



2015/SOM3/ACT/002

Agenda Item: 3

Summary Record – 20th Anti-Corruption and Transparency Experts’ Working Group Meeting

Purpose: Information
Submitted by: ACT Chair



APEC
PHILIPPINES
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**21st Anti-Corruption and Transparency Experts’ Working Group Meeting
Cebu, Philippines
22 August 2015**

Summary Record
APEC Anti-Corruption and Transparency Expert's Working Group Meeting (ACT 20)
26-27 January 2015, Clark, the Philippines (SOM 1)

The 20th meeting of the APEC Anti-Corruption and Transparency Experts' Working Group (ACT) was held at Holiday Inn, Clark, Philippines on 26-27 January 2015, followed by the Workshop on the Role of Stakeholders in Fighting Corruption on 28 January.

The 20th ACT meeting was chaired by Ombudsman Conchita Carpio Morales (The Philippines), and it was attended by 20 APEC member economies (all except for New Zealand). A non-member participant from the American Bar Association (ABA) was recognized.

Agenda Item 1 – Opening Remarks

The ACTWG Chair welcomed the delegates from the APEC member-economies and formally opened the meeting. With this year's theme "Building Inclusive Economies, Building A Better World", she stressed the importance of stamping out the forces of corruption and granting the people of the Asia-Pacific Region the full measure of the blessings of a robust economy (**2015/SOM1/ACT/019**).

Agenda Item 2 – Adoption of the Agenda

ACT members adopted the agenda of the 20th ACT Meeting (**2015/SOM1/ACT/001**), and endorsed the 19th ACT Meeting Summary Record (**2015/SOM1/ACT/002**).

Agenda Item 3 – APEC Secretariat Report

The APEC Secretariat presented a report on overall APEC key developments (2015/SOM1/ACT/018). The APEC Secretariat also reported on the updates on its project management. After presenting a statistical summary, the Secretariat announced the change of name of one of project funds from "*Operational Account*" to "*General Project Account*" and announced the use of new templates on ranking and prioritization, the introduction of the standardized approach, and the inclusion of quality criteria in the prioritization process (**2015/SOM1/ACT/003**).

Agenda Item 4 – Report on 2014 ACT Achievements

The ACT Vice-Chair (China) briefed the delegates on the 2014 ACT achievements with the conclusion of two meetings, two workshops, and ACT-NET's first meeting held in Ningbo and Beijing as well as the publication of the Beijing Declaration on Fighting Corruption. The United States, Australia, Russia and the Philippines expressed their appreciation to China for chairing last year's ACTWG.

Agenda Item 5 – Members' opportunity to report on anti-corruption progress and development on implementing the UN Convention against Corruption (UNCAC) and other Initiatives related to Anti-corruption and Transparency (I)

Mexico made a presentation on the case of its Ministry of Economy, which tackled the role of civil society organizations to improve transparency and combat corruption pursuant to the UNCAC provision on the promotion of the active participation of individuals and groups in the prevention of and fight against corruption (**2015/SOM1/ACT/015**).

Agenda Item 6 – Direction of ACT Work during 2015

6.1 The Philippines APEC 2015 Priorities

Undersecretary Ferdinand Cui Jr., SOM Vice-Chair, presented the *APEC 2015 Theme and Priorities*. Under the theme "*Building Inclusive Economies, Building A Better World*", four priorities were identified: (1) enhancing regional economic integration; (2) fostering participation of small and medium enterprises

in regional and global markets; (3) investing in human capital development; and (4) building sustainable and resilient communities.

6.2 ACT Work Plan 2015

The ACT Chair presented the draft of the ACT Work Plan 2015 for members' consideration which was adopted after discussion and revision (**2015/SOM1/ACT/004rev1**). Of particular note, an additional paragraph has been included under point 1 with reference to the commitments made by the APEC Economic Leaders in Beijing, 2014 and the use of ACT-NET. After various proposals from different member economies, the ACTWG agreed on the language of the said paragraph as follows:

"In a view to implement the recent commitments made by the APEC Economic Leaders in Beijing, 2014 with regard to denying safe haven for those engaged in corruption and their illicitly-acquired assets, we will strengthen cooperation and coordination in repatriation or extradition, as appropriate, of such individuals, as well as confiscation and recovery of corruption proceeds, and in particular through the use of ACT-NET for information sharing and law enforcement cooperation subject to domestic laws and policies."

