SRC TRADE QUICK GUIDE #4

Investment Facilitation vs. Investment Promotion

Investment Facilitation

Investment Facilitation has become a buzz term in international policy circles in recent years. Work on this topic is being undertaken in a number of international fora, such as the United Nations Conference on Trade and Development (UNCTAD), the Group of 20 (G20), the Organization for Economic Cooperation and Development (OECD) and more recently, the World Trade Organization (WTO). In the Caribbean, investment facilitation reforms are being undertaken at both the national and regional levels.

While there is no globally accepted definition of 'investment facilitation', one of the most often cited is that used by UNCTAD which has done pioneering work in this area. UNCTAD defines investment facilitation as "the set of policies and actions aimed at making it easier for investors to establish or expand their investments as well as to conduct their day-to-day business in host countries" (UNCTAD 2017). In other words, investment facilitation reforms aim to create a more transparent, facilitative, predictable, and ultimately attractive environment for both local and foreign investors. Such reforms aim to facilitate investment not just by foreign investors, but also domestic and diaspora investors.

Investment facilitation measures recognize that simplifying and speeding up processes, promoting transparency of government information and processes and cutting unnecessary bureaucratic red-tape will be vital for expanding global investment flows for promoting development and an inclusive post-COVID-19 economic recovery. Ultimately, the aim of investment facilitation is not to simply attract just any type of investment, but investment which is conducive to the sustainable development of the host country.

UNCTAD provides a Global Action Menu for Investment Facilitation with 10 action lines containing investment facilitation reform options for countries to consider to meet their policy needs.

Novak (2017) categorises national investment facilitation measures into (3) types: tools, policies and processes.

- Tools e.g. investment single windows and one-stop shops
- Policies e.g. a transparent and predictable legal framework governing investment
- Processes e.g. inter-agency coordination

Investment agreements, particularly older generation bilateral investment treaties (BITs), traditionally focus more on protections for the investor and their investments from arbitrary host State action, with less emphasis on investment facilitation or promotion measures. In 2015, Brazil shifted away from negotiating the standard-type BITs towards Cooperation and Investment Facilitation Agreements (CIFAs) with the inclusion of commitments between parties to facilitate investment flows between them through, for example, the creation of designated focal points and information exchanges. Brazil has been particularly active in the WTO's Investment Facilitation for Sustainable Development negotiations.

Investment Promotion

Investment facilitation is often contrasted with the related, but different activity of investment promotion. The term 'investment promotion' broadly speaks to the promotion activities undertaken by governments through, for instance, their investment promotion agencies, to promote their economy as an attractive investment destination (UNCTAD 2018).

Investment promotion activities are usually within the domain of a dedicated investment promotion agency whose functions may include, but are not limited to, investor targeting, aftercare services, granting incentives, foreign investment registration and licensing.

IPAs are present in all CARICOM countries and generally have the same core functions. The Caribbean Investment Promotion Agency (CAIPA) is an umbrella association of IPAs across the Caribbean, including some non-CARICOM countries and territories.

Why is Investment Facilitation important now?

Stepping up investment facilitation reforms can assist developing countries in their efforts to mobilise financing for their achievement of the United Nations (UN) Agenda 2030, including its 17 Sustainable Development Goals and their 169 targets (Sauvant & Gabor 2019).

According to the UN,

> At today's level of both public and private investment in SDG-related sectors, developing countries face an average annual funding gap of USD 2.5 trillion" and "between USD 3.3-4.5 trillion per year needs to be mobilized if the 2030 Agenda for Sustainable Development is to be achieved.

It is likely this gap will be even wider considering the significant macroeconomic impact caused by the COVID-19 pandemic, which has reset many countries' development clocks.

This is particularly important for Caribbean countries, especially tourism-dependent economies, which have been among the most severely impacted by the COVID-19 pandemic. High debt burdens, limited scope for affordable or concessional financing and shrinking public revenues due to rising unemployment and informality mean Caribbean countries must increase private capital inflows, such as remittances and domestic and foreign direct investment, for funding development projects. One way in which they can do this is to step up their investment reforms at the national and regional levels. Improving the ease of doing business in their countries will be imperative as no Caribbean country currently ranks within the top 50 economies of the World Bank's Doing Business Index.

