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IDOS DISCUSSION PAPER 13/2026

New Trends in International Investment Agreements: Tracing the Emergence of Investment Facilitation

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Bonn 2026

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The German Institute of Development and Sustainability (IDOS) is institutionally financed by the Federal Ministry for Economic Cooperation and Development (BMZ), based on a resolution of the German Bundestag, and the state of North Rhine-Westphalia (NRW) as a member of the Johannes-Rau-Forschungsgemeinschaft (JRF).

Suggested citation:
Polanco, R., Olekseyuk, Z., & Berger, A. (2026). *New trends in international investment agreements: Tracing the emergence of investment facilitation* (IDOS Discussion Paper 13/2026). German Institute of Development and Sustainability (IDOS). https://doi.org/10.23661/idp13.2026

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IDOS Discussion Paper / German Institute of Development and Sustainability (IDOS) gGmbH
ISSN 2751-4439 (Print)
ISSN 2751-4447 (Online)
ISBN 978-3-96021-299-7 (Print)
DOI: https://doi.org/10.23661/idp13.2026

© German Institute of Development and Sustainability (IDOS) gGmbH
Tulpenfeld 6, 53113 Bonn
Email: publications@idos-research.de
https://www.idos-research.de

Printed on eco-friendly, certified paper.

Abstract

The focus of investment treaty-making has shifted from protecting foreign investors towards investment facilitation. Investment facilitation refers to policies that ease investment without granting investors special rights or legal protection. This study provides a comprehensive mapping and comparison of investment facilitation provisions across international investment agreements (IIAs), and evaluates their level of legalisation using the Investment Facilitation Index (IFI). Of the 4,037 IIAs with available texts as of August 2026, 102 explicitly reference "investment facilitation". A few agreements, such as the Investment Facilitation for Development Agreement (IFDA), the EU–Angola Sustainable Investment Facilitation Agreement (SIFA), the Economic Community of West African States (ECOWAS) Common Investment Code (CIC), the Brazilian cooperation and facilitation investment agreements (CFIAs) and the African Continental Free Trade Area (AfCFTA) Investment Protocol, stand out due to the breadth of measures they incorporate; these could serve as blueprints for future treaties. The data also suggest that although "normative" commitments are relatively well reflected in IIAs, notably on transparency and responsible business conduct, "functional" dimensions such as electronic governance and streamlined application processes remain under-represented. There is also a trade-off between breadth and bindingness: while, on average, almost 57 per cent of covered provisions are framed in mandatory terms, the most comprehensive treaties rely heavily on hortatory language, whereas narrower agreements often achieve higher levels of legalisation. Geopolitical tensions and rising economic security screening, however, limit multilateral buy-in and may constrain the effectiveness of investment facilitation. These findings could be helpful to policymakers and investment promotion agencies, who can gain an overview of existing investment facilitation measures and their bindingness in order to design treaties and reforms of national investment frameworks that turn commitments into effective outcomes.

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Abbreviations

AfCFTA	African Continental Free Trade Area
BIT	bilateral investment treaty
CEPA	comprehensive economic partnership agreement
CFIA	cooperation and facilitation investment agreement
CIC	Common Investment Code (ECOWAS)
ECOWAS	Economic Community of West African States
EDIT	Electronic Database of Investment Treaties
EPA	economic partnership agreement
ESA	Eastern and Southern Africa States
EU	European Union
FDI	foreign direct investment
G20	Group of Twenty
IFDA	Investment Facilitation for Development Agreement
IFI	Investment Facilitation Index
IIA	international investment agreement
ISDS	investor–state dispute settlement
LMICs	low- and middle-income countries
PTA	preferential trade agreement
UN	United Nations
UNCTAD	UN Conference on Trade and Development
WTO	World Trade Organization

1 Introduction

International investment agreements (IIAs) – a term that encompasses bilateral investment treaties (BITs) and preferential trade agreements (PTAs) with investment provisions – traditionally do not include investment facilitation provisions. Instead, they focus on protection rules through substantive standards and procedural mechanisms, notably the investor–state dispute settlement (ISDS) mechanism (Polanco & Rodríguez-Chiffelle, 2023). However, in recent years, investment facilitation has gained increasing prominence in international policymaking. This shift has been partly driven by the political backlash against traditional IIAs, fuelled by the more than 1,440 cases brought by foreign investors against host states using the ISDS mechanism (UNCTAD, 2026a).

The new trend for concluding investment facilitation agreements is reflected in the conclusion of the Investment Facilitation for Development Agreement (IFDA) among 131 World Trade Organization (WTO) members, as well as in a growing number of bilateral and regional initiatives. These include, for example, the European Union (EU)–Angola Sustainable Investment Facilitation Agreement (SIFA), the African Continental Free Trade Area (AfCFTA) Investment Protocol, and the Brazil–India Investment Cooperation and Facilitation Treaty (ICFT).

Investment facilitation represents a broad concept that lacks a single and precise definition. Sometimes, it is confused with investment promotion or retention. The boundaries between investment attraction, facilitation and retention are blurred because these processes tend to be continuous rather than discrete. Various institutions and forums, such as the Organisation for Economic Co-operation and Development (OECD), the Group of Twenty (G20), United Nations Conference on Trade and Development (UNCTAD) and the World Bank, adopt slightly different approaches to the content of investment facilitation, but common elements can be identified (Polanco & Rodríguez-Chiffelle, 2023; Polanco, 2025). Investment facilitation generally refers to improving administrative procedures, ensuring a more transparent and predictable legal and regulatory environment, strengthening coordination among domestic stakeholders and enhancing international cooperation on investment matters (Berger & Chi, 2025). It comprises a set of practical measures to enable a smoother flow of foreign investment without necessarily requiring changes to substantive laws and regulations – thereby protecting domestic policy space (Gabor, 2019). It is common practice to exclude measures dealing with market access, investment protection or ISDS from the scope of investment facilitation. Furthermore, it involves both the host and home countries, through measures relating to inward and outward investment (Berger et al., 2021). Overall, the aim of investment facilitation is to ease foreign investors' business operations and create a more favourable business environment.

Investment facilitation can be a valuable tool for low- and middle-income countries (LMICs) because it can help attract foreign direct investment (FDI), which is vital for economic growth, promoting economic diversification and job creation. Investment facilitation can also help bridge the financing gap to achieve sustainable development goals, especially when connected to technology transfer, infrastructure development, inclusive and sustainable growth, and reducing inequality. However, implementing investment facilitation measures could present substantial challenges in LMICs, particularly regarding implementation costs and a lack of local administrative and technical capacity (UNCTAD, 2024b; Berger, Bolmer et al., 2023).

Given the scarce research on investment facilitation, this study provides two key contributions to the literature. First, it offers the most comprehensive mapping and comparison to date of investment facilitation provisions across existing IIAs. Second, it goes beyond a straightforward count of included provisions by evaluating their level of legalisation, drawing on the fine-grained Investment Facilitation Index (IFI) as a broad conceptual framework for investment facilitation (Berger et al., 2026). These contributions are particularly relevant for policymakers and invest-

ment promotion agencies, who can gain not only a comprehensive overview of existing investment facilitation measures, but also insight into how binding and enforceable they are, helping them to design treaties and domestic reforms that translate commitments into effective outcomes.

2 Methodology

To analyse the prevalence and strength of investment facilitation provisions in IIAs, this study employs a three-step methodology.

2.1 Identification of IIAs with investment facilitation provisions

First, we identify IIAs (both BITs and PTAs) with provisions that explicitly include the term "investment facilitation" (or similar wording, such as "facilitation of investment", etc.) in their text. The primary tool used for this identification is the Electronic Database of Investment Treaties (EDIT) (Alschner et al., 2021). We also considered the information reported by UNCTAD's International Investment Agreement Navigator (UNCTAD, 2026b). Out of IIAs with available texts as of August 2026 (4,037 in EDIT and 3,822 in UNCTAD), we identified 102 agreements with provisions that explicitly refer to investment facilitation.

