

**The Joint Initiative on Investment Facilitation: Developments from 2020 and the Road Ahead to MC12**

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## 1. Introduction

The structured discussions on investment facilitation date back to January 2018, kicking off just weeks after a group of 70 World Trade Organization (WTO) Members signed a joint statement confirming their intent to hold structured discussions that would “identify and develop the elements of a framework for facilitating foreign direct investments.” (WTO, 2017, December) This statement, released on the sidelines of the WTO’s Eleventh Ministerial Conference in Buenos Aires, Argentina, in December 2017, confirmed that the group would design this framework around the following objectives: “improve the transparency and predictability of investment measures; streamline and speed up administrative procedures and requirements; and enhance international cooperation, information sharing, the exchange of best practices, and relations with relevant stakeholders, including dispute prevention.”

According to the 2017 statement, the framework is meant to enshrine governments’ right “to regulate in order to meet their policy objectives” and be “flexible, adaptable, and responsive” over time, while excluding from its scope the areas of market access, investment protection, and investor-state dispute settlement. The statement further acknowledges that the discussions “shall also seek to clarify the framework’s relationship and interaction” with existing WTO provisions and “with current investment commitments among Members” (WTO, 2017, December)

The first year of structured discussions saw participating WTO Members develop a “checklist” of issues that could fall under the different objectives named in the Buenos Aires statement. This work took place over most of 2018, after which Members sought to compile a selection of “text-based examples” from the WTO Agreements, international investment agreements, regional trade agreements, domestic laws, and other policy instruments that related to the issues named in the checklist. This exercise led to the crafting of a “working document” in 2019 that would help clarify what the elements of this framework could look like, which in turn was followed by the development of a “streamlined text” that was circulated in January 2020. Both texts were prepared by the chair of these discussions, under his own responsibility. Throughout the rest of 2020, as will be described in this brief, negotiators have worked from successive “informal consolidated texts,” along with separate “Revised Draft Texts,” both circulated by the group’s coordinator under his responsibility for discussion.

As of September 2020, participating Members are now in negotiating mode, with the WTO’s Twelfth Ministerial Conference (MC12) in November/December 2021 slated to be a significant milestone in the process. In the interim, participating Members are now focusing their attention on an expected “Easter Text,” which the group’s coordinator plans to circulate in April 2021 and which will replace the existing “Informal Consolidated Text” that has served as one of the primary bases for discussion, while bringing together the separate “Revised Draft Texts” also under review. Future drafting through the second quarter of 2021 will be based on this Easter document, according to a coordinator’s summary of the January 2021 meeting, and is likely to give a clearer sense of what a final negotiated text may entail. (INF/IFD/R/20)

This stocktaking brief provides an update on the structured discussions and subsequent negotiations, focusing on those developments that have taken place since the release of the

streamlined text in early 2020, as indicated above.<sup>1</sup> Along with the procedural steps and transitions undertaken over the past year, we also refer to the wider context of COVID-19 and what the pandemic has meant for investment flows and governance processes. Lastly, we provide an overview of the latest available version of the investment facilitation texts, including the Informal Consolidated Text and Revised Draft Text, as of February 2021, and outline where the talks are expected to go next.

## **2. COVID-19: Impacts on FDI Flows and Investment Governance Processes**

The COVID-19 pandemic has had a harsh impact on the global economy, including major drops in foreign direct investment (FDI) flows. Also notable has been the increase in investment regulations or restrictions at the national level over the past year. According to figures published by the United Nations Conference on Trade and Development (UNCTAD), approximately 43 percent of new investment policy measures over the year 2020 involved regulations or restrictions, many of them pandemic-related. (UNCTAD, 2021, February). This phenomenon was attributed to governments' efforts at ensuring that foreign investors do not take advantage of the crisis situation and undertake "hostile foreign takeovers" of domestic businesses, such as through business acquisitions in sensitive or strategic sectors. For example, the European Union pushed to make its existing system for screening foreign investments coming into the bloc fully operational in 2020. This move formalized the cooperation and coordination among member states and the Commission, given that many member states undertake national-level screening, with the bloc stressing the importance of screening foreign investments that could have adverse implications on the EU's ability to serve its public health needs and protect national security (European Commission, 2020).

