

**Summary Report for the Capacity Building Workshop
on Scheduling in market access negotiations in services trade and investment**
(June 27~28, 2016, Seoul)

1. Background of the Workshop

A Capacity Building Workshop on scheduling in market access negotiations on services trade and investment was held in Seoul on June 27-28, 2016, as part of the programs under the 2nd phase of the Capacity Building Needs Initiative (CBNI). The workshop was developed to equip today's FTA negotiators of member economies with good knowledge and skills on scheduling in services trade and investment for the realization of FTAAP, given that the proposed subject matter is undoubtedly regarded as one of the most complicated negotiating areas, but an increasingly important field in FTA negotiations.

2. Overview of the Workshop (speakers and program)

The workshop was attended by 33 delegates from 16 APEC economies (Australia; Chile; China; Hong Kong, China; Indonesia; Malaysia; Republic of Korea; Mexico; Papua New Guinea; Peru; Philippines; Russia; Singapore; Thailand; Chinese Taipei; and Vietnam). It also hosted six experts on services trade and investment: Dr. Bernard Hoekman from the EUI (European University Institute); Dr. Astrit Sulstarova from the United Nations Cooperation for Trade and Development (UNCTAD); Dr. Zhang Ruosi from the World Trade Organization (WTO); Mr. Thomas Fine from the Office of the United States Trade Representative; Mr. Malpica Guillero from the Ministry of Economy of Mexico; and Pf. Sung Hankyung (University of Seoul).

The workshop, which was moderated by Pf. Sung, consisted of 5 sessions and 8 presentations, commencing with "Understanding the Importance of Services Trade and Investment in the global trading environment" (session 1) and "WTO Service Negotiations and related issues" (session 2), moving on to "How to make market access commitments from a positive list approach perspective" (session 3) and "How to list up non-conforming measures from a negative list approach perspective" (session 4), and concluding with "Discussions and sharing experiences of APEC members" (session 5).

3. Short summary of the presentations

(Session 1)

In the first session, Dr. Bernard Hoekman (Professor and Director of the European University Institute) provided a background for the growing importance of services trade in the current global economy. He explained that the services industry often provided supporting functions for manufacturing industries by facilitating specialization and offered basic infrastructure. In

addition, he emphasized the role of the services trade and services sector (such as health, education, finance, transportation, etc.) as a key driver in achieving the United Nations Sustainable Development Goals (SDGs). However, he stated that services trade faced various barriers with regard to market access and national treatment as well as behind-the-border regulations. He mentioned that trade agreements only partially addressed barriers related to market access and national treatment barriers, and failed to deal with behind-the-border measures, especially regulatory heterogeneity which increased trade costs in services. In this regard, he said that ideally addressing domestic regulations including regulatory heterogeneity was very important to further develop the services sector and but that it looked like a long-term agenda. He mentioned that as a way to address these challenges, we needed to “unpack” relevant policies and span sectoral regulatory policies.

Mr. Astrit Sulstarova (Chief of the Investment Trend Division, United Nations Cooperation for Trade and Development (UNCTAD)) presented the recent trends of investment both in the Asia-Pacific region and the world. He emphasized the growing proportion of the services sector in the global FDI flows/stock in both developed and developing economies and that the APEC economies were both major investment destinations and investors. He also explained that most new investment policy measures continued to be geared towards investment liberalization and promotion and that APEC members have been active in liberalizing and promoting investment. He added that more than two thirds of International Investment Agreements involved APEC members in 2015 and presented UNCTAD’s Investment Policy Framework.

(Session 2 & 3)

In the second session, Ms. Zhang Ruosi (Counsellor, WTO Secretariat) presented the basic architecture of the GATS including its scope, coverage and definition and the current state of play of services trade negotiations. She also touched upon classification issues including the W/120 and provisional CPC, especially the challenges arising in the applications, such as “how to deal with new services” and “how to overcome the inadequacy of W/120 and capture new market realities.”

In the third session, Ms. Zhang described the scheduling methods under the WTO GATS mechanism, particularly controversial issues such as the Economic Needs Test (ENT), residential requirements, local content requirements and localization of data.

(Session 4)

In the fourth session, Mr. Thomas Fine (Senior Director for Services, Office of the USTR) gave a detailed presentation on the mechanisms of listing up non-conforming measures. He emphasized the strengths of this mechanism vis-a-vis a positive list approach in ensuring transparency and capturing autonomous liberalization. He also presented ways to identify and analyze various measures; basic obligations specified in the FTA trade in services chapter; relationship between Annexes and NCM entries; and negotiating aspects of drafting non-

conforming measures.

Mr. Guillero Malpica (Director-General, Ministry of Economy of Mexico) presented a unique perspective on developing economies participating in the services trade negotiations that utilized a “non-conforming measure approach.” In particular, he presented Mexico’s experience in energy sector reforms and TPP negotiations.

(Session 5)

In the last session, Mr. Chile shared Chile’s experiences and efforts in the FTA services trade and investment negotiations, and Dr. Hankyoung Sung (Professor at Seoul University) presented various literature on the economic impact of services trade liberalization as well as Korea’s experience in and future plans for services trade liberalization. At the end of the session, he ran improvised economic experiments on bilateral bargaining games for participants so that participants could reflect on the basic nature of negotiations and enhance their negotiating skills.

4. General evaluation

Overall, the workshop was fruitful with in-depth discussions on various scheduling mechanisms in the market access negotiations of services trade and investment. The workshop achieved its desired outcome by allowing participants to enhance their understanding, sharing experiences and exchanging views on how to improve the scheduling mechanisms to meet the demands of businesses and rapidly changing realities in the world of services trade. In particular, the workshop was successful in convening prestigious scholars and experts from academia, government and international organizations and served as a valuable opportunity for the participants to gain knowledge from the insights and expertise of the speakers.

According to the results of the survey following the workshop, participants seemed to be satisfied with the structure, presentation materials, interactive discussions as well as the logistical preparations.

A more detailed report on the workshop will be submitted to the CTI by the end of this year and all materials from the workshop will be uploaded to the official website of APEC.

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