One might argue that the number of agreements dealing with investment facilitation is actually higher, since many old IIAs contain provisions on matters that are now considered part of investment facilitation, even though the term "investment facilitation" was not used when such agreements were concluded. These include provisions on the entry and stay of personnel (1,954 IIAs), transparency of investment measures (845 IIAs), facilitation of investment permits (187 IIAs) and good regulatory practices (126 IIAs), to name some of the most important ones. Adding these categories of "implicit" investment facilitation provisions to those that explicitly refer to investment facilitation, significantly increases the number of such agreements. Based on this premise, UNCTAD's IIA Facilitation Mapping counts 449 IIAs across 52 different elements of investment facilitation (UNCTAD, 2025a). If we apply the same criterion to search the EDIT database, we find a total of 2,647 IIAs (in the period 1951–2026) with explicit and implicit references to investment facilitation, 1,423 of these since the year 2000.

Nevertheless, we believe that including older agreements without explicit reference to investment facilitation could be misleading for comparative purposes, given that such agreements differ in terms of their focus and scope. The main goal of traditional IIAs is not the facilitation of investment, but the protection of foreign investors and their investments (which characterises the vast majority of IIAs), including provisions that usually can be enforced using ISDS, a logic that is not included in recent investment facilitation agreements (UNCTAD, 2025b). Moreover, older IIAs often lack measures that are now considered central to investment facilitation, such as transparency provisions and the streamlining of administrative procedures, as shown in Table 1.

For this reason, in this study we examine only agreements that explicitly refer to investment facilitation. In cases where we found agreements with both investment facilitation and investment protection provisions, we only examined those that explicitly refer to investment facilitation, not the others. Moreover, we focus on recent agreements with explicit investment facilitation provisions, even if they are not yet in force, as they provide valuable insight into the types of commitments countries are willing to make to facilitate investment.

Table 1: Categories of investment facilitation provisions

Category	Description
Transparency provisions	Publication of measures of general application relevant to foreign investors (i.e. laws, regulations and policies); information to be made publicly available (e.g. if investment authorisation is required), including requirements, procedures, fees and timeframe; advanced publication and the opportunity to comment on proposed investment measures.
Entry and stay of investors	Facilitating the entry and temporary stay of business persons for investment purposes (i.e. movement of business persons such as foreign investors, managers and technical experts).
Streamlining administrative procedures	Identifying bottlenecks in the investment climate and providing government recommendations. Typically aim to cut red tape and administrative burdens for investors.
Facilitation of investment permits	Process of obtaining investment permits in a reduced time frame (i.e. construction permits).
Responsible business conduct (RBC)	Provisions referring to how businesses ought to positively contribute to economic, environmental, and social progress to achieve sustainable development. RBC is an alternative term to corporate social responsibility (CSR) and both terms are coded here.
Measures against corruption	Measures to prevent and fight corruption, bribery, and money laundering.
Focal points	Responding to inquiries from investors or persons seeking to invest (in a reasonable time period) and assisting them in obtaining relevant information from competent authorities. [General cooperation activities for investment facilitation are part of the institutional arrangements category.]
Special and differential treatment	Provisions that give developing and least developed countries special preferences that allow them to be treated more favourably, for example in the timeframe to implement investment facilitation commitments.
Institutional arrangements: national level	Provisions establishing the coordination between domestic ministries or agencies on investment facilitation issues.
Institutional arrangements: international level	Establishment of a treaty body to discuss issues related to the implementation of the agreement, review progress in assistance and support for capacity building, and share experiences and information on investment facilitation.
Electronic governance	Application of information and communication technology (ICT) to provide government services on investment facilitation.
Exceptions	General and security exceptions, usually as referenced in the General Agreement on Tariffs and Trade (GATT) and General Agreement on Tariffs and Services (GATS) agreements (e.g. exceptions necessary to protect public morals, human, animal, or plant life or health, and relating to the conservation of exhaustible natural resources). These provisions provide more policy space to host states when implementing investment facilitation commitments.
Dispute settlement	Provisions that prioritise dispute prevention, domestic administrative solutions and state-to-state consultation mechanisms rather than ISDS, which is explicitly excluded.
Home-state obligations	Commitments of home states not to obstruct investment flows, or to ensure national investors comply with their laws on human and labour rights, environment, anti-corruption, money laundering, terrorism financing and bribery.
Investment financing, insurance, and investor capacity building	Instruments deployed to support outward investments, including financing possibilities for investors (i.e. obtaining a loan from a bank to invest), investor capacity building (provisions that encourage investment in human resources, such as recruitment and training of staff), and political risk insurance.
Improving investment climate provisions	Provisions that refer to a general commitment to improve the investment climate for incoming investment without a specific commitment on administrative reforms.
Pre-establishment investor services	Provisions aimed at providing support to prospective investors to facilitate their establishment.
Relationship with private sector	Provisions refer to the consultation process or establishment of joint councils with private stakeholders.
Sustainable development	Broad category aimed at promoting the United Nations Sustainable Development Goals (SDGs). They differ from RBC provisions as they focus not only on investors but also on states.

Source: Authors based on Polanco (2025) and Polanco & Rodríguez-Chiffelle (2023).

2.2 Broad comparison between IIAs with explicit investment facilitation provisions

In a second step, we focus on the 102 agreements with an explicit reference to investment facilitation, comparing them across the 19 categories described in Table 1, and coding the agreements based on the content of the relevant treaty provisions. This provides us with a broad mapping of investment facilitation provisions in identified IIAs.

The categories in Table 1 are developed using the provisions included in the IFDA as a starting point (WTO, 2024), since this agreement reflects a broad multilateral consensus on investment facilitation, having been agreed by 131 World Trade Organization (WTO) members to date. These provisions are supplemented by categories identified in other IIAs in the existing literature on investment facilitation (e.g. Polanco, 2025; Polanco & Rodríguez-Chiffelle, 2023). Among those additional categories we find national institutional arrangements, home-state obligations, investment financing and insurance, and pre-establishment services.

These investment facilitation provisions could be categorised as either “normative” or “functional”. A “normative” provision focuses on policies, laws and regulations that enable foreign investors to set up and operate in a specific location. These emphasise procedural aspects of investment (e.g. information on investment regulations or state incentives). In contrast, a “functional” provision focuses on activities that support investors through various phases of the investment process, usually coordinated by an Investment Promotion Agency (IPA). These activities emphasise the practical and operational needs of investors, such as providing advice on identifying relevant incentive programmes and offering practical assistance in completing applications (Polanco & Rodríguez-Chiffelle, 2023).

2.3 Detailed comparison of selected IIAs using the IFI

In a third step, from our sample of 102 IIAs with explicit provisions on investment facilitation, we select 12 agreements to map their content against the IFI, a detailed composite index measuring the current adoption of investment facilitation measures at country level (Berger et al., 2026; Berger, Dadkhah et al., 2023). The IFI applies a multiple binary scoring scheme and includes 101 precise investment facilitation measures clustered into six core policy areas: a) regulatory transparency and predictability (23 measures); b) electronic governance (14 measures); c) focal point and review (23 measures); d) application process (25 measures); e) cooperation (11 measures); and f) responsible business conduct and anti-corruption (5 measures).

Using this large quantitative dataset allows a more thorough analysis and comparison of the adoption and potential implementation of investment facilitation measures, in which the different levels of legalisation of these provisions (i.e. the level of bindingness, ranging from mandatory to hortatory) can be highlighted, as explained in Table 2 below. This deep and comprehensive analysis is not captured by the first, broad mapping and comparison of IIAs with explicit investment facilitation provisions, which is largely focused on international commitments, not on their mechanisms of adoption or implementation.

Finally, it is important to note that the selection of 12 agreements prioritises IIAs with a high number of mapped investment facilitation categories, while also considering the level of governance (encompassing plurilateral, regional and bilateral instruments), geographical diversity and development focus. In addition, we prioritise more recent agreements – reflecting the growing trend towards dedicated investment facilitation provisions – while also including older instruments, which allows for a longer-term perspective on how investment facilitation commitments have evolved.

