



**Asia-Pacific
Economic Cooperation**

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Annex 3: APEC Information Sharing Mechanism for FTAs/RTAs

Purpose: Consideration
Submitted by: CTI Chair
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**Second Senior Officials' Meeting
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Proposal for APEC information sharing mechanism for FTAs/RTAs

**Paper by Australia, Chile, Hong Kong, China, New Zealand, Singapore and China
11 May 2014**

Economies at CTI1 in Ningbo agreed, in principle, to the establishment of an information sharing mechanism on FTAs/RTAs, noting that its format and structure would be subject to further discussion. A CTI Friends of the Chair (FoTC) group on “Strengthening Regional Economic Integration and Advancing FTAAP” was established to take these and other related issues forward. This paper sets out some ideas for the organisation and implementation of the APEC information sharing mechanism for consideration by the FoTC group.

Against the background of our mutual interest in taking concrete steps towards the realisation of an FTAAP, the primary purpose of an APEC information sharing mechanism on FTAs/RTAs should be to:

- support the multilateral trading system and WTO by promoting and encouraging, through information exchange and active participation in the WTO RTA Transparency Mechanism, high quality comprehensive FTAs that serve as building blocks for broader regional and multilateral trade liberalisation;
- raise awareness of the WTO-plus elements and outcomes of concluded FTAs in relation to traditional areas such as goods (e.g. tariffs, non-tariff measures, standards, customs procedures, rules of origin), services and intellectual property chapters;
- raise awareness of the treatment of issues and outcomes in areas where existing WTO disciplines are limited or non-existent (e.g. investment, competition policy, electronic commerce, labour and environment);
- raise awareness of how economic and technical cooperation has been incorporated in FTAs involving developing economies
- raise awareness of the relationship between bilateral and plurilateral agreements involving the same economies;
- encourage consideration by APEC economies of how WTO-plus commitments made in the FTAs/RTAs of other APEC economies could be incorporated into their own FTA negotiating approaches and objectives; and
- encourage trade and investment liberalisation and facilitation in FTAs/RTAs through exchange of information.

An appropriate information sharing mechanism will provide an intellectual and policy foundation for step-by-step work towards a comprehensive, quality FTAAP that takes into account contemporary economic developments in the region and “best practice” in regional FTA/RTA outcomes. The APEC information sharing mechanism should

be driven by the inputs of member economies and concentrate on WTO-plus issues and approaches that could shape the development of an eventual FTAAP. It should avoid duplication with the WTO Transparency Mechanism for RTAs, which would, of course, remain an important overarching resource (see further below).

An APEC information sharing mechanism could incorporate the following elements:

1. Enhancing Access to Information on RTAs/ FTAs.

- a. APEC economies to publish the text and schedules of concluded and formalised RTAs/FTAs in a timely manner on their respective trade ministry websites in the official APEC language (English), as far as practicable.**

Most economies are already doing this, but explicit reiteration of this element would reinforce this practice and encourage economies to reflect on whether the published material is in the most accessible format and location. Where publication of the text and schedules of the RTA/FTA in the English language is not practicable (because the treaty has been negotiated and formalised in another language), a summary of the FTA/RTA should be published in the English language.

b. Update existing 2009 APEC comparative toolkit database on FTA/RTAs

The 2009 <http://fta.apec.org> website collated completed FTAs/RTAs amongst APEC member economies. This is a very useful web tool as it provides for easy comparison between agreements, chapters and specific provisions of the various FTAs/RTAs. This tool does not have agreements subsequent to 2009. We suggest that this website is updated to include FTAs/RTAs concluded amongst APEC members subsequent to 2009.

If agreed, Economies to provide e-links to relevant intra-APEC FTA or RTAs not included already in this database by 1 August 2014 to: cw@apec.org, Hamish.Orbell@mfat.govt.nz and apd@mfat.govt.nz.

c. Compile e-links to economies' existing FTAs

An adjunct to the <http://fta.apec.org> website could be established to include links to each individual member economies ministries or departments of foreign affairs, commerce or trade websites where the FTAs/RTAs of each member can be viewed, including FTAs/RTAs with non-APEC economies. This would not form part of the fta.apec.org comparative toolkit, but would be a one-stop compilation of sites for easy reference. An advantage of direct links to each economy website is that updates to the FTAs/RTAs and progress reports in relation to ongoing negotiations that are publicised on those websites would be captured and made accessible through the APEC site.

If agreed, Economies to provide e-links to their broader ministries or departments of foreign affairs, commerce or trade FTA web pages by 1 August 2014 to cw@apec.org, Hamish.Orbell@mfat.govt.nz and apd@mfat.govt.nz.

Consideration could also be given to adding hyperlinks to relevant external organisations, to be discussed at the next relevant meeting.

2. Sharing and Assessing Information on WTO-Plus Elements of RTAs/ FTAs

a. Presentations by economies on the WTO-plus elements of FTAs/RTAs recently concluded with other APEC economies.