The endorsed Work Plan also includes the expected outcomes/deliverables for 2015:

- Workshop on "Investment Protection against Corruption"
- Workshop on "Developing Model Framework and Best Practices for Combating Corruption in the Environment and Use of Natural Resources in the APEC Region" Pathfinder II on Combating Corruption and Illicit Trade"
- 3rd Workshop of the Multi Year Project for the APEC Handbook on Best Practices to Investigate and Prosecute Corruption and Money Laundering (SOM III)
- Continued cooperation with international organizations such as OECD, UNODC, World Bank, TI and American Bar Association
- 2nd ACT NET Meeting in Cebu City, Philippines

6.3 ACT Strategic Plan 2013-2017

Members were invited to review and propose suggestions to update the ACT Strategic Plan (**2015/SOM1/ACT/005rev1**). Endorsed by the SOM Steering Committee on ECOTECH, the Strategic Plan is considered as a living document open to updates during implementation. The meeting acknowledged and supported the comments received from members.

Agenda Item 7 – Reports on Ongoing and Proposed Projects and ACT Initiatives and Related Synergies with Other Relevant International Fora

Members received reports on ongoing projects and related synergies with other relevant international fora.

- China reported on the outcomes of the ACT-OECD High-Level Anti-Corruption Workshop on "Combating Business Bribery" held on 14 August 2014 as well as the first ACT-NET Workshop held on 17-19 December 2014, both convened in Beijing, China.
- Thailand updated on the multi-year project "Capacity-Building Workshops on Designing Best Models on Prosecuting Corruption and Money Laundering Cases Using Financial Flow Tracking Techniques and Investigative Intelligence for Effective Conviction and Asset Recovery to Promote Regional Economic Growth" (**2015/SOM1/ACT/009, 009a, 026**). The 2nd workshop of this project was held on 22-24 September 2014 in Pattaya, Thailand. Chile and Thailand informed the meeting that the second part of the project's handbook have incorporated the outcomes of the workshop and is under review. Thailand announced that the 3rd workshop will be held in the margins of SOM3 in Cebu, the Philippines.
- Australia updated on the project "APEC Guide to Mutual Legal Assistance" and informed that the Guidebook will be made available on the APEC website upon completion.

- Philippines informed the meeting of the Workshop on the Role of Stakeholders in Fighting Corruption to be held on 28 January 2015 following the 20th ACTWG meeting.

Agenda Item 8 – Opening Session for Day 2

The ACT Chair recapitulated on the minutes of the meeting conducted on Day 1 and opened the session.

Agenda Item 9 – Members' opportunity to report on anti-corruption progress and development on implementing the UN Convention against Corruption (UNCAC) and other Initiatives related to Anti-corruption and Transparency (II)

United States reported on the APEC General Elements of Effective Voluntary Corporate Compliance Programs (2015/SOM1/ACT/006) and the APEC Principles on the Prevention of Bribery and Enforcement of Anti-Bribery Laws (2015/SOM1/ACT/007).

Members from Canada, Chile, China, Indonesia, Japan, Korea, Malaysia, Mexico, Papua New Guinea, Philippines, Chinese Taipei, Thailand, United States and Viet Nam shared their reports on developments and progress on implementing the UN Convention against Corruption (UNCAC) and other domestic initiatives and legal advances related to anti-corruption and transparency.

- Canada is finalizing its full cycle report on UNODC.
- Chile mentioned that its citizens can now access public information online.
- China and the United States expressed their commitment to international cooperation on asset recovery and denial of safe haven to persons engaged in corruption.
- Indonesia shared news on the recent arrest of the Chairman of the Corruption Eradication Commission (KPK) due to false accusation of money laundering by a police officer being investigated/prosecuted by KPK for bribery.
- Japan reported on its capacity building activities in the Asia Pacific including those through the Japan International Cooperation Agency (JICA) and financial support to the anti-corruption programs of other member-economies such as the Regional Meeting on Curbing Foreign Bribery in ASEAN Economic Community held in Cambodia in October 2014.
- Korea reported that a bill on prevention of illegal solicitation was already submitted and discussed before the National Assembly.
- Malaysia announced that it has forfeited 2.8M Malaysian Ringgit in ill-gotten wealth.
- Mexico made an update that its definition of “foreign bribery” is pending legislation.
- Papua New Guinea has MLA with Indonesia (without need of a treaty).
- Philippines reported that it has completed the 1st review cycle in covering Chapters III and IV in November 2013. It also reported on the recent activities including the 1st and 2nd State Conferences on UNCAC Implementation jointly held by the Office of the President (OP) and Office of the Ombudsman (OMB) and ongoing preparations for the 3rd State Conference. The Philippines also emphasized the commitment of the heads of the three branches of government to upholding the objectives of the UNCAC, and highlighted its accomplishments and institutional reforms.
- Chinese Taipei reported on the localization of its anti-corruption laws.
- Thailand aims to reduce level of corruption both in the public and private sector.
- United States is expanding the staff of the US Attorney's Office to accommodate MLA requests.
- Viet Nam gave the information on the development of the Project “Promoting Integrity in Doing Business in Vietnam” (also called as the Project No. 12). Viet Nam also reported that it had started the process of revising comprehensively the legal frameworks on anti-corruption, namely the Anti-corruption Law, the Criminal Code and the Criminal Procedures Code. Various anti-corruption preventive measures including public administration reform, transparency in operations of State agencies and of assets and income of public officials, education and encouragement of further participation of society had been seriously implemented recently.