Table 2: Different levels of legalisation

Level	Description
Mandatory	Provisions that are fully binding on the parties. Key indicating words include: *shall; nothing… shall; shall promptly publish or notify; shall make available; shall ensure; shall maintain; shall establish; shall provide; affirms or confirms its commitment.*
Best efforts	Provisions that are not binding but not purely discretionary either. Parties are required to make every reasonable effort to fulfil their obligations. Key indicating words include: *to the extent practicable; shall endeavour to; encouraged to; support should be provided; should also assist; to avoid and settle; should be advised.*
Conditional	Provisions that are determined by the obligation expressed after the condition. Key indicating wording is *if…* followed by (usually) a mandatory or best-efforts obligation. Another indicator is the use of the word *except*, indicating a deviation from the general position under specific circumstances.
Discretionary	Provisions that are not binding, as parties are given the discretion to oblige or not. Key indicating words include: *may assign; may meet this requirement by; may meet the requirement set out in*.
Cooperation	Provisions that are not binding and focus on cooperative engagement between parties, including possible future negotiations. Key indicating words include: *cooperate with; cooperation mechanisms; recognise the importance of; will exchange information; strengthen and build; develop.*

Source: Authors.

3 Evolution of IIAs with investment facilitation provisions

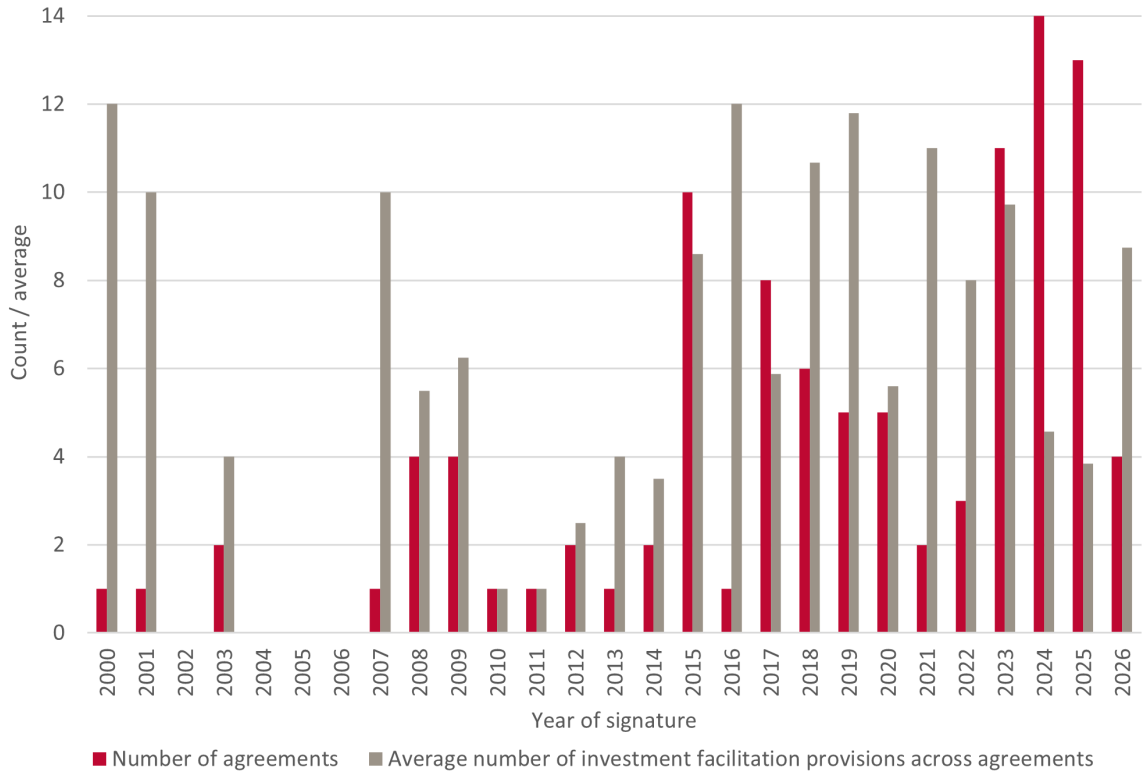
Using EDIT, we identified 102 agreements with provisions explicitly referring to the term “investment facilitation”, concluded since the year 2000 (see Figure 2 for the full list of identified agreements). This is a rather small number given the total number of IIAs with available texts between 1951 and 2026 (4,037 in EDIT and 3,822 in UNCTAD). Most of these agreements are PTAs (74 IIAs), with the remainder being BITs with investment facilitation provisions (28 IIAs). However, in terms of coverage of investment facilitation, BITs are denser than PTAs. The average number of investment facilitation provisions in BITs is 8 versus 6.5 in PTAs. This is mostly driven by the Brazil-style cooperation and facilitation investment agreements (CFIAs) model, including, for example, Brazil–Cabo Verde and Brazil–Panama BITs with 13 provisions each.

Most agreements that explicitly refer to investment facilitation were signed recently. As Figure 1 shows, only 20 such agreements were signed before 2015, compared with 30 between 2015 and 2019, and 52 from 2020 onward. The period 2023 to 2026 alone accounts for 42 agreements (or 39% of the sample). Excluding the four years with no signings (2002, 2004, 2005 and 2006), an average of almost four agreements were signed per year. The first peak came in 2015 with the signing of nine agreements, six of which were CFIAs between Brazil and Angola, Chile, Colombia, Malawi, Mexico and Mozambique. A second peak occurred in 2024 and 2025, with fourteen and thirteen agreements signed respectively, mainly by the United Arab Emirates (UAE) and the EU.

Yet, the number of treaties only tells part of the story. The number of investment facilitation provisions included in these treaties also varies (see Figure 1), with the average number of provisions per agreement for the period 2000 to 2026 being 6.5. However, the depth of these agreements rose from an average of 4.1 provisions in 2000 to 2014 to 10.2 in 2015 to 2019.

This increase can probably be explained by the proposal and initiation of structured discussions on a plurilateral investment facilitation agreement after the adoption of the Trade Facilitation Agreement (TFA) at the WTO in 2015. Post-2020, IIAs are more numerous but on average shallower, as more agreements include some facilitation language, but fewer include the full set of provisions considered in this study.

Figure 1: IIAs: count and average number of investment facilitation provisions, 2000–2026



Source: Authors based on EDIT (Alschner et al., 2021).

4 Broad comparison between IIAs with explicit investment facilitation provisions

In this section we focus on the content of the 102 IIAs that explicitly refer to investment facilitation, concluded since the year 2000. For the comparison between these agreements, we consider 19 categories of investment facilitation provisions (as described in Table 1 above). Figure 2 illustrates the comparison of all identified agreements, which are ranked in descending order by the total number of provisions each agreement contains, from the most comprehensive (top) to the least comprehensive (bottom). The horizontal bar and adjoining number on the right of each row report the agreement's total provision count, out of the 19 categories considered. For each agreement, a filled dot indicates that the corresponding category is present, while an open circle indicates its absence. The bottom row of the second page reports, for each category, the number of agreements in the sample that include corresponding provisions, indicating which categories are most and least commonly adopted across the 102 agreements.

Our analysis shows that there is a stable core of provisions – the most frequent across the whole sample (see bottom row of Figure 2). These include focal points and cooperation (73 IIAs), transparency (72 IIAs), improving investment climate (62 IIAs), sustainable development (55 IIAs), streamlining administrative procedures (53 IIAs), general and national security exceptions

(51 IIAs), and dispute settlement (49 IIAs). In contrast, very few agreements include provisions on home-state obligations (2 IIAs), investment financing (including political risk insurance and investor capacity-building) (9 IIAs), special and differential treatment (10 IIAs), electronic governance (14 IIAs), national institutional arrangements (16 IIAs) and facilitation of investment permits (18 IIAs).

