



**Asia-Pacific
Economic Cooperation**

2014/CTI/WKSP7/010

**Group Discussion: Recommendations on Enhancing
APEC Roles in Implementation of Safeguards and
Transitional Safeguards in APEC Region and Next
Steps**

Submitted by: Indonesia



**Workshop on Provisions of Regional Trade
Agreements and Free Trade Agreements in the
Asia-Pacific Region Concerning Safeguards,
Including Transitional Safeguards
Surabaya, Indonesia
10-11 June 2014**

GENERAL GUIDELINE FOR EACH GROUP

1. Session 4 of this workshop is a group discussion to assemble recommendations on enhancing APEC roles in implementation of Safeguards and Transitional Safeguards in APEC region.

2. The speakers and participants will be divided into 3 sub-group based on the previous session topics:

Group 1 will discuss *Understanding Fundamental Issues and Procedures under the WTO Safeguards Mechanism and FTAs/RTAs Safeguards Provisions in the APEC Region*. This group will be lead by **Jo-Ann Crawford, Prof. Lepi T. Tarmidi, and Djunari Inggit Waskito, SH, LL.M.** Group 1 will be assisted by **Darang S. Chandra** for technicals preparation

Group 2 will discuss *Implementation of Safeguards and Transitional Safeguards for Developing and Developed Economies in APEC Region*. This group will be lead by **Jeremy Albert Gabriel Kumajas, Victor Mrocza, Luis M. Catibayan, and Mia Mikic**. Group 2 will be assisted by **Bowo** for technical preparation

Group 3 will discuss *Experiences in Implementation of Safeguards and Transitional Safeguards from Bussiness Perspectives*. This group will be lead by **Erry Bundjamin and Yose Rizal**. Group 3 will be assisted by **Noventy** for technical preparation

Please see the list of the group members

3. Discussion of each group is expected to deliver the answer of the followings questions:

1. What are lessons learned from this session?

2. What are the recommendations for APEC and APEC process based on the lessons learned from this session?

3. What should be the next steps from this workshop?

4. Time management of the discussion will be held in the following steps:

1. Speakers and participants will be divided into 3 groups and each group should discuss in **2 hours (9.00-11.00)**

2. One of the representatives of each group should present the result of the discussion in **1.5 hour (11.00-12.30)** in the pleno session. Each group should deliver the result of the discussions around **30 minutes**

3. Additional time for further discussion if need for **30 minutes (12.30-13.00)**.



**Understanding Fundamental
Issues and Procedures Under the
WTO Safeguards Mechanism and
FTAs/RTAs Safeguards Provisions
in the APEC Region**

LESSONS LEARNED

- In general, the session was very useful and instructive in ensuring safeguard provisions understanding contained in intra-APEC RTAs.
- Improve our understanding of the different approaches to SG measures employed by the APEC economies in their RTAs
- Understanding the differences between bilateral and global safeguard measures as well as other safeguard provisions

- Provides better understanding of the differences between various trade remedies and their economic effects
- The importance of statistics and information about RTAs in general
- Differences between WTO members on SG in FTAs → no significant move for clarifying the GATT Article XXIV and SGA rules

POLICY RECOMMENDATION FOR APEC AND APEC PROCESS

- Sharing of knowledge :
 - To find the best practices between APEC members
 - To find how much bilateral safeguards are used between the APEC members
- Further discussion to find the common definition of “serious injury”

NEXT STEPS?

- Creating a database of bilateral safeguards between the APEC members
- Establishing the Sub-Committee on Trade Remedies under APEC CTI
- Arranging the “Workshop on Conducting SG Investigations”
- Arranging a Symposium aimed at producing a Guideline/Manual of “Lessons Learned from the design and application of SG Measures in APEC”

**APEC WORKSHOP ON PROVISIONS
OF RTAS/FTAS IN THE ASIA PACIFIC
REGION CONCERNING SAFEGUARDS
INCLUDING TRANSITIONAL
SAFEGUARDS**

Group 2

LESSONS LEARNED FROM THIS SESSION:

- ◉ **Clear guidance for the countries as to implementation**
- ◉ Better understanding on safeguards measures of other Economies (more/less restrictive) and better understanding of different ways of implementing provisions
- ◉ Difficulties in quantifying serious injury
- ◉ Limited capacity restricts the ability of economies to conduct safeguard investigations
- ◉ Better understanding of the linkage between further liberalization and the safeguard instrument

LESSONS LEARNED FROM THIS SESSION (CONT.)

- ◉ Better understanding of the types of measures that can be put in place and why they are necessary
- ◉ Necessity for better communication between negotiators and implementers
- ◉ How Economies are guiding implementation