Meanwhile, the significant decreases in FDI flows hit developing countries the hardest, though no world region was spared. UNCTAD figures showed that the types of FDI flows implicated ran the gamut from mergers and acquisitions to "greenfield" investment projects, namely the launching of subsidiaries overseas from start to finish. (UNCTAD, 2021, January) These numbers give an aggregate sense of COVID-19's implications, and early analysis is also indicating which sectors and countries are set to face the greater FDI losses. A separate report from UNCTAD notes, for instance, that least developed countries (LDCs) have seen massive drops in incoming FDI to their natural resources sectors, as well as tourism, due to COVID-19, shrinking a key source of development finance while affecting related efforts to draw in new technologies (UNCTAD, 2020) What this means for women, including micro, small, and medium-sized enterprises, especially those led or owned by women, is the subject of limited research to date. However, given the affected sectors and the prevalence of women in many of them, UNCTAD analysis suggests that the pandemic will exacerbate many of the disadvantages that women already face. (UNCTAD, 2020)

In addition to its wide-ranging impacts on FDI flows and national policy, the pandemic was also felt in the realm of international investment and trade governance. The first wave of infections led to many negotiating meetings or discussion sessions being cancelled or postponed, in some cases

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<sup>1</sup> For an in-depth overview of the structured discussions from 2018 and 2019, see Baliño, S., Brauch, M.D., and Jose, R. (2020, January). *Investment Facilitation: History and the latest developments in the structured discussions*. <https://www.iisd.org/publications/investment-facilitation-history-and-latest-developments-structured-discussions>

indefinitely. Among the processes affected were the structured discussions on investment facilitation, which initially foresaw a transition to negotiating mode in March 2020, ahead of the planned June 2020 date for the WTO's Twelfth Ministerial Conference in Kazakhstan. Instead, the structured discussions were put on hold from March until June, after which informal meetings were held over June and July. The discussions resumed fully in September and transitioned to negotiating mode then. These meetings were held in virtual or hybrid mode, posing new and unfamiliar challenges to negotiators.

### **3. From Structured Discussions to Negotiating Mode**

In early 2020, the number of signatories to the investment facilitation joint initiative had risen to 100 members. Since then, more WTO Members have signed onto the initiative, bringing the total number of signatories to 106 as of February 15, 2021.

As mentioned previously, the “structured discussions” have led to the development of various documents. These include:

- a) a compendium of text-based examples, which contains investment facilitation elements that could be included in a potential framework (INF/IFD/RD/5/Rev.3);
- b) a Working Document, which builds on the compendium and focuses on areas of convergence emerging from those discussions (INF/IFD/RD/39);
- c) a “Streamlined Text”, which is based on the Working Document and aims “to help Members further develop the elements and specific provisions” of an investment facilitation framework (INF/IFD/RD/45);
- d) an “Informal Consolidated Text”, circulated to Members at the end of April 2020 and prepared on the basis of the "Streamlined Text" and Members' proposals (INF/IFD/RD/50/Rev.9), and;
- e) the Revised Draft Text, which contains revised draft text consolidating proposals put forward by the Coordinator under his responsibility.<sup>2</sup>

In February 2020, the streamlined text was introduced by the coordinator at an organizational meeting. According to the coordinator's summary of discussions, participants agreed that negotiations would proceed using this text, along with further proposals, with the understanding at the time being that negotiations would kick off in March 2020 (INF/IFD/R/11). The text maintained the structure of the working document developed in 2019, consisting of a preamble and the following seven sections: I. Scope and General Principles; II. Transparency of Investment Measures; III. Streamlining and Speeding Up Administrative Procedures and Requirements; IV. Contact Point / Focal Point/ Ombudsperson Types of Mechanism, Arrangements to Enhance Domestic Coordination and Cross-border Cooperation on Investment Facilitation; V. Special and Differential Treatment for Developing and Least-developed Country Members; VI. Cross-cutting Issues; VII. Institutional Arrangements and Final Provisions.

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<sup>2</sup> Restricted document without reference number. The most recent version of the “Revised Chair Text” is dated February 25, 2021. Previous versions of this document were sent to Members in the last quarter of 2020 and in January 2021.

At the same meeting, participants adopted a schedule of meetings which initially foresaw regular meetings at least on a monthly basis from March through May (INF/IFD/W/15/Rev.1). These meetings were later cancelled after the city of Geneva was put into a semi-lockdown in March due to COVID-19's first wave of infections. This also meant the postponement of the launch of negotiations. In June, informal meetings resumed through virtual means, with sessions held on June 5, June 24, July 10, and July 24 (INF/IFD/W/18/Rev.1). The informal character of the meeting was stressed by the group's coordinator, who noted that these sessions would not involve taking any decisions, and that efforts would continue to find an appropriate, secure virtual platform for engagement.