The composition of agreements with investment facilitation provision has shifted markedly across treaty generations. The most pronounced shift occurred in 2015 to 2019, when responsible business conduct provisions jumped from 20 per cent of pre-2015 agreements to 63 per cent, dispute settlement from 30 per cent to 73 per cent, anti-corruption measures from 15 per cent to 43 per cent, and international institutional arrangements from 20 per cent to 60 per cent. Most of these advances proved partly cyclical: in agreements signed from 2020 onward, responsible business conduct falls back to 33 per cent, dispute settlement to 40 per cent, anti-corruption to 25 per cent, and international institutional arrangements to 42 per cent. Sustainable development is the notable exception, rising from 25 per cent to 63 per cent and holding at 60 per cent in the most recent agreements; it appears to have become a settled feature of treaty drafting. Meanwhile, a cluster of categories has remained persistently marginal: special and differential treatment has never exceeded 15 per cent and in fact fell to 3 per cent in the period 2015 to 2019 before recovering only to 12 per cent; electronic governance has never risen above 15 per cent; and provisions on the facilitation of investment permits float between 15 per cent and 19 per cent throughout the whole examined period. The pattern is telling. The “functional” provisions of facilitation – facilitation of permits, digital administration, differentiated obligations for developing countries and least-developed countries (LDCs) – remain lower in the treaty-making agenda, while more “normative” provisions, such as transparency and cooperation, have become a common feature (Polanco & Rodríguez-Chiffelle, 2023).

Figure 2 highlights that 35 agreements carry ten or more of the 19 categories. The composition of this group of agreements with broad coverage reveals the following: 15 agreements were concluded by Brazil (including 11 CFIAs, two PTAs and two as part of Mercosur), five involve the UAE (comprehensive economic partnership agreements (CEPAs) concluded in 2022–2023), and the two deepest texts are plurilateral (AfCFTA Investment Protocol and IFDA).

Overall, regional instruments and those involving African countries are the most comprehensive. In particular, 21 agreements involving an African party average 8.8 investment facilitation provisions versus 6.4 for agreements between countries in other regions; the 27 regional/plurilateral instruments average 7.5 versus 6.7 for bilateral agreements.

Figure 2: Comparison of IIAs with explicit investment facilitation provisions

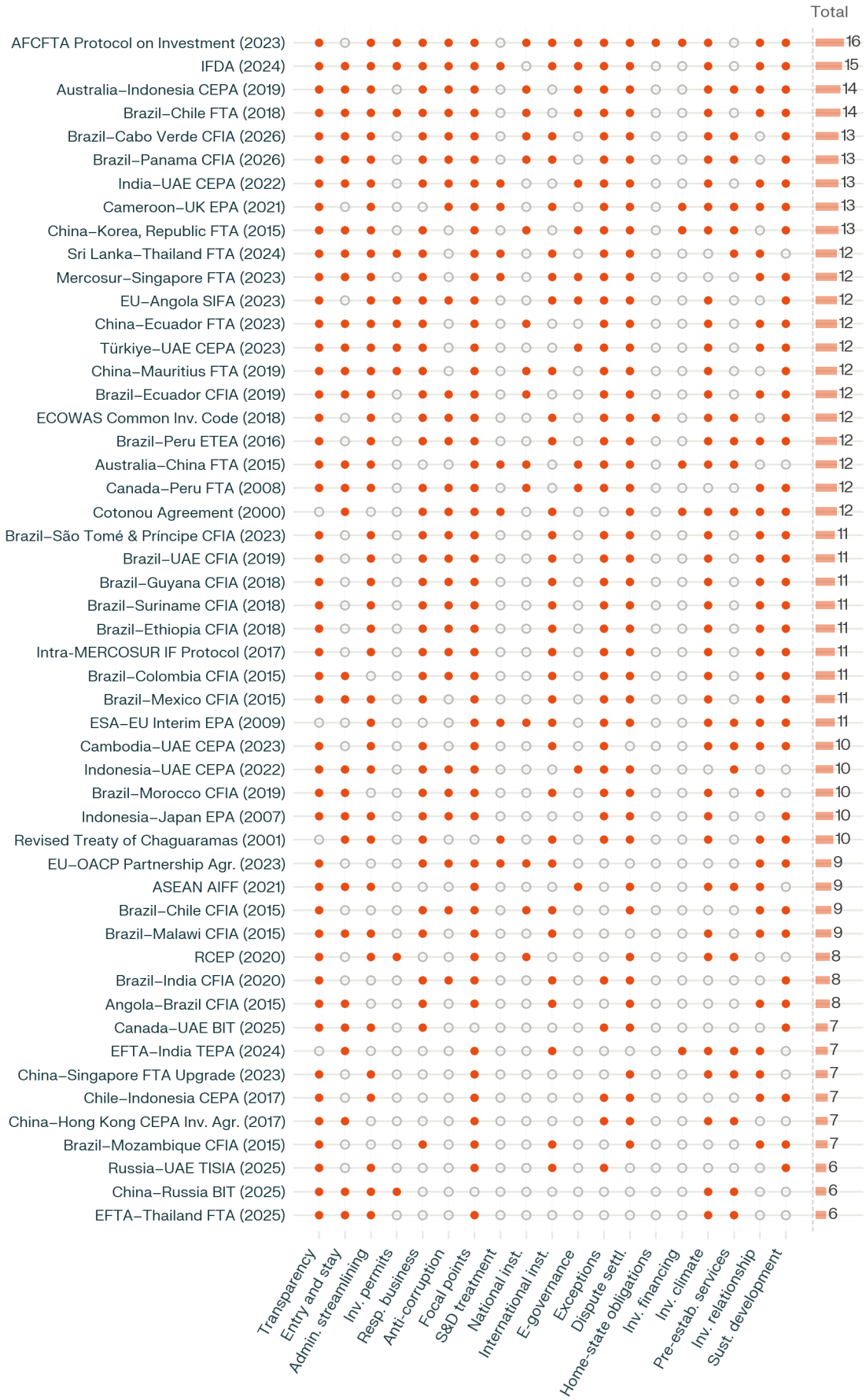
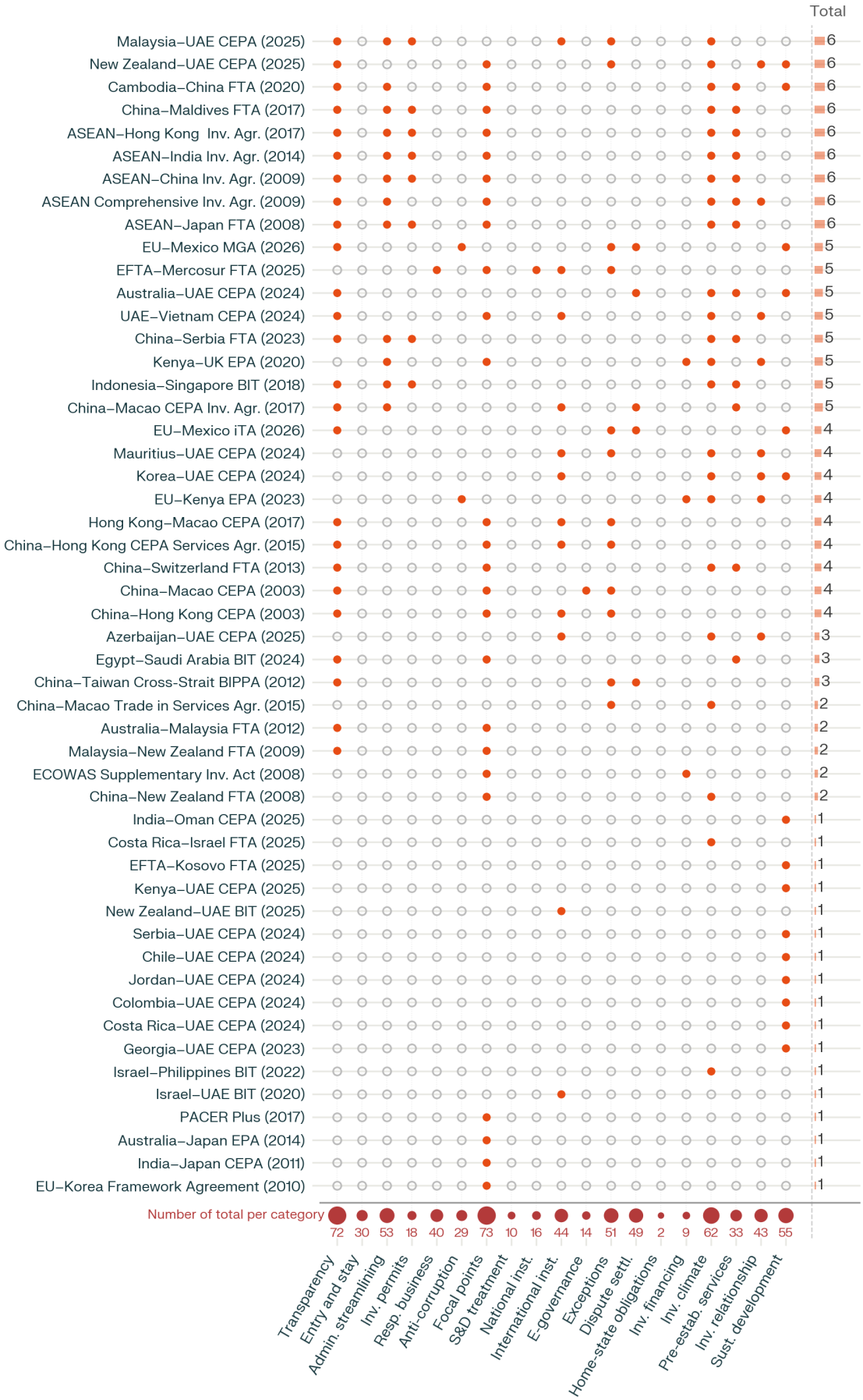


