

Sauvant, Karl P.

Research Report

Enabling the full participation of developing countries in negotiating an Investment Facilitation Framework for Development

Columbia FDI Perspectives, No. 275

Provided in Cooperation with:

Columbia Center on Sustainable Investment (CCSI) - A joint center of Columbia Law School and the Earth Institute, Columbia University

Suggested Citation: Sauvant, Karl P. (2020) : Enabling the full participation of developing countries in negotiating an Investment Facilitation Framework for Development, Columbia FDI Perspectives, No. 275, Columbia University, Columbia Center on Sustainable Investment (CCSI), New York, NY

This Version is available at:

<https://hdl.handle.net/10419/254109>

Standard-Nutzungsbedingungen:

Die Dokumente auf EconStor dürfen zu eigenen wissenschaftlichen Zwecken und zum Privatgebrauch gespeichert und kopiert werden.

Sie dürfen die Dokumente nicht für öffentliche oder kommerzielle Zwecke vervielfältigen, öffentlich ausstellen, öffentlich zugänglich machen, vertreiben oder anderweitig nutzen.

Sofern die Verfasser die Dokumente unter Open-Content-Lizenzen (insbesondere CC-Lizenzen) zur Verfügung gestellt haben sollten, gelten abweichend von diesen Nutzungsbedingungen die in der dort genannten Lizenz gewährten Nutzungsrechte.

Terms of use:

Documents in EconStor may be saved and copied for your personal and scholarly purposes.

You are not to copy documents for public or commercial purposes, to exhibit the documents publicly, to make them publicly available on the internet, or to distribute or otherwise use the documents in public.

If the documents have been made available under an Open Content Licence (especially Creative Commons Licences), you may exercise further usage rights as specified in the indicated licence.



Columbia FDI Perspectives

Perspectives on topical foreign direct investment issues

No. 275 April 6, 2020

Editor-in-Chief: Karl P. Sauvant (Karl.Sauvant@law.columbia.edu)

Managing Editor: Alexa Busser (alexa.busser@columbia.edu)

Enabling the full participation of developing countries in negotiating an Investment Facilitation Framework for Development*

by

Karl P. Sauvant**

Negotiations on an Investment Facilitation Framework for Development were scheduled to begin in March 2020 at the WTO. Given the COVID-19 pandemic, all in-person meetings at the WTO have been suspended, but progress is being made through written submissions. A new consolidated text reflecting these submissions will provide an updated basis for the negotiations.

WTO members may also wish to initiate a voluntary arrangement allowing the full participation of developing countries—and especially the least developed among them—in these negotiations. In particular, participation from the competent authorities in capitals is required, including from their investment promotion agencies (IPAs).

Such participation is important because:

- Bringing representatives from capitals into the negotiations—especially policy makers from ministries in charge of investment policy—helps to ensure that any agreement is closely linked to the development goals of governments in facilitating FDI. It would strengthen the interaction between Geneva delegates and capital-based experts. It could furthermore foster dialogue and cooperation among domestic stakeholders, as experts prepare themselves for Geneva, and it is also critical for implementation.
- Bringing representatives of IPAs into the negotiations helps to ensure that ground-level practical experience is taken into account, resulting in text that is more realistic and can be implemented. It would also create a stronger sense of ownership, which is important for the implementation of an eventual agreement.

- Most developing countries (especially in Africa) simply do not have the resources to bring technical expertise from their capitals to the negotiating table in Geneva. They need support.

Hence, a trust fund should be established to facilitate the full participation of developing countries in the negotiations of an Investment Facilitation Framework for Development.

Such a trust fund could be used to pay for the travel expenses of developing country experts from capitals to participate in the negotiations in Geneva once negotiations resume. The trust fund could be administered by the WTO Secretariat¹ or the International Trade Centre (ITC—a joint center of the WTO and UNCTAD); ITC is already implementing a project on “Investment Facilitation for Development” in support of developing countries,² and could conceivably expand its work in the direction suggested.

There is a precedent for such support of WTO negotiations. When the Organization negotiated the Trade Facilitation Agreement, a number of members provided funding to the WTO Secretariat to help capital-based developing country experts, especially from least developed countries, to participate in those negotiations. Donors included a number of European countries, as well as Canada and Japan. The sums involved were relatively small—amounting only to a few million Swiss francs—but they were crucial in ensuring adequate participation and input by developing countries. The support was particularly important when text-based negotiations began during the second half of 2009, and it continued until the very end of the negotiations, at the Bali WTO ministerial meeting in December 2013.

