



15th Annual

Investment Policy Forum

Panama City, Panama | October 25–27, 2023

Advancing reform for sustainable development



Investment Policy Forum Institutional Coherence Tool Kit

Context

In the final plenary session during the 15th Investment Policy Forum (IPF) held in Panama, IISD introduced an outcome checklist tool on institutional coherence to Forum participants. The session invited them to suggest as well as review practical tools that could improve institutional coherence in their respective individual countries. This document aims to capture these views and perspectives in a consolidated manner to provide government policy-makers with an accessible, adaptable, and easy-to-use document (tool kit) to achieve the objective of institutional coherence.

Institutional Incoherence and Its Causes

The 15th IPF Participants were unified in their desire to foster greater institutional coherence as an overarching policy objective. The Forum's panels and discussions provided numerous examples of why the lack of institutional coherence is a principal policy concern in investment governance. However, it became evident that **the lack of institutional coherence manifests itself differently, and its causes are varied**. Consequently, the lack of institutional coherence can rarely be addressed by a single tool.

Therefore, it is more appropriate to first search for the most proximate causes of the lack of institutional coherence and address those as **actionable policy concerns**.

Identifying more specific policy concerns as causes of institutional incoherence allows for the designing of **specific policy tools** adapted to the context.

Example

In one state, the leading cause of institutional incoherence may be the division of competencies related to investment governance among multiple agencies, whereas, in another state, the leading cause may be a rapid turnover of the responsible personnel. Still, in another country, the main problem may be the lack of capacity.



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Format: During the session, participants were divided into groups to go over IISD’s proposed checklist tool and then invited to a) identify challenges they often faced with implementation and b) identify innovative solutions they were aware of that could complement or improve institutional coherence. Groups proposed various options to foster institutional coherence while explaining the policy concerns that often arose, sharing tools they use and highlighting lessons learned, thereby capturing each option’s pros and cons.

Ideally, this document is to be used together with the *Investment Governance Stocktaking* tool that was distributed to participants ahead of the Forum to map existing domestic, regional, and international legal and policy instruments on investment governance in the country and relevant departments/institutions. It should be noted that it is difficult to take all investment governance in the country as a starting point. As a result, the *Investment Governance Stocktaking* exercise will allow the identification of the most appropriate entry point as a priority. This entry point may be institutional incoherence as manifested with regard to, for instance, treaty negotiation, dispute management, or investment and tax incentives coordination, to name but a few.

Step 1: Identify the main policy concerns causing a lack of institutional coherence

Taking stock of the panel discussions and the plenary session held during the 15th IPF, Table 1 presents a non-exhaustive list of the main actionable policy concerns identified as exacerbating institutional coherence. Each policy concern is associated with a non-exhaustive list of tools that can be deployed to address it.

Table 1. Actionable policy concerns causing institutional incoherence

Policy concern	Tools available
 <p data-bbox="376 1688 608 1800">Poor institutional coordination and accountability</p>	<ul data-bbox="735 1688 1289 1975" style="list-style-type: none"> • Interinstitutional committees, working groups, councils, or focal points • Joint public-private mechanisms • Mailing lists • Coordination initiatives • Joint protocols



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Policy concern

Tools available



Poor institutional communication

- Clearly defined competencies (through directives, memos, bylaws)
- Digitalization and one-stop-shop online platforms
- Interactive process flow diagrams



Policy inconsistency among main institutions and agencies

- Interinstitutional committees, working groups, councils
- Digitalization and one-stop-shop online platforms
- Mailing lists
- Regular or ad hoc phone calls

- Statutes or regulations that institutionalize coordination
- Interinstitutional committees, working groups, councils
- Compulsory consultations via ministerial or cabinet directives



Political and institutional instability

- Training and capacity-building workshops
- Sensitization and awareness-raising initiatives among political decision-makers
- Coordination statutes, regulations, bylaws
- Information-sharing and storing platforms
- Digitalization and one-stop-shop online platforms
- Mailing lists



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Policy concern

Tools available

- Strategic guiding documents and memos
- Training and capacity-building workshops



Policy, legal, and bureaucratic complexity or “red tape”

- Joint public-private mechanisms
- Digitalization and one-stop-shop online platforms
- Information-sharing and storing platforms
- Joint protocols



Capacity constraints (information/expertise; financial constraints gaps; personnel constraints; lack of institutional memory)

- Information-sharing and storing platforms
- Digitalization and one-stop-shop online platforms
- Interactive process flow diagrams
- Training and capacity-building workshops
- Sensitization and awareness-raising initiatives
- Mailing lists

Step 2: Choose the right tools to address policy concerns causing a lack of institutional coherence

After identifying the actionable policy concern(s) leading to institutional incoherence, the next step is to identify appropriate policy tools to remedy the issue.

Several tools can address various concerns simultaneously (e.g., interinstitutional committees, working groups, councils, or information-sharing and storing platforms as cited above). However, that fact alone should not lead to the immediate conclusion that there is an optimal tool that is preferable. Different tools have different benefits and drawbacks, and, depending on your country’s context, some of the cons of the tool far outweigh the pros, making it ill-fitted to address a given concern. For example, while continuous or regular



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capacity-building workshops may be advantageous to address information and knowledge gaps, they may become prohibitive in terms of monetary and time resources. We therefore list in Table 2 various potential benefits and drawbacks of the options listed in Table 1 for your consideration.