Figure 2 (continued): Comparison of IIAs with explicit investment facilitation provisions

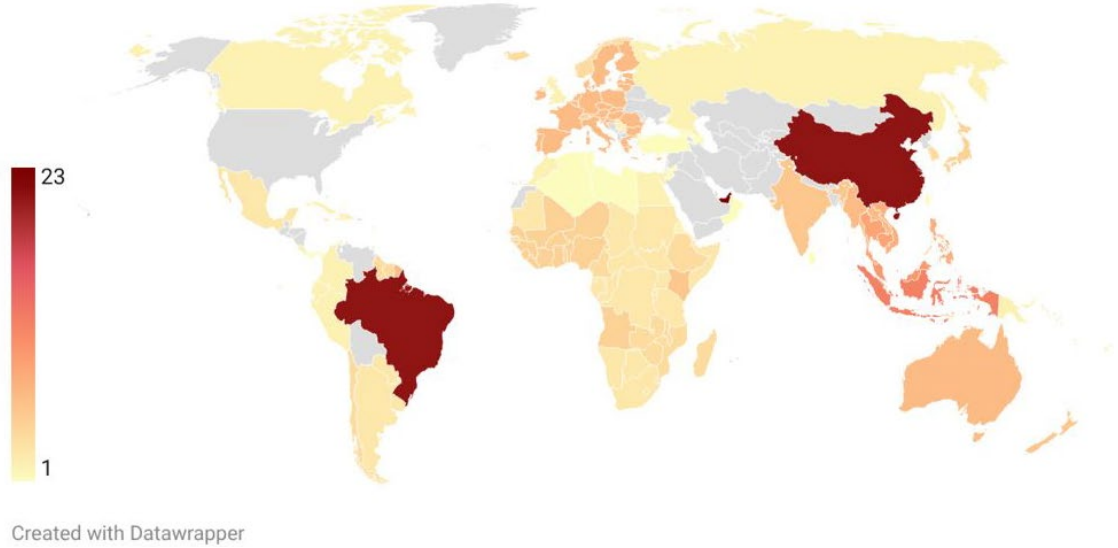


Source: Authors.

Examining all the countries involved, three key players emerge (see Figure 3): the UAE (party to 23 IIAs, focusing on transparency, sustainable development, exceptions and focal points), Brazil (party to 21 IIAs, focusing on transparency, responsible business conduct, focal points, sustainable development and dispute settlement), and China (party to 21 IIAs, focusing on exceptions, transparency and focal points).

Taken together, African countries also feature prominently, accounting for approximately 21 per cent of the agreements in the sample. Looking only at the regional agreements, five of the top six regional agreements covering between 12 and 16 categories include African countries: AfCFTA Protocol on Investment, the WTO IFDA, EU–Angola SIFA, Economic Community of West African States (ECOWAS) Common Investment Code (CIC) and Cotonou Agreement. The AfCFTA Protocol on Investment is the most notable one as it was negotiated by 54 African states, and contains 16 investment facilitation categories (see Figure 2), the highest number among all the mapped treaties. It incorporates three categories not included in the IFDA: home-state obligations, investment financing, insurance and capacity-building, as well as national institutional arrangements. The protocol also encourages the parties to support technical assistance, capacity building and cooperation to promote and facilitate investment. It has the potential to address gaps in existing investment facilitation frameworks, particularly through the establishment of the Pan-African Trade and Investment Agency. However, although the protocol was signed in February 2023, it is not yet in force because it has not reached the minimum threshold of ratifications. Ultimately, the protocol's effectiveness will depend not only on its entry into force, but also on active and coordinated stakeholder engagement in its implementation (Mbengue et al., 2024).

Figure 3: Number of agreements with investment facilitation provisions per country



Source: Authors.

The second-broadest plurilateral agreement, with 15 investment facilitation categories, is the IFDA. Regardless of that number, the IFDA is, in fact, the most comprehensive agreement because of the level of detail on the different investment facilitation commitments (Polanco & Rodríguez-Chiffelle, 2023). For the majority of WTO members, facilitating investment is a logical strategy, as FDI plays a pivotal role in global value chains. However, due to the ongoing opposition by India (Ungphakorn, 2026), the IFDA is not yet integrated in the WTO rulebook and thus not yet in force. This opposition is not mainly about the rules as such, but about the negotiation procedure, i.e. the "plurilateral" nature of the agreement, fearing that it could be used more regularly, undermining the multilateral approach. While India is a vocal opponent of the

IFDA at the multilateral level, it has concluded agreements with Brazil, the UAE and EFTA, which have an important number of investment facilitation provisions.

In theory, the IFDA members could implement the agreement's substance unilaterally. However, this would forfeit the features that make the deal valuable in the first place: WTO incorporation gives the commitments binding, enforceable most-favoured-nation legal status backed by dispute settlement, secures coordinated technical assistance and financing tied to formal party status, and creates a single, harmonised rulebook. Going it alone, by contrast, would mean adopting a reversible domestic policy instead of a binding treaty commitment, risking free-riding if partners fail to reciprocate, losing access to WTO-coordinated capacity-building and financing for developing and least-developed members, fragmenting what is meant to be a common standard across jurisdictions, and weakening the credibility signal to investors that a locked-in international commitment provides.

Neither the AfCFTA Investment Protocol nor the IFDA are in force, and whether they will be soon is unclear. The agreements with the most investment facilitation categories and currently in force are the Australia–Indonesia Comprehensive Economic Partnership Agreement (CEPA) and Brazil–Chile FTA, which both incorporate 14 categories and entered into force in 2020 and 2022 respectively.