One of the developments that emerged from the early months of 2020 was the transition from using the "streamlined text", to the use of informal consolidated texts from April 2020 onward. These latter documents used the January 2020 streamlined text as their base and incorporated proposals that different delegations had submitted since then, with new sections added in square brackets.<sup>3</sup> The informal consolidated text (INF/IFD/RD/50/Rev.8) is organized as follows:

<b>INFORMAL CONSOLIDATED TEXT, circulated February 4, 2021 (INF/IFD/RD/50/Rev.8)</b>	
<b>Preamble</b>	
<b>Section I. Scope and General Principles</b>	Article 1. Scope
	Article 2. Most-Favoured Nation Treatment
<b>Section II. Transparency of Investment Measures</b>	Article 3. Publication and availability of measures and information [including by electronic means]
	Article 4. Notification to the WTO
	Article 5. Enquiry points
	Article 6. Specific exceptions applicable to transparency requirements
<b>Section III. Streamlining and Speeding Up Administrative Procedures and Requirements</b>	Article 7. Reasonable, objective, and impartial administration of measures
	Article 8. Reduction and simplification of administrative procedures and documentation requirements
	Article 9. Clear criteria for administrative procedures
	Article 10. Authorization procedures
	[Article 10 <i>Bis</i> . Risk management techniques and "silence is consent" principle]
	Article 11. Treatment of incomplete and rejection of applications
	Article 12. Fees and charges
	[Article 12 <i>Bis</i> . Fees and charges-Financial services]
	Article 13. Periodic review of administrative procedures and requirements

<sup>3</sup> At the time of writing in late February 2021, Members were considering the document's eighth revision (INF/IFD/RD/50/Rev.8). An updated version, Rev. 9, was circulated on March 2. The final version of this brief will incorporate this new development in further detail.

	Article 14. Use of ICT/e-government including electronic applications
	Article 15. One-stop shop/single window-types of mechanisms
	[Article 15. Single portal]
	Article 16. Independence of competent authorities
	Article 17. Appeal and review
<b>[Section III <i>BIS</i>. Facilitation of the entry and temporary stay of business persons for investment purposes]</b>	
<b>[Section III <i>BIS</i>. Facilitation of movement of natural persons for investment purposes]</b>	
<b>[Section III <i>TER</i>. Transfers and Subrogation]</b>	[Transfers]
	[Subrogation]
<b>[Section III <i>QUATER</i>. Compliance with domestic laws and international obligations]</b>	
<b>Section IV. Contact/Focal Point/Ombudsperson Types of Mechanisms, Arrangements to Enhance Domestic Coordination to Enhance Domestic Coordination and Cross-Border Cooperation on Investment Facilitation (sic)</b>	Article 18. Contact / Focal Point/ Ombudsperson Types of Mechanism
	[Article 18. Investment Facilitator]
	[Business Obstacle Alert Mechanism]
	Article 19. Domestic Regulatory Coherence
	[Article 20. Domestic Supplier Databases]
	Article 20. Cross-border cooperation on investment facilitation
	[Article 21. Cross-border cooperation on investment facilitation for development]
<b>Section V. Special and Differential Treatment for Developing and Least-Developed Country Members</b>	Article 21. General Principles
	Article 22. Implementation
	Article 23. Notification of Dates for Implementation of Categories B and C
	Article 24. Grace Period for the Application of the Understanding on Rules and Procedures Governing the Settlement of Disputes
	Article 25. Technical Assistance and Capacity Building
	[Article 25. Technical Assistance and Capacity Building on Investment Facilitation for Development]
	Article 25.1. Cooperation with other international organizations
<b>Section VI. Cross-cutting Issues</b>	[7. Maintenance of public health, labour, environmental and safety standards]
	Article 26. Corporate Social Responsibility
	[Article 26. Responsible Business Conduct]

	[10. Social and Environmental Responsibility]
	Article 27. Measures against Corruption
	[Article 27. Measures against Corruption
	27.1. Scope
	27.2. Measures to combat corruption
	27.3. Promoting Integrity among Public Officials
	27.4. Application and Enforcement of Anticorruption Laws
	27.5. Participation of Private Sector and Society]
	[9. Combating Corruption, Money Laundering and Financing of Terrorism]
<b>Section VII. Institutional Arrangements and Final Provisions</b>	Article 28. WTO Committee on Investment Facilitation
	Article 29. General Exceptions
	Article 30. Security Exceptions
	Article 30. [BIS Financial Exceptions]
	Article 31. Dispute Settlement
	Article 32. Final Provisions

**Work conducted between June and December 2020**

June informal meeting

The following paragraphs provide a non-exhaustive summary of the discussions held from June to December 2020. Each informal meeting featured the introduction of new proposals from members, along with a “thematic discussion” on particular issues that had emerged from language in those proposals. All of the communications circulated by WTO Members from February 27, 2020, to February 9, 2021, are listed in Annex 1 of this paper.