Some of the reports can be found in more detail in the following meeting documents:

2015/SOM1/ACT/008, 031 - Malaysia

2015/SOM1/ACT/010 - Korea

2015/SOM1/ACT/017	- Indonesia
2015/SOM1/ACT/022	- United States
2015/SOM1/ACT/024	- Thailand

Members also discussed the need to streamline the review process of the UNCAC in light of the forthcoming 2nd review cycle. Discussion will be continued at the 21th ACTWG meeting.

On the news shared by Indonesia regarding the arrest of the KPK Chairman, the ACTWG resolved that the expression of concern be made in a general sense over acts of harassment and assault on anti-corruption officials and workers, and not specifically to the Indonesia KPK incident.

Agenda Item 10 – Report on the implementation of the 2014 Beijing Anti-corruption Declaration

China reported on its implementation of the 2014 Beijing Anti-corruption Declaration and encouraged member economies to engage in international cooperation with a focus on specific areas of concern. Members expressed commitment to implementing the Declaration (**2015/SOM1/ACT/029**).

Agenda Item 11 – Implementation of APEC Anti-corruption commitments

With regard to the *Interim Reports II due 2014*, the APEC Secretariat acknowledged that it has received the reports of Hong Kong, China (**2015/SOM1/ACT/011**); Thailand (**2015/SOM1/ACT/012**); United States (**2015/SOM1/ACT/013**); and Viet Nam (**2015/SOM1/ACT/014**).

Members discussed the need to update the current reporting template to reflect recent developments within and outside of APEC such as the 2014 Beijing Anti-corruption Declaration and UNCAC review. Members requested the Secretariat (i) to provide the current status of report submission from member economies, and (ii) to examine the procedural requirement / timelines of reporting in light of the Strategic Plan. The information from the Secretariat will feed into members' discussion whether a new template can be applied to future reports after SOM3, 2015. The ACTWG Chair pronounced that because other member-economies have already submitted their reports, the template should be retained until all reports are submitted and analyzed and thereafter, a revision may be made.

Agenda Item 12 – Report on Protection for Investors

Overall Deputy Ombudsman Melchor Arthur H. Carandang, 2015 ACT-NET Chair (The Philippines) talked about *Investment Protection* in which foreign investments to economic growth was emphasized to be important in generating employment, contributing to the learning curve of the economy, accessing international market and creating great impact on poverty alleviation. The processes of doing business in the Philippines are saddled by issues of corruption. Hence, the Office of the Ombudsman launched the Investment Ombudsman Program which has the duty to address investors' grievances by directing those in charge to expedite the issuance of business permits and licenses, as well as to investigate investors' complaints and prosecute individuals for corrupt practices (**2015/SOM1/ACT/027**).

Agenda Item 13 – Report from International Organizations on their Anti-Corruption Activities and Synchronizing with ACT

In his report, Mr. Peter Ritchie from the American Bar Association (ABA) stated that the ABA sees the ACTWG as the world leader in the fight against corruption. He further expressed that ABA can act as a bridge in forging linkages with the private sector (**2015/SOM1/ACT/020**).

Agenda Item 14 – Preparation for 2nd ACT-NET 2015

Members discussed on the 2nd ACT-NET meeting scheduled to take place in the margins of SOM3 in Cebu (**2015/SOM1/ACT/021**). Members agreed to develop the meeting agenda intersessionally by seeking inputs from ACT-NET focal points. Arrangement for the Office of ACT-NET (currently served by China for 2014-2015) will also be discussed in Cebu. Members requested the APEC Secretariat to assist the ACT-NET Office with administrative matters such as circulation of information and documentation.

Other Issues

Members reviewed the Document Classification List (**2015/SOM1/ACT/000**).

The ACT Chair announced that the 21st ACTWG meeting and the 2nd ACT-NET meeting will be held in the margins of SOM3 in August 2015 in Cebu. Members requested the Philippines and the APEC Secretariat to schedule the meetings and related workshops for the first part of the SOM3 period as many members need to attend other international meetings in end August and early September.