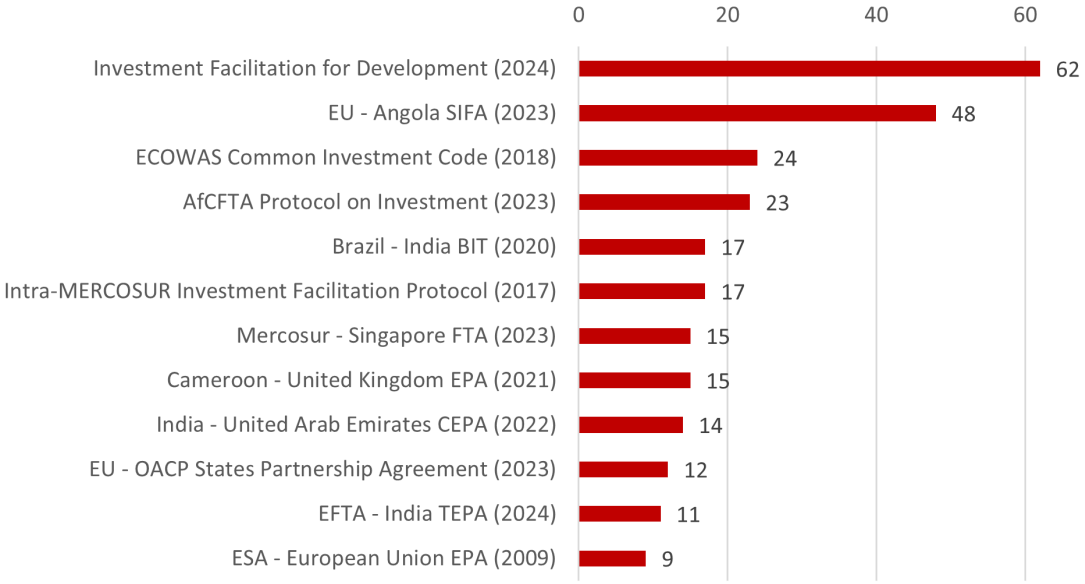
Our findings are consistent with other studies about investment facilitation provisions in recent IIAs (e.g. Ortino, 2024). However, the number of mapped investment facilitation categories does not provide a detailed enough picture of the level of commitment that parties have undertaken concerning investment facilitation. For that purpose, in the next sections we compare a selected number of IIAs with the IFI, highlighting the different levels of legalisation found in each of the mapped provisions.

5 Comparison of selected IIAs with the IFI

For a more detailed comparison, we selected 12 IIAs from our sample of 102 containing explicit investment facilitation provisions and mapped their provisions to the IFI. As mentioned above, we prioritised agreements that had a high number of investment facilitation categories, while also considering the level of governance, geographical diversity, development focus and timing. Figure 4 illustrates the results of our mapping exercise.[1] It is important to note that when comparing the IIA provisions on investment facilitation with the IFI, there is not always an equivalence between a treaty provision and an IFI measure, as certain parts (paragraphs or sentences) of a provision may apply to different IFI measures.

1 Detailed mapping of the 12 agreements to the IFI is provided as online appendix:https://doi.org/10.23661/app.idp13.2026

Figure 4: Number of IFI measures included in selected IIAs



Source: Authors.

At first glance, the total number of IFI measures identified in the selected IIAs may be surprising, as it seems to be low for several treaties. On average, a given IFI measure is addressed by only 2.6 of the 12 agreements. More precisely, 26 measures find no expression in any agreement, 10 appear in only one, and a mere 13 are covered by half or more of the sample. This reflects the fact that the IFI is both broader and more detailed than the provisions typically found in IIAs. Many of the analysed agreements do not provide the same level of specificity on investment facilitation policies, as IFI measures are considerably more granular in their coverage (Berger, Dadkhah et al., 2023).

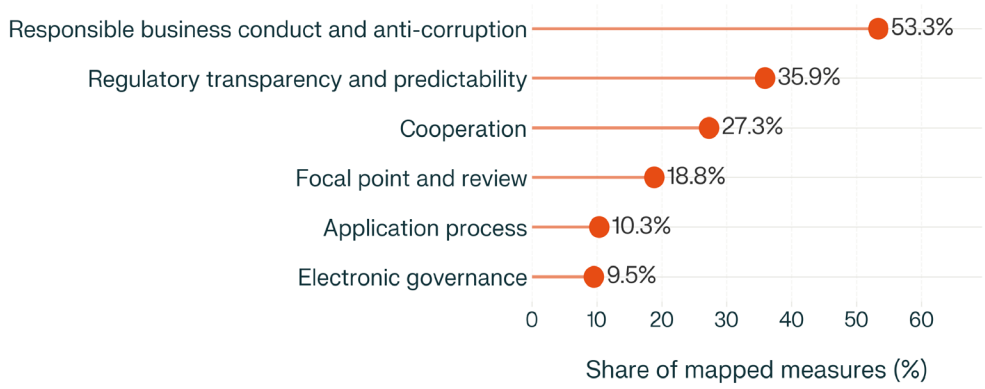
The broadest IFI coverage is observed in two agreements: the IFDA and the EU-Angola SIFA. The remaining agreements address between nine and 24 IFI measures, with the oldest and most general instrument (the Eastern and Southern Africa (ESA)–EU Economic Partnership Agreement (EPA) of 2009) having the least coverage, followed by the EFTA–India TEPA of 2024. Substantive convergence is observed across three disciplines: regulatory transparency and predictability, addressed to some degree by every agreement; the establishment of focal or enquiry points, present in 11 of the 12 agreements; and the publication of investment-related laws and procedures, present in all 12. In contrast, electronic governance and the administrative application process are addressed only marginally, while the movement of business persons, mechanisms for inter-agency coordination, and focal point and review remain entirely outside the scope of the disciplines.

As mentioned above, the IFDA stands out as the treaty that encompasses the most IFI measures, with a total of 62. Despite having the highest number of investment facilitation categories compared to other IIAs with explicit investment facilitation provisions (Figure 2), the AfCFTA Investment Protocol is only ranked fourth in the comparison with the IFI. The reason for this drop when compared to the IFI is the absence of implementation mechanisms within the treaty text. This should not be surprising, as the AfCFTA Protocol was not intended to be as detailed as the IFDA. Rather, the idea was to establish a broad protocol and use the IFDA as a template for more detailed implementation, allowing for national decision-making while still aiming to harmonise investment facilitation across Africa (Ortino, 2024). The 32 African WTO Members participating in the IFDA may use the Agreement's needs assessments process and, as developing or least-developed country Parties, may seek the technical assistance and capacity-building support contemplated in its special and differential treatment provisions for its

implementation. Other African WTO Members may conduct analogous assessments as a preliminary basis for deciding whether to accede, but would need to become Parties to invoke the Agreement's Party-specific implementation flexibilities and support arrangements. For African states outside the WTO, the IFDA does not provide a direct institutional route. Investment-facilitation convergence would instead need to be pursued principally through African regional or continental instruments, notably the AfCFTA Protocol on Investment (see Te Velde, D.W., et al., 2026).

To understand how different policy areas are represented in the selected IIAs, we calculate the overall adoption rate of the respective IFI measures across the 12 agreements (Figure 5). The most represented policy areas include responsible business conduct and anti-corruption, regulatory transparency and predictability, and cooperation. In contrast, the IFI policy areas of focal point and review, application process and electronic governance are those with the lowest representation in the mapped IIAs. Overall, the data suggest that while "normative" commitments are relatively well reflected in IIAs, notably on transparency and responsible business conduct, "functional" dimensions of investment facilitation – such as electronic governance and streamlined application processes – remain significantly under-represented at the treaty level.

Figure 5: Average adoption rate of IFI measures across the selected agreements



Source: Authors.

The lack of alignment between the IFI and the selected IIAs could be viewed as a positive sign, as it gives states more flexibility to implement investment facilitation commitments that are broadly defined at an international level. However, the limited detail on implementation and enforcement mechanisms in the analysed IIAs may also indicate a weaker commitment by states to investment facilitation than to investment protection, the latter usually being supported by the ISDS mechanism in most IIAs.

6 Level of legalisation

While the scope of measures is important, the depth of legalisation is equally, if not more, relevant to understanding the actual level of commitment undertaken by states in the case of investment facilitation. To determine the strength of investment facilitation provisions in selected IIAs, we identify five levels of legalisation: mandatory, best efforts, conditional, discretionary and cooperation (see Table 2 above). Table 3 illustrates the level of legalisation of mapped investment facilitation provisions in the selected 12 IIAs. Based on the wording of provisions, some measures are assigned multiple levels of legalisation. Consequently, the sum of measures across legalisation levels may exceed the total number of mapped IFI measures. For example,

Table 3 reports 62 mapped IFI measures for the WTO IFDA, whereas the sum of measures across legislation levels amounts to 85.