RECOMMENDATIONS FOR APEC AND APEC PROCESS BASED ON THE LESSONS LEARNED FROM THIS SESSION

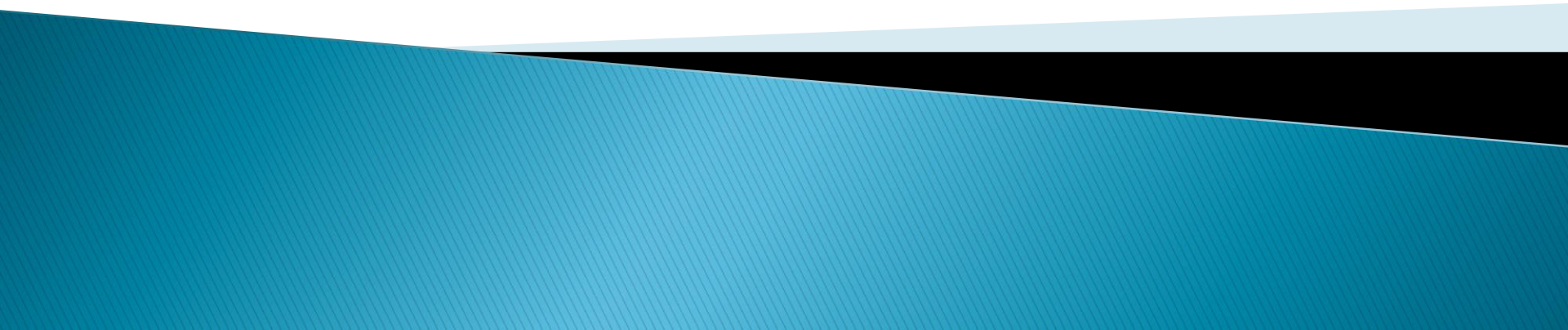
- Obtain a better understanding of the balance between liberalization and necessity of safeguards
- Obtain a better understanding of why safeguards measures are chosen over other trade remedies (ad/cvd)
- If APEC moves into negotiations, then further studies should be done that focus on different Economies' approaches on safeguards, including global v. Bilateral, and WTO interpretations of safeguard provisions
- Organize further workshops based on above (ranging from short focus to longer, in-depth discussions)
- APEC Secretariat should do an inventory of safeguard provisions in Economies' FTAs and bilateral safeguard investigations



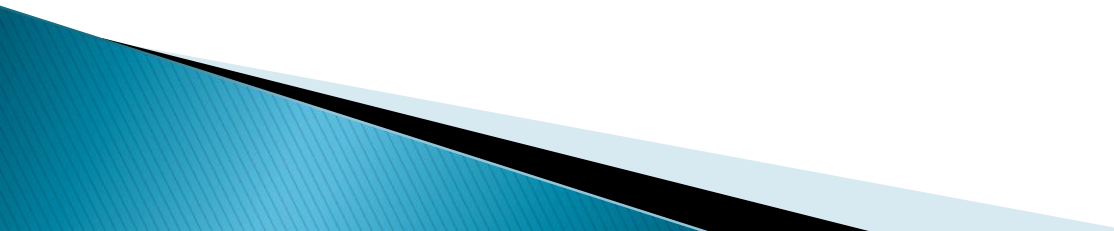
THE NEXT STEPS FROM THIS WORKSHOP

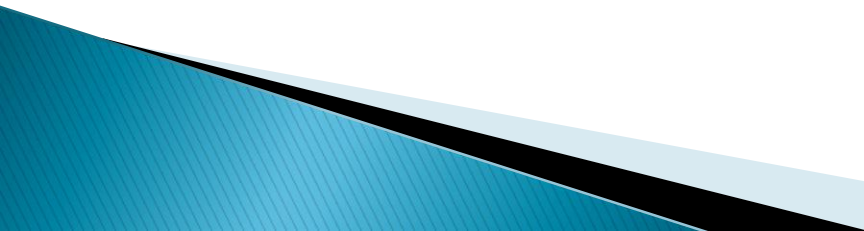
To have follow up seminar/workshop with focus on experiences from Economies on elements of (B) above

Experiences in Implementation of Safeguards and Transitional Safeguards from Business Perspectives



Response to first question:

- ▶ There are sets of varieties in term of rules and procedures for the application of safeguard measures within the APEC economy, which each and every national legislation, RTA and BA resorted to adopt them in accordance with the WTO SG Agreement as a reference or parameter for the application of safeguard measure.
 - ▶ Most of business or industry is generally of the view that the application of SG measure is simpler and easier as compared to ADD and ASCVD which may not be true in practice.
 - ▶ The application of safeguard measure found to be not effective in some areas as it requires strict conditions, while at the same time may not bring much benefits to the development of the concern industries and economy in general. For example in the case of innovation, safeguard tends to not provide incentive for capital expenditure and industrial development but only more on research and development;
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- ▶ There are in some economies within APEC who still do not have their national legislations on the implementation of safeguard measure;
 - ▶ Discriminatory safeguards as bilateral or RTA's may not be effective in reducing imports as they simply divert imports to other trading partners. The bilateral safeguards may also not be easy to implemented.
 - ▶ In general, economies within APEC prefer to use global safeguard instead of RTA or BA SG measures for number of reasons mostly on the lower MFN tariff rate.
 - ▶ There is no clear cut whether exemption of RTA and BA members can be excluded from the global SG measure
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Response to Question 2

- ▶ The existence of safeguard mechanism in RTA and BA is necessary to provide incentive, security and insurance for the economies to proceed with the liberalization in the regions. in bilateral,
- ▶ There is a need of more transparency for the implementation of safeguard measures including the rules and procedures and it is suggested safeguard mechanism in RTA and BA including the disclosure of findings and implementation of measure be notified to the WTO.
- ▶ There is a need of APEC economy to increase the fairness and objectiveness of the application of SG measures which are consistent with WTO SG Agreement.
- ▶ There should be careful examination on impacts of SG from business point of view on the domestic industry proven to have suffered serious injury, downstream industry and the consumers
- ▶ Need to better understand ADD and CVD provisions in the context RTA and BA whenever possible

Response to question 3

- ▶ More capacity building is certainly needed
 - ▶ Assistances to some economies to adopt national legislation and correct implementation
 - ▶ Working group needed to analyze the parameter for the application SG measures including the formula how safeguard measure implemented and evaluated. This is to include economist, legal experts and industry representatives
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