This approach could be pursued also in relation to the investment-facilitation negotiations. These negotiations are important because:

- FDI can contribute significantly to development. In fact, FDI flows may well decrease by half in 2020 compared to 2019 on account of the current crisis, and this makes a successful outcome of the negotiations even more urgent, especially for developing countries.
- Reaching the Sustainable Development Goals requires substantial additional resources. Investment facilitation can help achieve the Goals, especially when it is geared specifically to increasing the developmental impact of FDI. This consideration is all the more relevant in the immediate future, as countries will likely place more emphasis on the quantity rather than the quality of FDI they seek to attract.

Hence, it is important that an Investment Facilitation Framework for Development be negotiated on the basis of substantive input by as many countries as possible, to sustain investment globally and to ensure that it benefits development as much as possible.

In a broader context, a successful outcome of the negotiations would send an important message in the face of growing FDI protectionism. It would also signal that, in spite of the turbulence in which the WTO and the global economy find themselves at the moment, the WTO can agree and deliver on matters of importance to members, including investment facilitation for development.

A trust fund to assist developing countries fully to participate in the negotiations of a well-conceived Investment Facilitation Framework for Development should therefore be established now.

*** The *Columbia FDI Perspectives* are a forum for public debate. The views expressed by the author(s) do not reflect the opinions of CCSI or Columbia University or our partners and supporters. *Columbia FDI Perspectives* (ISSN 2158-3579) is a peer-reviewed series.**

****** Karl P. Sauvant (karlsauvant@gmail.com) is Resident Senior Fellow, Columbia Center on Sustainable Investment, a joint center of Columbia Law School and the Earth Institute, Columbia University. The author is grateful to Nora Neufeld for her helpful comments on an earlier draft of this text, and to Axel Berger, Khalil Hamdani and Matthew Stephenson for their helpful peer reviews.

¹ It may be difficult for the WTO Secretariat to administer such a trust fund as not all members have signed up to the negotiations, though the number of supporters is increasing and is now higher than 100.

² As part of this project, the views of international investors, as well as those of other stakeholders, are also elicited through various events (some of which are co-organized with the World Economic Forum) and brought to the attention of negotiators.

The material in this Perspective may be reprinted if accompanied by the following acknowledgment: “Karl P. Sauvant, ‘Enabling the full participation of developing countries in negotiating an Investment Facilitation Framework for Development,’ Columbia FDI Perspectives, April 6, 2020. Reprinted with permission from the Columbia Center on Sustainable Investment (www.ccsi.columbia.edu).” A copy should kindly be sent to the Columbia Center on Sustainable Investment at ccsi@law.columbia.edu.

For further information, including information regarding submission to the *Perspectives*, please contact: Columbia Center on Sustainable Investment, Alexa Busser, alexa.busser@columbia.edu.

The Columbia Center on Sustainable Investment (CCSI), a joint center of Columbia Law School and the Earth Institute at Columbia University, is a leading applied research center and forum dedicated to the study, practice and discussion of sustainable international investment. Our mission is to develop and disseminate practical approaches and solutions, as well as to analyze topical policy-oriented issues, in order to maximize the impact of international investment for sustainable development. The Center undertakes its mission through interdisciplinary research, advisory projects, multi-stakeholder dialogue, educational programs, and the development of resources and tools. For more information, visit us at <http://www.ccsi.columbia.edu>.

Most recent *Columbia FDI Perspectives*

- No. 274, Marta Soprana, ‘Outward FDI and a global compact on home-country investment incentives,’ March 23, 2020
- No. 273, Ricardo Figueiredo de Oliveira, ‘The useful institution of an investment ombudsperson,’ March 9, 2020
- No. 272, Wolfgang Alschner, ‘Squaring bilateralism with multilateralism: What investment law reformers can learn from the international tax regime,’ February 24, 2020
- No. 271, Julien Chaisse, ‘The Regional Comprehensive Economic Partnership’s investment chapter: One step forward, two steps back?’, February 10, 2020.
- No. 270, Paulo Cavallo, ‘Learning from Brazil’s bilateral investment treaties,’ January 27, 2020

All previous *FDI Perspectives* are available at <http://ccsi.columbia.edu/publications/columbia-fdi-perspectives/>.