Table 3: Number of IFI measures in selected IIAs, including level of legalisation

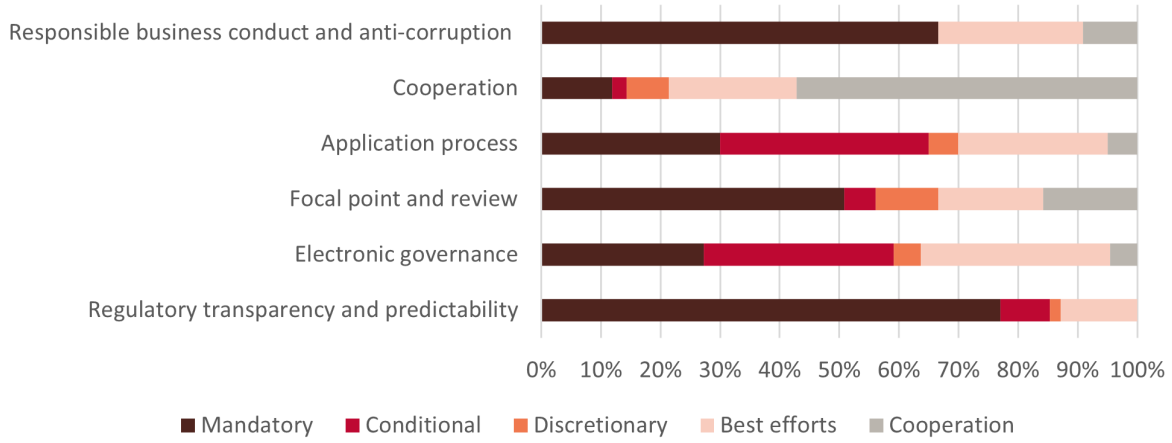
Selected IIAs	Total IFI measures included	Manda-tory	Condi-tional	Discre-tionary	Best efforts	Coope-ration
WTO IFDA (2024)	62	29	16	5	30	5
EU–Angola SIFA (2023)	48	26	13	3	8	3
ECOWAS Common Investment Code (2018)	24	22	0	1	1	2
AFCFTA Protocol on Investment (2023)	23	15	0	1	5	2
Brazil–India BIT (2020)	17	13	1	1	3	1
Intra–MERCOSUR Inv. Facilitation Protocol (2017)	17	9	0	1	4	3
Mercosur–Singapore FTA (2023)	15	12	1	0	1	1
Cameroon–UK EPA (2021)	15	7	0	0	2	6
India–UAE CEPA (2022)	14	8	3	1	2	3
EU–OACP Partnership Agreement (2023)	12	6	0	0	0	6
EFTA–India EPA (2024)	11	7	0	1	0	4
ESA–EU EPA (2009)	9	4	0	0	2	3

Source: Authors.

First, we observe a trade-off between the breadth and bindingness of agreements: although on average almost 57 per cent of all covered provisions across the agreements are framed in mandatory terms, the most comprehensive treaties rely strongly on hortatory language. In contrast, agreements with a lower number of mapped IFI measures may have a higher level of legalisation, which indicates stronger investment facilitation provisions. For example, for the IFDA – the treaty including the highest number of IFI measures – we note that out of its 62 measures only 29 are mandatory, 30 best efforts and 16 conditional. In contrast, narrower regional instruments or bilateral agreements impose obligations of a distinctly firmer legal character. See, for example, the ECOWAS CIC (22 of 24), the Mercosur–Singapore FTA (12 of 15), and the Brazil–India BIT (13 of 17). This illustrates that while the IFDA has the most measures mapped, the strength of those obligations is weaker than those observed in other agreements. However, one should also consider that these agreements involve substantially different numbers of member states (two for the Brazil–India BIT, five for the Mercosur–Singapore FTA, 15 for the ECOWAS CIC, and 131 for the IFDA).

Second, we observe that the most common commitments are mandatory and best efforts, with a total across all treaties of 158 and 58 measures respectively. If we examine the level of legalisation across the different IFI policy areas in the analysed agreements (Figure 6), the data show that the strongest commitment – measured by the share of mandatory measures – occurs in the policy areas of regulatory transparency and predictability (77.1%), responsible business conduct and anti-corruption (66.7%), and focal point and review (50.9%). Unsurprisingly, most measures in the area of cooperation are of a cooperative nature (57.1%). For the policy area of application process, around one-third of mapped measures are either conditional or mandatory, while 25 per cent represent best effort commitments.

Figure 6: Levels of legalisation by IFI policy area across selected agreements (%)



Source: Authors.

Third, three treaties involving African countries, the EU–Angola SIFA, the ECOWAS CIC, and the AfCFTA Investment Protocol are among the agreements with the highest number of IFI measures mapped alongside an important level of legalisation. Considering the depth of the agreements, the EU–Angola SIFA ranks second in the total number of included IFI measures, with a share of binding measures of 49.1 per cent, while the ECOWAS CIC has 24 IFI measures, with 84.6 per cent being mandatory. This indicates a more substantial commitment to investment facilitation provisions than those observed in the IFDA, for example, with a share of mandatory measures of 34.1 per cent.

The AFCFTA Investment Protocol has a total of 23 IFI measures, with 15 mandatory obligations (65.2%) followed by only five best-efforts obligations. This reflects a strong, committed approach to investment facilitation, which is consistent with the broader ambition of the AfCFTA to deepen economic integration across the continent. Given that the AfCFTA brings together 54 African states – the majority of which are developing countries or LMICs – the high share of binding commitments signals a deliberate effort to lock in reform momentum and provide investors with greater legal certainty.

7 Current geopolitical tensions and investment facilitation

The question then arises of why buy-in for international investment facilitation agreements has been so uneven and what this implies for investment facilitation reforms at the domestic level. First, the controversy about investment facilitation provisions is not so much about substantive aspects as about their integration into the multilateral trading system and the future of the WTO. Second, it is necessary to acknowledge that investment facilitation is not a panacea for reforming domestic investment frameworks. Investment facilitation can make processes surrounding foreign direct investment more efficient, but it does not influence the access of foreign investors to a market, which is the aspect that major economies are increasingly regulating on the grounds of national security. Both observations thus must be read against the present geopolitical context, where economic security concerns have moved to the centre of many countries' regulatory agendas, reshaping how governments weigh openness to investment against strategic risk.

Comparing the IFDA negotiations with other IIAs containing investment facilitation provisions reveals apparent inconsistencies among key actors, which can best be explained by different

positions on institutional aspects. India, in particular, has been a vocal opponent of incorporating the IFDA into the WTO rulebook, yet has concluded recent agreements with Brazil, the UAE, and EFTA that contain a substantial number of investment facilitation provisions. South Africa and Türkiye, which for several years likewise opposed the IFDA's incorporation into the WTO framework, have meanwhile signalled their willingness to support the integration of the IFDA. South Africa has not concluded any investment facilitation agreements of its own but participates in a regional instrument that includes such provisions: the AfCFTA Protocol on Investment.

India's objections relate to institutional questions, mainly regarding the lack of a mandate for plurilateral negotiations and for the coverage of investment by the WTO. India, moreover, is against the broadening of the WTO's agenda while important parts of the Doha Development Round are not concluded. Fearing that the incorporation of the IFDA could set a precedent for other plurilateral negotiations, Delhi insists that plurilateral agreements can only be integrated into Annex 4 of the WTO Agreement if consensus among all members can be achieved. India's objection shows that the broad convergence on investment facilitation disciplines that we document in this paper does not automatically translate into multilateral outcomes as WTO Members, even if they agree on the substantive issues, may have other institutional or political concerns that prevent such outcomes. As a result, however, the inability to multilateralise investment facilitation disciplines may further fragment the global trade and investment system.

The second overall observation is that investment facilitation alone will not result in more open investment frameworks. As we have argued, investment facilitation should make domestic investment frameworks more transparent, predictable and efficient, but it does not address the degree of openness nor market access of foreign investors. Investment facilitation can therefore not replace broader reforms of domestic frameworks and it cannot compensate for increasingly restrictive market access conditions. This is, however, exactly the policy direction recently pursued by major economies.