For example, the thematic discussion at the June 5 informal meeting was devoted primarily to the transparency of investment measures and covered four proposals overall. This discussion explored in depth proposed language raised in two proposals on the publication and availability of measures and information, out of four proposals that had been circulated in advance of the meeting. Those two proposals are examples of how some Members are looking to draw from the language used in provisions under other WTO agreements or ongoing negotiations, such as in the Trade Facilitation Agreement, the services domestic regulation joint initiative, or regional trade agreements. For example, the group discussed lessons learned from the experiences of MSMEs on information access, including how some regional trade agreements have handled the issue (INF/IFD/R/12).

Outside of the issues raised in the thematic discussions, the four proposals discussed in the meeting also covered, in their respective ways, questions of the framework’s scope, definitions, and exceptions. For instance, one issue raised was whether the framework would apply to an entire investment lifecycle and if all sectors would be included, along with whether to include a provision stating the framework’s “objective” so that the text’s provisions are “anchored” around that. Some delegations have put forward language to clarify that the framework not “confer rights” involving market access or the right to establish. Certain proposals also covered transparency, good governance, and procedural issues around the temporary entry and stay of business persons; transfers and subrogation; security and financial exceptions; whether to limit special and

differential treatment “only to those developing and LDC Members in real need of it, and to the extent necessary.” Another point raised by delegations was how this framework will relate to existing obligations under the GATS and any future commitments under the services domestic regulation negotiations, since it is likely that the framework would cover both services and non-services sectors, creating significant overlap of disciplines. (INF/IFD/R/12)

The June 24 meeting saw thematic discussions continue, and also saw the introduction of a proposal that considered how this new framework would interact with the international investment agreements (IIA) regime. This relationship has been the subject of in-depth analysis in recent months, given the lessons learned from investor-state jurisprudence on how the commitments governments have made outside IIAs can be “imported” in various ways into the IIA and be adjudicated by an investor-state tribunal (Bernasconi, N., Leal Campos, S., and van der Ven, C., 2020). According to the coordinator’s summary of that meeting, this proposal sparked in-depth discussions among participating Members. (INF/IFD/R/13)

The thematic discussion revisited the subject of transparency of investment measures, looking at some other proposed language from Members regarding notifications to the WTO – namely whether to apply notification requirements under the framework to new laws, not just revisions to those already in place. Another provision that sparked discussion was setting up “enquiry points,” potentially similar to what is already described in the GATS, which can engage with information requests coming from authorities in other WTO Members. (WTO, n.d.) Among the points raised was the need to clarify how these enquiry points would operate against other aspects under consideration in the framework – namely, setting up a WTO Committee on Investment Facilitation and establishing “contact/focal points” domestically – and how these would each serve different needs and relationships. Another proposed provision that was raised, namely that of designating “specific exceptions applicable to transparency measures,” considered how to ensure that language on disclosure of confidential information is the same as what is in the GATS.

The thematic discussion also addressed various elements under “streamlining and speeding up administrative procedures and requirements,” which is one of the core sections of the framework. The elements covered included “consistent, reasonable, objective, and impartial administration of measures”; “reduction and simplification of administrative procedures and documentation requirements”; “clear criteria for administrative procedures”; “authorization procedures”; and “treatment of incomplete and rejection of applications.” Recurring throughout the discussions on different elements are members’ interventions on how to ensure these provisions are coherent and consistent with existing obligations from the GATS, or draw from them. Members referred often to the negotiations on services domestic regulation as an area to watch, either to replicate some of its proposed language in the investment facilitation framework, or to ensure that whatever is negotiated under the framework aligns with what is in the services domestic regulation reference paper. (INF/IFD/R/13) There are 63 participants in the negotiations on services domestic regulation, with 57 of these participants having submitted draft schedules as of early February 2021. There is some overlap in terms of which WTO Members are involved in both initiatives, but there are also several that are involved in only one. (WTO, 2021, February 4)

