



**Asia-Pacific
Economic Cooperation**

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Agenda

Submitted by: Korea



**Capacity Building Program Dealing with Free
Trade Agreement Dispute Settlement
Proceedings: New Challenges and
Opportunities for APEC Economies
Seoul, Korea
7-8 November 2013**

APEC FTAAP Capacity Building Program

Dealing with FTA Dispute Settlement Proceedings: New Challenges and Opportunities for APEC Economies

Draft Agenda

Nov. 7-8, 2013, Shilla Hotel, Seoul, Korea

DAY 1	
8.30 am – 9.00 am	Arrival/Registration/Coffee
9:00 am – 9:05 am	Welcome Remarks TBD (High Ranking Official from the Ministry of Foreign Affairs)
9.05 am – 9.15 am	Introduction/overview of workshop
Session 1 9.15 am – 10.15 am	<p>Introduction: Advent, Importance and Implication of the FTA Dispute Settlement Mechanism</p> <ul style="list-style-type: none"> - Professor Won-Mog Choi, School of Law, Ewha Womans University <p><i>The first session will offer an introductory framework for the two-day discussions, including the advent of an increasing number of bilateral dispute settlement mechanisms in various FTAs and what this phenomenon means, both legally and logistically, for the participating APEC Economies and their government agencies. The session may include a keynote speaker and/or panel which will discuss a wide spectrum of structural changes and challenges facing the APEC Economies in the FTA era in terms of dispute settlement proceedings.</i></p> <p>Designated Discussant: Professor Susan Karamanian, George Washington University School of Law, Washington, DC, USA</p> <p>Discussion (Questions & Answers)</p>
10.15 am – 10.45 am	Coffee Break
Session 2 10.45 am – 12.00 pm	<p>Key Provisions and Characteristics of the FTA Dispute Settlement Mechanism</p> <ul style="list-style-type: none"> - Professor Henry Gao, Singapore Management University <p><i>The second session will then provide an overview of the key provisions of the FTA dispute settlement mechanism so as to inform the participants of how the mechanism would actually work in practice. The speakers and panelists/discussants will also touch upon the unique characteristics of the FTA dispute settlement mechanism compared to other trade dispute settlement mechanisms and what these differences would mean for government officials managing the FTA dispute settlement mechanism including other domestic stakeholders such as corporations and business entities.</i></p> <p>Designated Discussant: Professor Junha Kang, Hongik University, College of Law, Seoul, Korea; Dr. Hyoyoung Lee, Graduate School of International Studies, Seoul National University.</p> <p>Discussion (Questions & Answers)</p>

12.00 pm – 1.30 pm	Lunch
Session 3 1.30 pm – 3.00 pm	<p>Interaction between WTO Dispute Settlement Mechanism and FTA Dispute Settlement Mechanism: Challenges and Suggestions</p> <ul style="list-style-type: none"> - Mr. Muslum Yilmaz, Senior Counsellor, Rules Division, WTO Secretariat <p><i>The third session will address one of the major possible concerns of the APEC Economies in the new FTA era. The co-existence of WTO dispute settlement mechanism and multiple bilateral FTA dispute settlement mechanisms stands to raise the interaction between the two dispute settlement mechanisms and requires APEC Economies to consider a wide range of logistical and legal issues to effectively manage such interaction and overlapping phenomena. On the one hand, the APEC Economies would desire to ensure the continued success of the existing mechanism (in the case of the WTO), while, on the other, they would hope their bilateral issues to be dealt with by the FTA bilateral dispute settlement mechanism at issue. The speakers and panelists/ discussants will discuss a wide range of issues in this regard, including possible areas of collaboration and coordination between the two dispute settlement mechanisms.</i></p> <p>Designated Discussant: Mr. Kichang Chung, Ministry of Trade Industry & Energy, Republic of Korea</p> <p>Discussion (Questions & Answers)</p>
3.00 pm – 3.30 pm	Coffee Break
Session 4 3.30 pm – 5.00 pm	<p>Fine-Tuning and Administration of the FTA Dispute Settlement Mechanism: Dealing with Multiplications of Dispute Settlement Proceedings, Forum Shopping, Transparency Requirements, and Other Issues</p> <ul style="list-style-type: none"> - Mr. Sungbum Lee, Attorney, Kim & Chang, Seoul, Korea <p><i>The fourth session will deal with more detailed legal and logistical issues that the APEC Economies will encounter in the course of the FTA dispute settlement mechanism. Speaker will discuss issues such as: orchestrating multiple dispute settlement mechanisms with different requirements and conditions, dealing with forum shopping problems and how to avoid repetition of multiple disputes involving essentially same issues, coping with enhanced transparency requirements under various FTAs and possible introduction of an appellate review system. Speakers and panelists/ discussants will provide examples and practical experience of how government officials can effectively handle these new issues in the new landscape of FTAs.</i></p> <p>Designated Discussant: Mr. Muslum Yilmaz, Senior Counsellor, Rules Division, WTO Secretariat</p> <p>Discussion (Questions & Answers)</p>
5.00 pm – 5.05 pm	Wrap- up and overview of Day 2