In her final remarks the ACT Chair thanked all members for their active participation and contribution to the meeting.

Workshop on the Role of Stakeholders in Fighting Corruption
28 January 2015
Clark, Philippines

The Workshop on the Role of Stakeholders in Fighting Corruption, organized by the Office of the Ombudsman, Philippines, was attended by more than sixty participants.

Opening Session

Overall Deputy Ombudsman Melchor Arthur H. Carandang, 2015 ACT-NET Chair (The Philippines) delivered his welcome remarks and gave member-economies an overview for the workshop on the "Role of Stakeholders in Fighting Corruption."

Report on Capacity Assessment of the Anti-Corruption Infrastructure in the Philippines

Ms. Fe Cabral (UNDP) reported on Capacity Assessment of Anti-Corruption Infrastructure in the Philippines. One of the objectives of the UNDP is to conduct a rapid capacity assessment of key institutions, claimholders, and duty-bearers that contribute to promoting accountability, transparency and integrity. She stated that corruption costs the Philippine government about PhP250 billion or USD 5.5 billion each year (2010 Philippine Transparency Reporting Initiative). She observed, however, that high political will has led to many initiatives and case investigations. She proposed that there be a common roadmap for collective action, improvement of inter-agency cooperation, legislative reform, and partnership with civil society. In the UNDP report, the Philippines stressed that anti-corruption programs and initiatives are in place, including legislative proposals to set in motion the UNCAC provisions. (**2015/SOM1/ACT/030**)

Role of Financial Intelligence Units in Tracking Corruption

Atty. Arnold G. Frane of the Anti-Money Laundering Council (AMLC) talked about the Role of AMLC in the Philippines' Anti-Corruption Efforts. As the financial intelligence unit of the Philippines or the central agency which is responsible in receiving, requesting, analyzing and disseminating financial information, the AMLC has the power to make bank inquiries, file for "Asset Preservation" (freeze order) before the courts, and recommend to the appropriate agency the filing of a Petition for Civil Forfeiture. He, however, mentioned that bank secrecy is a challenge in these processes. He added that the power of the AMLC covers only cases involving money laundering, unlawful activities or predicate offenses, proceeds from these unlawful activities and "dealings" in criminal proceeds. (**2015/SOM1/ACT/023**)

Role of Government Auditing in Fighting Corruption

Commissioner Heidi Mendoza of the Commission on Audit (COA) presented on the topic of the Role of Government Auditing in Fighting Corruption. As the Philippines' Supreme Audit Institution, COA has the exclusive Constitutional authority to define the scope of its audit and examination, establish its techniques and methods, and promulgate accounting and auditing rules and regulations. The COA also implements its own "anti-corruption strategy" which is in accordance with the national anti-corruption strategy. One of its goals in the Strategic Plan for 2011-2014 is "to increase the public's awareness and enhance inter-agency relations as regards COA's role in ensuring transparency, accountability and good governance. In the public procurement system, it acts as an observer in the proceedings of the Bids and Awards Committee. Its findings of fraudulent acts are transmitted to the Office of the Ombudsman with recommendation for the filing of cases against liable persons. (**2015/SOM1/ACT/025**)

Role of Media in Fighting Corruption

Last to report was Ms. Malou Mangahas, Executive Director of the Philippine Center for Investigative Journalism (PCIJ), on the Role of Media in Fighting Corruption. The 1987 Constitution provides for clear and absolute guarantees on freedom of speech, press and assembly, but up to now there is yet no Freedom of Information Law. Ms. Mangahas also shared the results of their experiment wherein 12 volunteer CSOs, which were organized in three groups, sent out letters/requests to government agencies and the latter's response time to these letters/requests. She observed that the government's disclosure of some information on its terms is not good enough. The media seeks the assistance of the Office of the Ombudsman in obtaining information from government offices. Under the present law, the

government must make information accessible to the public within 15 working days from the date of request. She likewise revealed that the Philippines is one of the deadliest places in the world for journalists, 153 of them having been killed in line of duty since the 1986 People Power Revolt.

An open forum was held in which the member economies actively participated by asking questions and making comments on the topics reported by the speakers from UNDP, AMLC, COA and PCIJ. Significantly, United States commended the ACT Chair for putting a spotlight on the media. He was stunned by the report from PCIJ that 153 journalists were killed in The Philippines since 1986. Thus, he proposed that the *protection* of the front-liners in the fight against corruption (like the journalists) be given importance. ACT-NET Chair assured the United States that its proposal will be considered in the next meeting.

The 2015 ACT-NET Chair Melchor Arthur H. Carandang then delivered his closing remarks.