## July informal meetings

The July 10 informal meeting involved a thematic discussion on a different section of the framework, namely on “streamlining and speeding-up administrative procedures and requirements.” Under this section, proposals were submitted covering authorization fees; the “periodic review of relevant measures of general application”; the use of electronic payments, applications, and other technological approaches; and a “single portal” for receiving and circulating “relevant information” on investment procedures. Other proposals under this section addressed the “independence of competent authorities” relative to any company seeking approval to undertake a particular investment activity, as well as the use of an “appeal and review” mechanism and what this would mean in practice. (INF/IFD/R/14)

The above-mentioned proposal that described a “single portal” also put forward the idea of a “national investment facilitator” that would have the functions of an enquiry point and national focal point, while also including language on technical assistance, capacity building, and the use of new “domestic supplier databases,” according to the coordinator’s summary. (INF/IFD/R/14)

There was also a short thematic discussion on “temporary entry for investment persons/facilitation of movement of business persons for investment persons,” based on one of two new proposals listed under this section. In the case of one proposal, which also looks into the need for work permits for these business persons, the submission clarifies that it would be up to governments who to allow into their territory – and that this language must be read against a related proposal stressing there are no market access or establishment rights granted by the investment facilitation framework. (INF/IFD/R/14)

The July 24 informal meeting, while covering the second proposal submitted under “temporary entry for investment persons/facilitation of business persons for investment persons” and revisiting the earlier discussion on some of the details around authorization fees, also delved into the section on “transfers and subrogations.” The former refers to the transfer of “investment-related capital flows,” while the latter term refers to “risk insurance,” and the coordinator’s report indicates that several members had concerns over including proposed language on either topic, with requests for further detail on what this would entail for the framework’s scope and objectives. (INF/IFD/R/15)

Indeed, the issue of scope and objectives, along with what to include in the framework’s preamble, were the other main areas under discussion at that session. Participating members mulled whether the current formulations are overly broad or sufficiently clear, whether to specify that the framework covers only FDI, how to address the various stages of the investment life cycle in the text, and whether and how to include definitions on terms such as “investment” and “investor.” Also at issue was whether to include a most-favoured nation clause and how to address sectors that participating Members may wish to exclude from the framework’s coverage, both items that are expected to generate further discussion. (INF/IFD/R/15)

## September: Launch of negotiations in hybrid format

The transition to negotiating mode in September 2020 meant a conclusion in the “informal thematic discussion” approach that was a regular feature of the earlier meetings. While informal

discussions were not for taking any decisions, but for understanding, consolidating, and clarifying proposals, the switch to negotiating mode means that the give-and-take is now beginning among participating members over the final shape and content of the framework and its provisions. Given the pandemic restrictions in Geneva, negotiations were held in a hybrid format initially. They later reverted to virtual mode due to the second wave of COVID infections in Switzerland.

The September session looked at the sections on “contact/focal point/ombudsperson types of mechanisms, arrangements to enhance domestic coordination and cross-border cooperation on investment facilitation,” special and differential treatment, cross-cutting issues, and institutional and final provisions. For the first of these sections, new proposals included the above-mentioned national investment facilitator and what this role would entail, how to address investor enquiries, the inclusion of hortatory language for a provision on the “impact assessment of major regulatory measures,” a contact point to enable cross-border cooperation on investment facilitation, and the previously described “domestic supplier database” as a resource for foreign investors. (INF/IFD/R/16)

On special and differential treatment, the proposals raised there led to a discussion over how extensive the scope should be when it comes to technical assistance and capacity-building support. Several proposals were raised under the “cross-cutting issues” section on corporate social responsibility/responsible business conduct and corruption, drawing from or referring to international instruments and, in the case of one corruption proposal, the Comprehensive and Progressive Agreement on Trans-Pacific Partnership. Another proposal raised ahead of that meeting that does not fall into the above categories are a submission on preambular language, scope, definitions, and corporate social responsibility (INF/IFD/R/16).

#### October – December 2020: Continuation of formal negotiations and development of Revised Draft Text

Throughout the last quarter of 2020, there were four negotiating meetings of two days each. These were scheduled as hybrid meetings, i.e., partially in-person, with a virtual add-on. After the September 24-25 meetings, subsequent sessions were held on October 8 and 9, November 9 and 10, and December 7 and 8. (INF/IFD/W/24/Rev.3) Throughout these meetings, new proposals were raised on both overarching issues, such as scope and objectives, and more specific thematic issues and the various elements of the framework.

