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Implementing an Investment Facilitation Framework for Development: Lessons from the Trade Facilitation Agreement

by
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Revitalizing investment, including FDI, is key for a robust and resilient recovery of the pandemic-stricken global economy. The Investment Facilitation for Development (IFF4D) initiative at the WTO aims to create a multilateral framework for an investment-friendly business ecosystem that could give fresh impetus to FDI flows that advance development and instill confidence into the global economy. Enhancing transparency, streamlining procedures, implementing user-friendly regulations, and cooperative approaches are key principles for encouraging development-oriented investment.

WTO members are currently implementing the Trade Facilitation Agreement (TFA), which embodies the above-mentioned principles. The lessons learnt provide ample guidance for furthering the IFF4D negotiations and its effective implementation. These are key takeaways:

- ***Provide flexibility to determine implementation timelines according to implementation capacity.*** One of the most impactful and creative ideas in the TFA was increasing flexibility by linking obligations to the WTO members' capacity to implement them. Developing countries were given the flexibility to pick the timing of implementation of particular commitments[1] and to link a particular commitment with the acquisition of implementation capacity through the provision of technical assistance and capacity building. This gave them the necessary comfort and confidence that it is their own sovereign decision as to how to sequence implementation according to their needs, resources, implementation capacity, and national development agendas.

- ***Make sure assistance is available, easily accessible and robust enough for deeper implementation.*** No reform is easy to implement, particularly when resources are limited and there are competing priorities that might offer larger political dividends. Limited financial resources manifest themselves more acutely if there is not enough technical expertise. Therefore, the provision of both technical and financial resources—in the form of grants—

was instrumental in providing the necessary assurance to WTO members that implementation could be sustainable and go beyond mere legal compliance.

- ***Provide an institutional mechanism with the necessary mandate and resources to bring all stakeholders on board, including the private sector.*** Both trade and investment facilitation, by their nature, are multidisciplinary and involve multiple stakeholders. While governments should primarily serve as enablers, the real actors are firms. To achieve better and commercially meaningful results, private businesses need to be involved at every stage of implementation, from diagnosis to design, execution and continued review and feedback for improved results. Such public-private engagement should be regular, sustained and, ideally, institutionalized. In the context of the TFA, National Trade Facilitation Committees offer a useful model worth replicating. Depending upon the local realities and in accordance with respective governance structures, this role could be played by investment promotion agencies or some other entity.

- ***Adopt a "whole of government" approach centered around coordination and collaboration.*** Successful TFA implementation has required a coordinated and collaborative approach that defies the usual turf-war issues amongst government agencies and ministries. Similarly, the scope of investment transcends not only various agencies but also different government levels. In the context of an IFF4D, the "whole of government" approach is "must have".

- ***Start gap assessments—the sooner the better.*** While the TFA negotiations were in full swing in Geneva, the WTO launched a rather novel initiative by embarking upon "needs assessments" to ascertain the current national situations and requirements to implement different provisions under negotiation. Between 2008 and 2012, there were two rounds of such assessments in around 100 WTO members' capitals in each round. This was also complemented by bringing capital-based officials from least developed countries to participate in the negotiations in Geneva. These gap and needs assessments raised awareness and built momentum for countries to prepare for the Agreement's implementation.

- ***Incentivize international investors to undertake sustainable FDI***. A concrete provision in the TFA was to reward trusted compliant economic actors with preferred treatment through the Authorized Operator scheme (TFA, Art. 7.7). Perceived by traders and government regulators alike as particularly facilitative, it rewards good conduct and induces healthy competition and a race to the top. A similar suggestion has been made to include the concept of the Recognized Sustainable Investor in the framework of an IFF4D.[2]

- ***Develop agreed implementation markers and measure them periodically***. "What gets measured, gets managed" is true for different businesses; for policy reforms, it is the cornerstone for any commercially meaningful results. An agreed set of implementation markers (e.g., key performance indicators) would help the authorities to keep track of the implementation and impact of the IFF4D. The private sector can contribute by providing feedback about the effectiveness of the reforms (or lack thereof), cementing public-private-partnerships and shared ownership.

The experience of the effective and inclusive implementation of the TFA, with its inherent flexibilities, can add useful guidance to the ongoing negotiations of the IFF4D. Negotiators and implementing authorities are therefore advised to carefully review and, where feasible, apply the lessons and success factors of the TFA for the benefit of this vital WTO initiative.

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[1] See, e.g., TFA, Section II.

[2] Karl P. Sauvant and Evan Gabor, "Facilitating sustainable FDI for sustainable development in a WTO Investment Facilitation Framework: four concrete proposals," *Journal of World Trade*, vol. 55 (2021), pp. 261-286.

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