DAY 2	
8.30 am– 9.00 am	Arrival/Registration/Coffee
9:00 am – 9:05 am	Introduction
Session 5 9.05 am – 10.30 am	<p>FTA and Investor-State Disputes and Arbitration</p> <ul style="list-style-type: none"> - Professor Susan Karamanian, George Washington University School of Law <p><i>The fifth session will explore yet another touchy issue of the FTAs that APEC Economies have concluded: the investment disputes and investor-state arbitration. In many APEC Economies, the investment chapter has become one of the most controversial topics in negotiating and implementing FTAs, which has its own dispute settlement provisions. Speakers and panelists/ discussants will discuss the implication of including investment chapter and investor-state dispute settlement mechanism in the FTAs. They will address both pros and cons, and necessities and difficulties arising from the investment issues in negotiating, concluding and implementing FTAs.</i></p> <p>Designated Discussant: Mr. Hyun-Suk Oh, ISD Task Force, Korea Commercial Arbitration Board</p> <p>Discussion (Questions & Answers)</p>
10.30 am – 11.00 am	Coffee Break
Session 6 11.00 am – 12.30 pm	<p>New Issues in Interpreting and Applying Investment Chapters: the Need to Balance Competing Interest of Stakeholders</p> <ul style="list-style-type: none"> - Professor Susan Franck, Washington & Lee University School of Law <p><i>The sixth session will discuss the investment chapters of FTAs in a more specific manner: how to adjust or evolve investor-state arbitration proceeding so as to ensure balancing sometimes competing interest between foreign investors and host governments. Recent examples of investment disputes raise new issues and points that APEC Economies should consider in formulating and administering investor state arbitration proceedings within the framework of the FTAs. Speakers and panelists/ discussants will share with the participants their practical experience and examples concerning these issues.</i></p> <p>Designated Discussant: Professor Joung-Wook Hwang, School of Law, Hankuk University of Foreign Studies</p> <p>Discussion (Questions & Answers)</p>
	Lunch

<p>Session 7</p> <p>2.00 pm – 3.00 pm</p>	<p>Looking Forward – Dispute Settlement Mechanism in the FTA Era as New Challenges and Opportunities for APEC Economies</p> <p>- Mr. Yongki Hong, Ministry of Trade, Industry & Energy, Korea</p> <p><i>The seventh and final session will discuss ways to manage FTA dispute settlement mechanism (including investor state arbitration proceedings) in the future that can assist APEC Economies in confirming workable guidelines to faithfully implement complex obligations under the FTAs while avoiding unnecessary disputes. With this in mind, speakers and panelists/ discussants may discuss issues such as how to avoid frivolous litigations, how to provide practical assistance to developing Economies' capacity building in the dispute settlement field, and how to consider exploring other ways of dispute resolution – which can be more effective and less costly depending upon circumstances – such as mediation procedures.</i></p> <p>Designated Discussant: Professor Henry Gao, Singapore Management University</p> <p>Discussion (Question & Answers)</p>
<p>3.00 pm – 3.30 pm</p>	<p>Coffee Break/Wrap up and evaluations</p>