After each meeting, the coordinator also put together “revised draft text” specific to those issues covered in each session where there may be “collective interest and convergence,” also “consolidating text proposals, eliminating redundancies and streamlining the current text of the provisions addressed so far” (INF/IFD/R/18, INF/IFD/R/17). Meanwhile, new proposals would continue to be added to the informal consolidated text. Another notable shift after negotiations began were the start of intersessional meetings devoted to specific issues – such as crafting “firewall” language to insulate the investment facilitation framework from the IIA regime. Another topic that would be treated further in intersessional meetings were the proposals around corruption-focused language, along with corporate social responsibility/responsible business conduct (INF/IFD/R/18). Before year’s end, the coordinator circulated a table that set out his understanding

of where negotiations stood to date, outlining where provisions are approaching convergence and where they are not (INF/IFD/R/19).

### **2021 Roadmap, creation of small groups, and preparations for “the Easter text”**

The work undertaken during the second half of 2020 has seen the informal consolidated text go through several revisions, with the latest iteration as of February 23, 2021, being INF/IFD/RD/50/Rev.8. Similarly, the “Revised Draft Text” has also evolved substantially over the past six months. Both documents are restricted to the public. The subsequent section of this brief will examine the Rev.8 document in further detail, together with separate “revised draft text” that the coordinator has prepared, based on copies of these documents seen by the authors.

At the first round of meetings in 2021, held on January 25-26, participating members agreed on a “roadmap” aimed at delivering a “substantive outcome” by MC12. This includes mid-term objectives for the first half of the year, in particular, a streamlined text around Easter time (the “Easter text,” as noted in the introductory paragraph), which, later in the year should “become the main drafting basis for the future agreement.” (WTO, 2021, January 26)

The Easter text will compile the revised draft inputs presented by the coordinator in previous rounds (the Revised Draft Text) as well as proposals put forward by members. According to a summary of the discussions, in

the relevant sections and subsections covered by the 'Easter Text', the latter would replace the 'Informal Consolidated Text', and the relevant proposals by Members would be included in an Annex. In sections and subsections where the Coordinator had not presented 'Revised Draft Text', the Informal Consolidated Text, together with the proposals submitted by participating Members, would remain unchanged.(INF/IFD/R/20)

Subsequently, that Easter text would be further developed based on the discussions and the work conducted in small groups of members, such as the one conducted by the “Discussion group on scope and firewall.” This work would take place through July 2021, with the Easter text expected to become the main draft negotiating document. To reach that objective, participants adopted a proposed schedule of meetings for the first half of the year (INF/IFD/W/29). This includes two-day negotiating meetings on a monthly basis, with the possibility of conducting one-day intersessional meetings “as appropriate.”

In addition to agreeing on a roadmap, participants discussed the “Revised Draft Text” by the coordinator, the “Informal Consolidated Text,” and new proposals from members.

On February 9, participating members held an intersessional meeting to continue discussions and hear the report from the small group working on scope and firewall.

While the institutional and final provisions of the investment facilitation framework are pending negotiation, a question that has been raised by some non-participating WTO Members is whether and how the joint statement initiatives will eventually be dealt with in the WTO architecture. This was the subject of a recent joint submission from India and South Africa ahead of the March 2021 session of the General Council. (WT/GC/W/819).

## Informal Consolidated Text and Revised Draft Text

As indicated above, the Informal Consolidated Text is regularly updated to include draft proposals submitted by Members. Some of its sections have been further streamlined in the Revised Draft Text, which is a separate document. However, these texts need to be read in conjunction with one another.

In the case of the Revised Draft Text, the current version reflects the results of where negotiations have evolved in particular sections and provisions, meaning that while some of the issues also treated in the Informal Consolidated Text are elaborated further in this newer document, many are not. This is expected to change as negotiations continue.

It is also worth noting that the numbering of sections and provisions in the Revised Draft Text differs, in some cases, for how the same sections and provision headings are numbered in the Informal Consolidated Text.