Some large, high-income economies remain outside investment facilitation negotiations. The United States, for example, has yet to conclude any agreement containing specific investment facilitation provisions. If anything, it is moving in the opposite direction domestically: in October 2024, the US Department of the Treasury issued a Final Rule implementing Executive Order 14105, which restricts and requires notification of certain outbound investments by US persons into "countries of concern" – currently China, including Hong Kong and Macau – where those investments involve sensitive technologies in semiconductors and microelectronics, quantum information technologies or artificial intelligence. The Final Rule requires US persons to notify Treasury of certain outbound investment transactions and prohibits others, where these involve persons of countries of concern engaged in covered activities involving sensitive technologies and products in these three sectors. The measure took effect on 2 January 2025 (Department of the Treasury, 2025), and marks one of the first instances of a major economy formally screening outward investment on national security grounds, and a direct counterpoint to the idea of investment facilitation.

Countries that have otherwise embraced investment facilitation are not insulated from these same geopolitical pressures. In January 2024, the European Commission published a White Paper on outward investment, exploring whether monitoring should extend to a broad range of active (i.e. non-portfolio) foreign investments. Under the proposals considered, this could include indirect investments – those routed through a third-country entity used as an investment vehicle, an existing subsidiary or a joint venture – as well as gradual asset transfers over time and investments structured to circumvent existing security-related trade and investment controls. The Commission also invited Member States to consider whether other sensitive activities, such as R&D co-operation or the recruitment of highly specialised personnel for access to know-how or intellectual property, should likewise fall within its scope (European Commission, 2024).

Taken together, these developments in two of the most influential investment-friendly jurisdictions suggest that future commitments in this space may be shaped as much by economic security considerations as by liberalisation goals. Inbound investment screening has followed a parallel trajectory: jurisdictions have tightened FDI-review mechanisms by expanding reviews to strategically sensitive sectors and technologies, lowering or broadening jurisdictional triggers, and intensifying scrutiny of investors' ownership, control, financing and security profile (Guazzini et al., 2025; European Union, 2019). The apparent tension between facilitating investment on one hand and screening it more closely on the other is likely to remain a defining feature of how the investment facilitation agenda evolves.

8 Conclusions and policy implications

Our study showcases the growing interest among high-income countries and LMICs in concluding international agreements with investment facilitation provisions, which are seen as less controversial than traditional IIAs, focused on investment protection, especially those with ISDS (UNCTAD, 2023). Although agreements incorporating dedicated investment facilitation provisions have been on the rise in recent years, their overall number remains relatively small compared to traditional IIAs. At the same time, several investment treaties include provisions that could qualify as investment facilitation, such as those concerning the entry and stay of personnel, transparency of investment measures and the facilitation of investment permits, among others.

The promise of investment facilitation does not always, however, carry the same level of legalisation. Some investment facilitation provisions are non-binding, ranging from best-efforts, conditional or discretionary commitments to cooperation clauses requiring participation by all parties to the agreement. Soft language is often the price of broader participation, especially from states protective of regulatory autonomy. Yet, where treaties with investment facilitation provisions bind states to something, it is usually normative rather than functional: obligations to publish, notify or set up institutions, and enforcement runs through state-to-state channels, not the ISDS process. So even the "binding" commitments of these treaties are less enforceable than traditional investment protections in IIAs, which is arguably part of why states are willing to accept more of them (Paine, 2025). However, there is some quantitative evidence that legalisation has measurable economic payoff. One general-equilibrium simulation of the IFDA finds global welfare gains ranging between 0.63 per cent for the binding provisions alone and 1.73 per cent when all provisions (including best-endeavour ones) are counted (Balistreri & Olekseyuk, 2025).

From the analysis of the IIAs mapped in this study, there is not sufficient information to conclude that countries agreeing on investment facilitation provisions at the international level will require changes in domestic law, and further research is needed in this regard (e.g. gap analysis). Also, countries may merely lock in international agreements measures that they have already implemented domestically. Moreover, the need for domestic reform will also depend on the system for incorporating public international law into the countries' domestic systems.

Some recent agreements with investment facilitation provisions are notable because of the number of investment facilitation measures they incorporate. These include the IFDA, as well as other agreements in a bilateral or regional context, such as the EU–Angola SIFA, the ECOWAS CIC, the Brazilian CFIA with Cabo Verde and Panama, and the AfCFTA Investment Protocol. Because of their breadth and the number of countries involved, these agreements could be seen as potential blueprints for future investment facilitation treaties or negotiations.

The AfCFTA Investment Protocol is, in some ways, the African equivalent of the WTO IFDA. Our analysis has shown that it has a more binding approach concerning investment facilitation,

although it covers a much smaller number of provisions. Together with the EU–Angola SIFA and the ECOWAS CIC, they demonstrate a commitment and an appetite for investment facilitation on the African continent.

Investment facilitation can be a powerful tool for LMICs to attract investment aligned with their respective domestic sustainable development strategies (UNCTAD, 2016, 2024a). However, we also need to acknowledge that we are observing the dawn of a new age in the international community: one where states are raising concerns about national security that could affect investment facilitation, not only in potential host states but also in home states, particularly concerning sensitive technologies or products critical for military, intelligence, surveillance or cyber-enabled capabilities.

These restrictions are not being imposed uniformly. Some countries are restricting inward foreign investments in specific sectors, while allowing domestic investors to invest freely. Other countries are restricting outward investments in sensitive sectors for reasons related to their economy or national security. While investment facilitation is primarily focused on the host state, the decision of capital-exporting countries to limit outward investments could potentially affect the efficiency of foreign investment facilitation tools.

Three key recommendations follow from our analysis of the integration of investment facilitation provisions in recent IIAs:

1. Strengthen the legal framework for investment facilitation. As our comparison of the level of legalisation across the 12 selected IIAs shows, there tends to be a trade-off between breadth and bindingness. The most comprehensive instruments, such as the IFDA, rely disproportionately on best-efforts and conditional language, while narrower regional or bilateral agreements – the ECOWAS CIC, the Mercosur–Singapore FTA, the Brazil–India BIT – impose firmer, mostly mandatory obligations. To close this gap, countries should work towards making investment facilitation provisions more binding and better aligned with domestic regulations, following the example set by the AfCFTA Protocol on Investment and the EU–Angola SIFA, both of which combine a broad set of measures with mandatory commitments. Our analysis does not establish whether international investment-facilitation commitments require amendments to domestic law. Country-specific gap assessments are therefore essential, particularly for LMICs, to identify the legal and institutional reforms required and the financial and technical support needed for effective implementation on the ground.

2. Promote multilateral and regional cooperation and peer learning. While countries have unilaterally adopted investment facilitation measures at the domestic level for some time, comprehensive international commitments on investment facilitation are a recent development. As shown in our analysis of 102 IIAs with explicit investment facilitation provisions, capacity-building, special and differential treatment and international institutional arrangements remain comparatively rare (present in only 9, 10 and 44 IIAs, respectively). This suggests that mechanisms for exchanging information and sharing implementation experience are still underdeveloped relative to the pace at which substantive commitments are being negotiated. Given that the diffusion of investment facilitation provisions is a welcome response to lacklustre global FDI performance, countries should support and strengthen multilateral initiatives such as the WTO's IFDA, as well as broad-based regional agreements such as the AfCFTA Protocol on Investment. Both treaties are identified by our analysis as leading models by breadth of coverage. They serve as blueprints for future treaties and as platforms for policy learning, particularly on the capacity-building and technical assistance dimensions that are currently underprovided.

3. Balance investment facilitation with national security considerations. As discussed above, restrictions due to national security considerations do not affect all countries uniformly. Some limit inward investment in specific sectors while leaving domestic investors free to invest

abroad, while others, as illustrated by the United States' outbound investment screening regime and the European Commission's proposed monitoring of outward investment, are increasingly restricting capital-exporting flows in sensitive sectors for national security reasons. Even if investment facilitation instruments are designed primarily by host states, this emerging layer of home-state restrictions risks undermining the efficiency of facilitation tools even where they remain formally in place. Countries should therefore develop clear, targeted regulations on investment restrictions in sensitive sectors, addressing risks related to technology transfer, cybersecurity, and strategic economic dependencies, and establish screening mechanisms that monitor foreign investment in critical sectors without abandoning active investment facilitation measures.

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