This would involve a brief joint presentation in the CTI by representatives of the APEC economies that are parties to the FTA/RTA. Ideally, presentation would be delivered by officers that had senior roles or were subject matter experts in the actual negotiation of the agreement. The presentations could be a dialogue at one CTI meeting in the year. They would be focused on the WTO-plus elements of the FTA/RTA, as mentioned above. Areas of difficulty between the parties as reflected in the FTA/RTA outcomes (e.g. exemptions from tariff reduction or elimination commitments; disciplines on non-tariff measures; limited WTO-plus outcomes on services etc) could also be highlighted, as well as mechanisms to address such difficulties over time (e.g. built-in work programs). Member economies would have an opportunity to comment and ask questions of the presenters. A written summary of the discussions/findings would be prepared. The reference to “recently concluded” agreements could include those that entered into force two or three years before the commencement of the information sharing mechanism and those previous agreements that have significant WTO-plus elements.

b. Action by relevant CTI sub-fora to identify and discuss WTO-plus elements in relation to FTA chapters in regional FTAs (e.g. electronic commerce, standards, rules of origin etc)

The CTI could ask CTI-sub fora with relevant competence and expertise to focus at their meetings on specific chapters of concluded FTAs (e.g. IEG on Investment chapters; ECSG on electronic commerce chapters; GOSG on services chapters; MAG on market access for goods and Rules of Origin; BMG on temporary entry for business persons; IPEG on intellectual property rights; SCSC on standards-related chapters and SCCP on customs-related chapters). The discussions would be based on the APEC PSU research referred to in 3(c). The objective would be to identify and discuss the treatment of those issues, with a focus on the WTO-plus elements and how other economies already incorporate or could potentially incorporate those elements into their standard FTA/RTA negotiating objectives and approaches. Outcomes of these discussions could point towards the possible approaches for FTAAP. Written summaries of these discussions/findings would be prepared and included in the convenors’ reports to CTI. CTI to analyse and discuss reports and provide instructions to sub-fora and report to SOM.

c. APEC database/web portal to capture the findings and results of these discussions.

A database or web portal could be established to provide a centralised location for the written summaries prepared on the discussion/dialogues/presentations referred

to in 2(a) and 2(b) above and 3(a) below. This database could be restricted to officials-only access if economies considered that information was potentially sensitive. If appropriate, this database could build on or be an adjunct to the 2009 APEC database on FTAs/RTAs referred to in 1(b) above.

3. Holding Annual Dialogues and Reports on RTAs/ FTAs

a. Annual SOM dialogue highlighting trends and patterns in regional FTAs/RTAs, key WTO-plus elements and treatment of newer issues

This dialogue would involve APEC Senior Officials, negotiators, academics and business practitioners, aimed at highlighting innovations, developments and trends in the content of FTAs/RTAs. The key focus should be on the WTO-plus elements of FTAs/RTAs and/or areas of difficulty or sectors where impediments remain, including mechanisms for dealing with difficulties and impediments over time. Key areas of convergence in FTA/RTA provisions and outcomes, especially on non-tariff measures and in non-goods areas, would be highlighted. Participants could also use these dialogues to highlight any areas where action/capacity-building could be undertaken to encourage better FTA/RTA practice and approaches (e.g. through the REI Capacity Building Needs Initiative). Discussions could also include updates on FTAs/RTAs currently under negotiation. A summary of the dialogue outcomes would be prepared.

b. Ministers Responsible for Trade meetings include an annual discussion point on FTAs/RTAs

This would be a high level dialogue focusing on the strategic and broader trade policy outcomes of FTAs/RTAs, including relationship with the multilateral trading system and relationship between overlapping FTAs/RTAs and the prospect of a Free Trade Area of the Asia-Pacific (FTAAP).

c. APEC Policy Support Unit (PSU) research and annual report on state of FTAs/RTAs in the region

The PSU could support the information sharing mechanism by carrying out research on trends and developments in FTA/RTA provisions and outcomes. This could include analysis, on a thematic basis and on specific elements of FTAs (e.g. standards, rules of origin, investment provisions) which would serve as a basis for discussions referred to in 2(b). The PSU could also aim to produce an annual publication, providing an overview of the features of FTAs/RTAs concluded by APEC economies in the preceding year. An additional one-time report by PSU will cover all FTA/RTA between/among members that are already in force. This would draw on the presentations/discussions at the MRT, SOM, CTI, and CTI sub-fora platforms as well as external public domain material, research by the WTO Secretariat, OECD and Economic Research Institute for ASEAN and East Asia (ERIA), AIDB, INTAL and commentary by academic experts. Among other things, the PSU reports could seek to identify common patterns/trends of WTO-plus commitments in concluded FTAs/RTAs (including by drawing on the APEC presentations/discussions mentioned above) and highlight where these are different from and add value to APEC's 2009 FTA/RTA model measures.

Building on the outcome of PSU's study, CTI and its sub-fora could undertake a review of key chapters/model measures (e.g. ROO), where practical. The PSU research outputs and reports could be posted on the APEC web portal envisaged in paragraph 1(c) above.

4. Reinforcing and Intensifying Use of WTO RTA Transparency Mechanism

a. Agreement by APEC economies to intensify their engagement in the WTO RTAs Transparency Mechanism

The WTO RTAs Transparency Mechanism, established in 2006, is an important vehicle for assessing the extent to which FTAs support the multilateral trading system. The WTO mechanism has a well-defined set of procedures, which includes a descriptive report prepared by the WTO Secretariat on the main features of the notified FTA/RTA and review/discussion of the FTA/RTA by WTO members. While the APEC information sharing mechanism, as described in this paper, would be aimed more towards building consensus and understanding of FTA/RTA provisions/outcomes and possible provisions and approaches for an eventual FTAAP, the WTO mechanism is highly complementary insofar as it provides transparency on the detail of concluded FTAs. APEC economies should therefore agree to enhance their engagement in the WTO RTAs Transparency Mechanism as part of the intensification of effort on information sharing within APEC on FTAs/RTAs.