At the time of writing, the Revised Draft Text<sup>4</sup> contains streamlined text concerning provisions in the following sections. The headings and subheadings are reproduced below, including brackets, strikethroughs, and current numbering:

<b>REVISED DRAFT TEXT circulated to WTO members on February 25, 2021</b>	
<b>SECTION I: SCOPE AND GENERAL PRINCIPLES</b>	1. SCOPE
<b>SECTION II: TRANSPARENCY OF INVESTMENT MEASURES</b>	3. PUBLICATION AND AVAILABILITY OF MEASURES AND INFORMATION Publication and availability of measures and information Information to be made publicly available if an authorization is required for an investment
	Single information Portal
	<del>Use of electronic means for making measures and information publicly available</del>
	No fees imposed for access to information
	Publication in advance and opportunity to comment on proposed measures
	4. NOTIFICATION TO THE WTO
	5. [SPECIFIC EXCEPTIONS APPLICABLE TO TRANSPARENCY REQUIREMENTS]
<b>SECTION III. STREAMLINING AND SPEEDING UP ADMINISTRATIVE PROCEDURES</b>	6. REASONABLE, OBJECTIVE AND IMPARTIAL ADMINISTRATION OF MEASURES
	7. GENERAL PRINCIPLES FOR AUTHORIZATION PROCEDURES
	8. AUTHORIZATION PROCEDURES
	Application periods
	Acceptance of authenticated copies

<sup>4</sup> Document without reference number circulated to WTO members on February 25, 2021.

	Processing of applications
	Treatment of incomplete applications
	Rejection of applications
	9. MULTIPLE APPLICATIONS
	10. AUTHORIZATION FEES
	10. BIS AUTHORIZATION FEES – FINANCIAL SERVICES
	11. USE OF ICT/E-GOVERNMENT
	Submission of applications online, use of electronic forms, documents and copies
	Online payment of authorization fees
	12. INDEPENDENCE OF COMPETENT AUTHORITIES
	13. APPEAL OR REVIEW
	14. PERIODIC REVIEW
<b>SECTION IV: FOCAL POINT[S], DOMESTIC REGULATORY COHERENCE AND CROSS-BORDER COOPERATION</b>	15. FOCAL POINT[S]
	16. DOMESTIC REGULATORY COHERENCE
	17. CROSS-BORDER CO-OPERATION ON INVESTMENT FACILITATION
<b>SECTION VII: INSTITUTIONAL ARRANGEMENTS AND FINAL PROVISIONS</b>	28. WTO COMMITTEE ON INVESTMENT FACILITATION

**Next steps**

In the next meeting, scheduled for March 8-9, 2021, participants will discuss newly added text in the Revised Draft. These additions are based on text-based discussions from the most recent plenary meetings, and concern the following:

- Section II
  - Article 3, 3.7 to 3.10 (Single Information Portal), with 3.7 being connected to Article 9 (9.1) where a new sentence has been added
- Section III
  - Article 10 *bis* Authorisation Fees – Financial Services
- Section IV
  - Article 15 (Focal Points)

Participants will also hear an update from the small group working on scope and firewall provisions. While work on “Scope” remains to be further advanced, this group has been discussing provisions related to the relationship and interaction between the draft investment facilitation

framework and commitments contained in IIAs. In this context, participants have been considering proposals aimed at “insulating” the framework from provisions contained in IIAs” (INF/IFD/R/20). This topic remains of paramount importance given the extensive network of IIAs, with approximately 2,600 IIAs currently in force, as well as the potential implications that the relationship and interaction between these IIAs and the proposed framework may have for the interpretation of treaty-based investor–state dispute settlement (ISDS) claims (UNCTAD, n.d.).<sup>5</sup>

The announcement of the date and venue for the WTO’s MC12, as well as the arrival of the new WTO Director-General, Dr. Ngozi Okonjo-Iweala, will raise expectations among WTO Members concerning “outcomes” and “deliverables” as they work towards MC12. In this context, participating Members are slated to step up the pace of their work over the coming months, with the “Easter text” being the next “milestone” in this process.

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<sup>5</sup> A detailed analysis of these issues can be found in: Bernasconi, N., Leal Campos, S., and Van der Ven, C. The Proposed Multilateral Framework on Investment Facilitation: An analysis of its relationship to international trade and investment agreements. <https://www.iisd.org/publications/proposed-multilateral-framework-investment-facilitation>

**Annex 1: Communications Submitted by WTO Members to JSI on Investment Facilitation for Development from February 27, 2020-February 9, 2021**

