El Salvador; Estonia; European Union; Finland; France; Gabon; Gambia; Germany; Greece; Grenada; Guatemala; Guinea; Guinea-Bissau; Honduras; Hong Kong, China; Hungary; Iceland; Indonesia; Ireland; Italy; Japan; Kazakhstan; Korea, Republic of; Kuwait, the State of; Kyrgyz Republic; Lao People’s Democratic Republic; Latvia; Liberia; Lithuania; Luxembourg; Macao, China; Malaysia; Malta; Mauritania; Mauritius; Mexico; Moldova, Republic of; Mongolia; Montenegro; Morocco; Myanmar; Netherlands; New Zealand; Nicaragua; Nigeria; North Macedonia; Norway; Pakistan; Panama; Paraguay; Philippines; Poland; Portugal; Qatar; Romania; Russian Federation; Saudi Arabia, Kingdom of; Seychelles; Sierra Leone; Singapore; Slovak Republic; Slovenia; Spain; Suriname; Sweden; Switzerland; Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Tajikistan; Togo; Turkey; United Arab Emirates; United Kingdom; Uruguay; Vanuatu; Yemen; Zambia; and Zimbabwe
2. What does IFD cover/exclude? What is being discussed?
2. What does IFD cover/exclude? What is being addressed?

- From very start, JSI proponents have made it clear that discussions shall not address market access, investment protection and Investor-State dispute settlement (ISDS).
- IFD clearly distinct from investment promotion (≠ image building & marketing country/region as an inv. destination).
- IFD is a set of policies and actions aimed at making it easier for investors to establish and expand their investments – as well as to conduct their day-to-day business in host countries.
- ° investor services, aftercare services and policy advocacy typically performed IPAs are covered by IFD.
- Types of IF measures/policies/tools discussed:
Transparency of investment measures

- Publication of laws & regulations of general application
- Online publication of information of particular relevance to investors, information portals
- Information to be published when authorization to invest is required (requirements & procedures, timeframes, fees)
- Opportunity to comment on proposed measures

Streamlining and speeding up administrative processes and documentation requirements

- Consistent, reasonable, objective and impartial administration of measures
- Authorization procedures to not unduly complicate or delay investment
- Authorization procedures: clear criteria & timeframes; acceptance of authenticated copies; state reasons if authorization is rejected; submission of applications online, electronic copies
- Appeal and review (due process)
- To the extent practicable, avoid requiring an applicant to approach more than one competent authority

Contact/focal points / Ombudsperson-types of mechanisms, domestic coordination, cross-border cooperation on IF

- Each Member to designate a contact / focal point / appropriate mechanism to respond to investors’ enquiries; assist investors (advisory services); help resolve investors’ grievances; conduct policy-advocacy
- Domestic coordination (good regulatory practices, whole-of-government approach)
Concrete elements/issues discussed based on the Working Document (2/3)

Development dimension

- Special and differential treatment for developing and LDC Members
- Extent and timing of implementation linked to capacity (// TFA)
- Technical capacity and capacity building
- Cooperation with other IOs
- Investment Facilitation Facility (similar to Trade Facilitation Agreement Facility: https://www.tfafacility.org/)

Sustainable investment

- Promote voluntary responsible business conduct good practices
- Combat corruption
- Social and environmental responsibility
Concrete elements/issues discussed based on the Working Document (3/3)

Cross-cutting issues, institutional & final provisions

- Scope (incl. exclusions, definitions)
- Facilitation of entry and temporary stay of business persons for investment purposes
- WTO Committee on Investment Facilitation
- General exceptions, security exceptions
- Dispute settlement

‘Firewall’ provisions

- Future IFDA will co-exist with IIAs
- Objective: best insulate IFDA from IIAs and mitigate spill-over effects between the two
- Current discussions show convergence towards multi-pronged approach to ‘firewall’ with provisions under different sections (notably scope, MFN, and dispute settlement)
3. IFD negotiating process
IFD negotiating process

• Coordinator: H.E. Mr. Mathias Francke (Chile)

• Work conducted through:
  - Monthly 2-day negotiating meetings (six in Jan-July 2021)
  - 1-day intersessional meetings in-between
  - Additional work in ‘small groups’ on specific topics (currently: scope and firewall provisions; and transparency provisions)

Main documents

- Informal Consolidated Text (INF/IFD/RD/50/Rev.8): currently text proposals from 43 Members (EU28) = main basis for discussions
- Members’ proposals
- ‘Revised draft text’ by the Coordinator (sections/provisions where Coordinator can present 'convergence text' based on ICT, Members’ text proposals and ongoing negotiations)
4. Next steps in the run-up to MC12
Next steps in the run-up to MC12 (to be held later this year)

In January 2021, Coordinator has set two mid-term milestones for the process

- Around Easter: compilation of 'convergence text';
- In July: participating Members will take stock of progress made and plan for second half of 2021 including MC12

‘Substantive outcome’ by MC12
Thank you

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