

**APEC Training Course on Building and Enhancing Capacities to
Participate in FTA-related Environment Negotiations**

Ha Noi, Viet Nam

24th - 26th October 2012

SUMMARY REPORT

Introduction

The APEC Training Course on Building and Enhancing Capacities to Participate in FTA-related Environment Negotiations initiated by Viet Nam and co-sponsored by Korea, New Zealand, Peru, Thailand and the United States was held in Ha Noi from October, 24th to 26th, 2012. Representatives from 12 APEC member economies (Australia, Chile, China, Indonesia, Korea, Malaysia, Mexico, New Zealand, Peru, the Philippines, Russia, USA, Viet Nam), the Eurasian Economic Committee and international organizations (OECD, Animal Asia), together with 9 speakers, totalling approximately 60 government, industry, academic and international organization participants, attended the Training Course. Among 60 participants, 27 were women, accounting for 45 per cent of participants.

The main objectives of the Training Course were: (i) to increase capacities of negotiators and policymakers, with practical relevance, to participate in FTA-related environment negotiations; (ii) to share best practices and experiences in preparing for FTA-related environment negotiations; and (iii) to enhance possible environmental considerations in the context of negotiating FTAs or of an Free Trade Area of the Asia Pacific (FTAAP) after the achievement of the Bogor goals.

Background

APEC has not conducted any training course specifically aimed at building and enhancing capacity and understanding of FTA-related environmental considerations and negotiations skills for related stakeholders despite the increased importance of environment issue in FTAs negotiations. This project is, therefore, expected to address the capacity building needs of APEC economies by providing a short training course to equip negotiators, policy makers and academics with relevant information, references, and equivalent skills to participate in FTA-related environment negotiations.

This project forms part of activities under the Action Plan Framework for Regional Economic Integration (REI) Capacity Building Needs Initiative (CBNI) initiated by Korea since 2010. In 2011, APEC Ministers “welcomed the decision to approach capacity building activities with strategic foresight by undertaking multi-year projects, such as supporting APEC’s work to strengthen and deepen regional economic integration, and facilitating the realization of FTAAP.” The APEC Capacity Building Needs Survey in 2010 and the REI CBNI Policy Training Course in 2011 resulted in an Action Plan Framework which is consisted of 7 fields, namely: services and investment; e-commerce; labour; environment; intellectual property; SPS and rules of origin.

Discussion

Outcomes

The APEC Training Course on Building and Enhancing Capacities to Participate in FTA-related Environment Negotiations included 2 days for presentations and discussions on FTA-related environment chapters and

provisions, preparation for negotiating environmental provisions/chapters in an FTA and post-negotiation implementation issues. The Training Course was also consisted of a mock negotiation of 4 Parties, where participants had good opportunities to discuss in groups for one hour and undertake the mock negotiation for another hour. The mock negotiation was overwhelmed with enthusiasm and active discussions of all speakers and participants who played the role of developed, emerged and least developed countries. For some participants, it was a rare chance for them to 'put in the shoes' of negotiators from the other side and understand the background, positions and domestic challenges of other countries. The Training Course also brought about the knowledge of designing negotiation strategies and inter-department policies and networking. The Training Course's speakers, with experiences in FTA-related environment negotiations, have helped participants in building basic views and developing steps and plans for group negotiations. Overall, the Training Course has achieved its main objectives as described in the project proposal in building and enhancing capacity and understanding of participants on FTA-related environmental considerations.

Key Issues Discussed

The Training Course specifically focused on capacity building and enhancing for negotiators who have participated or potentially will participate in FTA-related environment. The Training Course featured speakers and experts from international organizations (OECD and Animals Asia) and APEC economies that provided participants with a broad view of the background information on FTA-related environment chapters/provisions and experiences of economies throughout the Asia - Pacific region. Active participants from the private, public and academic sectors and the sharing of their perspectives also added to the overall success of the Training Course.

After an opening speech by Mrs. Nguyen Thi Hoang Thuy, Deputy Director General, Ministry of Industry and Trade of Viet Nam, negotiators and experts have provided presentations on the following topics:

1/ To better understand FTA-related environment chapters/provisions, there was a session on the inter-connection between trade and environment, consisting of the overview and history of including environmental provisions in trade agreements and other presentations on several side agreements on environment and/or texts of the FTAs relating to environment.

- Presentation on 'Environmental Provisions in FTAs' by OECD. This presentation included 4 main points: the overview and history of recent trends in RTAs, the space occupied by environment in recent FTAs, OECD checklist for negotiators of environmental provisions in RTAs and environment in FTAs involving Asian countries.
- Presentation on 'Environment Chapters in Existing Free Trade Agreements' by New Zealand. This presentation included the views on different models of environment chapters, preparation for negotiation and guidance.
- Presentation on 'Environment Chapters in U.S. Free Trade Agreements' by the United States. This presentation included broad objectives for including environment in FTAs, the evolution of FTA environmental provisions, and general elements of the United States approach in recent FTAs, including consultation, transparency, public participation and cooperation matters.

2/ To provide best practices and to share experiences of APEC economies in the general context of negotiating FTA-related environment chapters/provisions, two APEC economies shared their domestic situation and their engagement in negotiating environmental content in an FTA at multilateral, regional and bilateral levels.

