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Facilitating climate friendly FDI: the importance of ongoing cooperation

by
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Investment facilitation, especially facilitating climate friendly FDI, is *en vogue* in the investment policy community. Recent years have seen the rise of provisions on promoting and facilitating climate friendly investment in the environment chapters of trade agreements,[1] in novel investment facilitation agreements and in a growing body of non-binding international agreements addressing aspects of the transition to the green economy. While some generalize that such provisions "would have upsides only and no downsides," others have been more cautious in their assessment, suggesting that investment facilitation commitments might be a "fad" in the investment policy agenda or arguing that to have real benefits the commitments need to be more tailored to the economic determinants of sustainable investment than treaties currently provide.

One of the most concrete investment facilitation provisions contained in international agreements negotiated so far are commitments for ongoing cooperation that identify specific areas for joint work and establish structures or mechanisms for implementation and review. While many investment facilitation commitments focus on the regulatory framework within each party's domestic legal order or contain abstract commitments to facilitate investment, some agreements (as UNCTAD has recently noted) are now adding to this by creating "platforms for lasting cooperation" between States.

International cooperation is particularly important to encourage climate friendly FDI. As noted by the Intergovernmental Panel on Climate Change and by the COP to the UNFCCC in the outcome of the first global stocktake of the implementation of the Paris Agreement, international cooperation is "a critical enabler for achieving ambitious climate" action. There are a broad range of cooperative activities that could enable greater climate friendly FDI, including collaboration on technological innovation and diffusion, technical assistance and capacity building for government authorities, knowledge sharing and the joint development of taxonomies, and reform of international financial institutions to lower financial barriers and catalyze lower-cost financing.

Two key takeaways for policymakers interested in facilitating climate friendly FDI are:

- Identify specific areas for cooperation and an initial agenda or workplan to be addressed in light of shared priorities. Given that there is currently no internationally agreed definition of "climate friendly" FDI, it is important for States to clarify the sectors and types of investment they wish to encourage; and

- Create mechanisms or structures to enable ongoing cooperation between designated government agencies and to review progress.

A good example of such an approach is the Australia–Singapore Green Economy Agreement, which identifies seven priority areas for cooperation, detailing them in annexes that identify specific cooperation activities to be undertaken, such as cooperation to develop inter-operable green and transition finance taxonomies, and cooperation between investment promotion agencies to facilitate trade and investment in green economy sectors, e.g., through business engagement events. The example underscores that, to be effective in facilitating climate friendly FDI, agreements must move beyond abstract commitments and involve meaningful, ongoing cooperation.

Policymakers cannot foresee all potentially relevant areas for future cooperation to facilitate climate friendly FDI, given technological developments and changes in national and international policies concerning the transition to a low-carbon economy. Accordingly, States should create durable institutional structures for cooperation (ideally with some degree of built-in agenda for future work), periodic meetings and monitoring/review mechanisms. For example, the Memorandum of Understanding on the Green Economy Framework between the United Kingdom and Singapore identifies three initial areas for focused cooperation: green transport, low carbon energy and technologies and carbon markets and sustainable finance, and also establishes a Steering Committee to annually review and update the Work Plan, including by adding new areas for cooperation as needed.

Other recent initiatives also create standing, dynamic structures for cooperation to facilitate FDI, with a focus on technical assistance and capacity building. For example, although the commitments on "investment contributing to sustainable development" in the recently signed EU–Angola Sustainable Investment Facilitation Agreement are fairly high-level, the Agreement envisages a dynamic relationship, managed by its Committee on Investment Facilitation, to identify needs for technical assistance and capacity building and to review progress (arts 33, 42–44). Although not limited to climate-friendly or sustainable investment, the proposed WTO Investment Facilitation for Development Agreement would create a standing institutional structure for cooperation and technical assistance under the Agreement, to be overseen by a WTO Committee on Investment Facilitation.

Committees and other institutional structures for investment facilitation should provide a formal basis for input from other relevant international organizations[2] with relevant expertise beyond investment policy, such as the UNFCCC Secretariat, international financial institutions, and sectoral organizations, such as the International Energy Agency and the International Renewable Energy Agency.

There is no "one size fits all" model for commitments to facilitate climate friendly FDI, because the priorities and needs of each country vary in light of differing commitments under the Paris Agreement, domestic climate policies and broader domestic legal frameworks, levels of economic development, country-specific challenges and barriers to climate-friendly FDI, and other factors. By identifying shared priorities and establishing mechanisms that allow for ongoing cooperation and review, States can generate real action to facilitate climate friendly FDI.

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[1] See, e.g., EU–New Zealand FTA, art. 19.11 (4)–(5); UK–Australia FTA, art. 22.6.

[2] Compare WTO IFDA art. 39.6.

For further information, including information regarding submission to the *Perspectives*, please contact: Columbia Center on Sustainable Investment, Chioma Menankiti, at clm2249@columbia.edu.

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