<b>Reference Number</b>	<b>Title</b>	<b>Access (Restricted or Public)</b>	<b>Document Date</b>
INF/IFD/RD/69	WTO Structured Discussions on Investment Facilitation for development - Communication from the Republic of Korea - Revised text proposal	Restricted	February 9, 2021
INF/IFD/RD/68	WTO Structured Discussions on Investment Facilitation for Development - Communication from the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu - Revised proposal on the firewall provisions for insulating the Investment Facilitation for Development Agreement (IFD Agreement) from IIAs	Restricted	February 8, 2021
INF/IFD/RD/67	WTO structured discussions on investment facilitation for development - Communication from Canada - Revised proposal for article 27 "Measures against corruption" under section VI "Cross-cutting issues" of the informal consolidated text	Restricted	January 25, 2021
INF/IFD/RD/66	WTO Structured Discussions on Investment - Facilitation for development - Communication from the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu - Proposal on certain provisions in the informal consolidated text on investment facilitation for development	Restricted	January 20, 2021
INF/IFD/RD/65	WTO structured discussions on investment facilitation for development - Communication from China and Turkey - Joint proposal on section III bis of the informal consolidated text	Restricted	January 19, 2021

INF/IFD/RD/64	WTO structured discussions on investment facilitation for development - Proposal by Morocco	Restricted	January 12, 2021
INF/IFD/RD/63	WTO structured discussions on investment facilitation for development - Communication from Brazil - Revised proposal for element 18 "Investment facilitator" under section IV of the informal consolidated text	Restricted	December 4, 2020
INF/IFD/RD/62	WTO structured discussions on investment facilitation for development - Communication from Brazil - Revised proposal for element 20 "domestic supplier database" under section IV of the informal consolidated text	Restricted	November 26, 2020
INF/IFD/RD/61	WTO structured discussions on investment facilitation for development - Communication from the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu - Proposed firewall provisions for insulating the investment facilitation for development agreement (IFD Agreement) from international investment agreements (IIAs)	Restricted	November 20, 2020
INF/IFD/RD/60	WTO structured discussions on investment facilitation for development- Communication from Brazil - Revised proposal for element 15 "Single portal" under section III of the informal consolidated text ("Streamlining and speeding up administrative procedures and requirements")	Restricted	November 12, 2020
INF/IFD/RD/59	WTO Structured Discussions on Investment Facilitation for Development - Communication from Canada - Canada's proposal for investment facilitation for development	Restricted	November 10, 2020
INF/IFD/RD/58	WTO Structured Discussions on Investment Facilitation for Development - Proposal by Mauritius	Restricted	October 23, 2020

INF/IFD/RD/57	WTO structured discussions on investment facilitation for development - Communication from Indonesia	Restricted	October 12, 2020
INF/IFD/RD/56	WTO Structured discussions on investment facilitation for development - Communication from Dominica and Grenada - General statement on investment facilitation for development	Restricted	October 6, 2020
INF/IFD/RD/55	WTO Structured Discussions on Investment Facilitation for Development - Communication from Mexico - Mexico's proposal for investment facilitation for development	Restricted	September 24, 2020
INF/IFD/RD/54	WTO Structured Discussions on Investment Facilitation for Development - Communication from Canada - Canada's proposal for investment facilitation for development	Restricted	September 21, 2020
INF/IFD/RD/53	WTO Structured Discussions on Investment Facilitation for Development - Communication from Brazil - Proposal by Brazil for WTO disciplines and commitments relating to investment facilitation for development	Restricted	July 7, 2020
INF/IFD/RD/52	WTO Structured Discussions on Investment Facilitation for Development - Communication from the Republic of Korea - Proposal on Investment Facilitation for Development	Restricted	June 23, 2020
INF/IFD/W/20	WTO Structured Discussions on Investment Facilitation for Development - Communication from Mauritius	Public	June 5, 2020
INF/IFD/RD/51	WTO Structured Discussions on Investment Facilitation for Development - Communication from Qatar	Restricted	May 7, 2020

INF/IFD/RD/49	WTO Structured Discussions on Investment Facilitation for Development - Communication from Turkey	Restricted	March 31, 2020
INF/IFD/RD/48	WTO Structured Discussions on Investment Facilitation for Development - Communication from China - China's Proposal on Investment Facilitation for Development	Restricted	March 27, 2020
INF/IFD/RD/47	WTO Structured Discussions on Investment Facilitation for Development - Communication from Japan - Japan's Proposal for WTO Joint Statement Initiative on Investment Facilitation	Restricted	March 25, 2020
INF/IFD/RD/46	WTO structured discussions on investment facilitation for development - Communication from the European Union - EU proposal for WTO disciplines and commitments relating to investment facilitation for development	Restricted	February 27, 2020

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