- Presentation on 'Policy Framework on Environment Protection and Climate Change Response in Viet Nam during the Process of International Economic Integration' by Viet Nam. This presentation included

some important legal documents of Viet Nam on environmental protection, its international commitments on environmental protection, and climate change, as well as the government's policies to observe international commitments .

- Presentation on 'Environmental Policy in Engaging in a Free Trade Agreement' by Indonesia. This presentation included current FTA engagement by Indonesia and the effect of environmental policies on FTA negotiation and implementation.

3/ In the course of pre-negotiation preparation, an environmental impact assessment is required. Thus, there was a presentation on 'Environmental Impact Assessment in Viet Nam: From Regulations to Practices'. This presentation included 4 main points: the development of environment assessment system, environmental assessment in regulations, and environmental assessment in practice and challenges in environmental assessment.

4/ Korea had a presentation on 'New Incentive-Compatible Environment Issues in FTA'. The presentation focused on proposed, new environmental issues in FTAs. Besides the examination of general knowledge on environment issues in FTA and the analysis of environmental provision in FTAs, the presentation also included an interesting case study on China's accession to the WTO and the issue of environment.

5/ In the preparation for negotiating environmental provisions/chapter in an FTA, Peru and Australia shared their experiences in coordination process before, during and after negotiations. Australia also presented the background information and procedures of government-level decision making mechanism.

6/ There were 2 presentations from the government sector (Malaysia) and an international organization (Animals Asia) on their experiences in FTA-related environment stakeholders consultation.

- Malaysia reiterated the importance of explanations of the benefits and rationales of FTA agreement should be given to stakeholders to make them understand and be supportive to the negotiators and the lead agency. In the view of Malaysia, the views, demands and mandates given by stakeholders (especially from specific group who will implement the agreement in the future) should be taken into consideration.
- Animals Asia stressed the need of transparency, a mechanism for getting stakeholders to take part in and submission during FTA negotiation, including capacity building. It also recommended a mechanism that allows public participation in the implementation of FTAs.

7/ Speakers from the United States, New Zealand and the OECD provided 3 presentations on the topic of best practices in post-negotiation implementation.

- The United States emphasized the complexity of implementation and the needs of early start. In addition, it is necessary to be thorough and follow a systematic framework to ensure compliance with obligations that take effect on Day One.
- New Zealand presented on the approval process, typical governance arrangements for cooperation, first meetings, frameworks, etc. New Zealand also highlighted some examples of post-negotiation implementation.
- The OECD presented on its framework for evaluation of implementing RTAs with environmental provisions. There was an example on the mechanisms to monitor the implementation of RTAs in the framework of the CAFTA-DR Environmental Cooperation Agreement.

Mock negotiation

During the mock negotiation, participants were divided into 4 groups of countries (developed, emerged, least developed ones) to prepare and negotiate the issue of climate change under an Environmental Chapter in a FTA. Participants had one hour to discuss at group level, with assistance and advice of speakers, to prepare for the group's views and strategies to negotiate.

The one-hour mock negotiation took place enthusiastically with 4 leaders of 4 groups to represent their groups to negotiate. The negotiators were reserved, polite but also firm on their countries' positions. After one hour of active, friendly but also strict negotiation, 4 Parties agreed that there would be a subject of climate change (not a specific text) in an Environmental Chapter.

The exercise on mock negotiation was evaluated to be useful and helped to increase the skills of negotiations.

Conclusion and Recommendations

In the Training Course's closing remarks, Mrs. Pham Quynh Mai, Deputy Director General of the Multilateral Trade Policy Department, Ministry of Industry and Trade of Viet Nam, commended the speakers and participants on a very successful and productive Training Course. She expressed her hope that APEC would continue to follow up on capacity building on FTA-related environment issues and help APEC economies to enhance their capacities in this regard. Mrs. Pham concluded her remarks by thanking the organizers, co-sponsors and distinguished speakers and participants from government, academic and international organizations, for sharing their valuable experiences and invaluable insights.

The Training Course concluded with a discussion of possible future activities and continuing work to improve the capacities to participate in FTA-related environment negotiations and sharing best practices.

Participants largely supported the idea of furthering this type of training course in the coming time. Follow-up training course should consider the following topics:

1. In terms of theory:

The following topics can be considered to be addressed at the course:

- More specific ideas, for example environmental goods and services, biodiversity and trade, climate change and trade, energy efficiency and trade.
- A session on multilateral environmental agreements or other conventions/ protocols;
- Interconnection between environment chapter/provisions/side agreement and other chapters in an FTA;
- Cost benefit analysis in environmental impact assessment;
- Environmental reviews, assessment and monitoring of FTA commitments;
- The methodology to conduct stakeholders (civil society) outreach.

2. Mock negotiation:

- Participants highly recommended to include mock negotiation in future training course and more time should be allocated for this exercise, probably on daily basis after each theory session, so that participants will have chance to practice negotiation skills. Additionally, different groups may take bilateral consultation with each other.

- To prepare for the mock negotiation, there should be specific guidance/ information that can be handed out or emailed to participants prior to the training course. The organizers might also think of multiple ways of conducting the mock negotiations, including bilateral and multilateral negotiations as well as changing of partners. There should also be one session for stakeholder consultation.
- A special training on negotiation skills and techniques is also very important and highly recommended.

3. The conduct of the training course:

- Those training courses may have some break-out sessions to get into detailed discussions.

4. Participation of stakeholders:

- More involvement of various stakeholders, such as academia, NGOs, business.