It should be noted that the potential benefits and drawbacks highlighted in Table 2 are not exhaustive, and there may be more to consider based on each country’s national administrative processes.

Table 2. Main policy tools and their benefits and drawbacks

Tool	Potential benefits	Potential drawbacks	Comments
Interinstitutional committees, working groups, councils	<ul style="list-style-type: none"> • Centralized policy-making process • Improve communication • Improve consistency and stability over time 	<ul style="list-style-type: none"> • Lengthy process • Possibly restricted competencies • Require political buy-in 	There are various considerations and questions that arise when setting up these committees, councils, and working groups (e.g., questions of composition, regularity of meetings, rulemaking vs. recommendations mandate).
Joint public-private mechanisms	<ul style="list-style-type: none"> • There is direct input from the private sector. • Decisions may be considered governmental decisions. 	<ul style="list-style-type: none"> • Public and private interests cannot always be aligned. 	Joint mechanisms may be set up in various ways (e.g., could have a general body plus specific subgroups working on a specific issue/area).



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Tool	Potential benefits	Potential drawbacks	Comments
Information-sharing and storing platforms	<ul style="list-style-type: none"> • Create ease of access to information • There is information retention • Institutional memory improves 	<ul style="list-style-type: none"> • Require regular updates • Technology upgrades require upfront investment to avoid getting outdated and irrelevant. • Cybersecurity concerns 	
Digitalization and one-stop-shop online platforms	<ul style="list-style-type: none"> • Centralize information • Create ease of access to information • Information retention • Improve the accessibility of governmental services 	<ul style="list-style-type: none"> • Require regular updates • Technology upgrades require upfront investment to avoid getting outdated and irrelevant. • Public information must be carefully vetted. • Cybersecurity concerns 	



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Tool	Potential benefits	Potential drawbacks	Comments
Training and capacity-building workshops	<ul style="list-style-type: none"> • Capacity creation • Capacity retention 	<ul style="list-style-type: none"> • Costly 	Costs may be mitigated through the creation of (online) learning modules that can be revisited when the need arises.
Sensitization and awareness-raising initiatives	<ul style="list-style-type: none"> • Raise awareness about ongoing policy concerns 	<ul style="list-style-type: none"> • Partial solution • Do not offer guarantees of success, as they depend on the decision-makers 	
Compulsory consultations	<ul style="list-style-type: none"> • Create channels for communication and coordination • Create an environment of mutual exchange and perspectives 	<ul style="list-style-type: none"> • Do not require any follow-up, especially of information received • Require considerable time investment 	
Mailing lists	<ul style="list-style-type: none"> • Easy to implement • Useful for forward-looking information and updates 	<ul style="list-style-type: none"> • Require regular updates • Not easy to navigate • Not best for information retention 	



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Tool	Potential benefits	Potential drawbacks	Comments
Phone calls	<ul style="list-style-type: none"> • Ease in use • Informality • Rapid response rate 	<ul style="list-style-type: none"> • Lack of traceability • No institutional memory or capacity buildup 	
Coordination statutes, regulations, bylaws	<ul style="list-style-type: none"> • Clarity • Stability 	<ul style="list-style-type: none"> • Less flexibility • May be complex • Requires political buy-in 	
Clearly defined competencies	<ul style="list-style-type: none"> • Clarity • Stability 	<ul style="list-style-type: none"> • Less flexibility • May be complex and lengthy to set up 	
Strategic guiding documents and memos	<ul style="list-style-type: none"> • Capacity retention • Clarity • Flexibility 	<ul style="list-style-type: none"> • Need to be accessible and up to date • Require coordination among agencies to be created 	
Coordination initiatives (decentralized, bottom-up)	<ul style="list-style-type: none"> • Representativeness • Context-responsive • Flexibility 	<ul style="list-style-type: none"> • Potential political tensions • Necessitate clearly defined responsibilities 	



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Step 3: Determine which tool(s) are appropriate to use for your country's context

Context matters, especially when considering the different tools that would be appropriate for your country.¹ We propose a set of guiding questions to help decision-makers make an informed decision. The decision-makers may want to consider the following:

- 1) Timeliness of the option
 - i. Which investment government processes require institutional coherence in the short term? (e.g., a need to fill in information gaps within government agencies and ministries to inform recommendations toward a policy debate or decision) Which would be the most appropriate measure to build institutional coherence to achieve optimal outcome(s)?
 - ii. Which forthcoming investment governance processes does the country foresee itself undertaking in the mid to long term (bilateral negotiations, regional negotiations, investment law reform)? Which would be the most appropriate measure to build institutional coherence to achieve an optimal outcome(s)?
- 2) Practicality and costs of the option
 - i. Which options can be operationalized immediately with limited resources?
 - ii. Which options should be operationalized long term with the availability of resources?
- 3) Political feasibility
 - i. Which options to enhance institutional coherence will likely face political backlash?

Overall, the tools' performance should also be reviewed periodically to assess their effectiveness.²

¹ The policy-makers should determine 1) what their immediate needs are for institutional coherence 2) what their long-term needs are for institutional coherence and 3) the appropriate tools to use within their national contexts.

² For example, capacity-building training and workshops may be useful to build initial capacity at a given institution; however, to retain and build on that capacity, other tools, such as information sharing and storing platforms, may become more appropriate.