National & Regional Investment Facilitation Initiatives

Caribbean countries have been implementing reforms to facilitate investment both at the national and regional levels, although the pace and extent of the reforms have varied by country. In many cases, these reforms have had the technical support and assistance of international agencies and funding by international development partners.

Below are a few examples of investment facilitation initiatives being undertaken by Caribbean countries at the national and regional levels.

NATIONAL LEVEL

- Digitisation of paper-based government processes e.g. Barbados is currently digitizing the processes of several of its government departments under a 4-year IDB funded programme. Jamaica's Application Management and Data Automation (AMANDA) system is another example.
- Simplification and greater transparency of investment policies and laws e.g. Jamaica is working on a National Investment Policy.
- Several Caribbean countries have received assistance to create iGuides, which are one-stop guides for investors on doing business in that particular jurisdiction. iGuides currently exist for Antigua & Barbuda, Jamaica, Curacao, St. Lucia, Barbados and St. Vincent & the Grenadines.
- One-stop shops and single windows e.g. Trinidad & Tobago Single Window (TTBizLink) and Jamaica National Business Window.
- Diaspora outreach e.g: announcement of a Diaspora Affairs Officer for the Barbados High Commission to the United Kingdom, skills-mapping initiatives eg: Barbados, Suriname, Haiti, Guyana.

REGIONAL LEVEL

- CAIPA has partnered with The Commonwealth Secretariat to assist countries with training in their investment attraction efforts.
- The CARICOM Draft Investment Code and Draft Template for Investment Chapters in External Trade Agreements currently being under discussion include extensive investment facilitation provisions.
- Though not yet in force, the Cooperation and Investment Facilitation Agreements signed by Suriname and Guyana with Brazil contain more comprehensive investment facilitation provisions than typically found in traditional BITs.

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The WTO Joint Statement Initiative Negotiations on Investment Facilitation

Rules on investment are largely absent from the WTO's legal architecture. The exceptions are the General Agreement on Trade in Services (GATS) where commercial presence is one of the four stated modes of supply of a service, and under the Agreement on Trade-Related Investment Measures (TRIMS) which prohibits trade-related investment measures inconsistent with the GATT 1994. Investment was one of the so-called 'Singapore issues' – four issues which were introduced to the WTO's agenda at the First WTO Ministerial Conference (MC1) in Singapore in 1996 but later removed from the WTO's agenda due to lack of consensus among Members on the way forward.

The Joint Ministerial Statement on Investment Facilitation for Development, signed initially by 70 WTO Member States, was launched at the WTO's 11th Ministerial Conference (MC 11) held in Buenos Aires, Argentina in December 2017. This was followed by a second Joint Statement on Investment Facilitation for Development issued on November 22, 2019. Member states will be negotiating the investment equivalent of the Trade Facilitation Agreement (TFA).

The coordinator of the structured discussions is Mathias Francke, Ambassador-designate of Chile. Presently, four CARICOM Member States are participating in the negotiations: Barbados, Dominica, Grenada and Suriname.

Since March 2018, JSI participants have conducted regular structured discussions. They shifted to the negotiations phase in September 2020. A Streamlined Text and Members' proposals circulated by the Coordinator are being used as the starting point for the negotiations. The proposed agreement will apply to measures adopted or maintained by Members for facilitating FDI in both services and non-services sectors across the whole investment life-cycle.

However, three main things should be noted. First, the initiative is concerned only with FDI as opposed to portfolio investment. Second, its scope excludes government procurement, public concessions and conditions, and market access/right to establish. Third, investment protection rules and Investor-State Dispute Settlement (ISDS) are expressly excluded.

The aim is to have a substantial outcome by the time the upcoming 13th WTO Ministerial Conference is held in Geneva, Switzerland later this year.

This SRC Trade Quick Guide provides a brief overview of investment facilitation and investment promotion. This Quick Guide should not be seen as a holistic analysis of these two concepts, but rather an overview that can be used to gain initial insight.

References

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