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Capacity Building for FTA/RTA Negotiations

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Session 3: Capacity Building for FTA/RTA negotiations

ERLINDA M. MEDALLA, RESEARCH FELLOW, PIDS
SOM DIALOGUE ON RTAS/FTAS
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Background and Objectives

RTA/FTA developments: formation of Mega blocs– TPP, RCEP

Ultimate Objective: to improve APEC economies' readiness to eventually achieve a Free Trade Area of the Asia Pacific (FTAAP)

Specific Objectives:

- Look at the APEC Initiatives on capacity building
- Highlight areas where action/capacity-building could be undertaken to encourage better FTA/RTA practice and approaches (and better utilization and realization of benefits)



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APEC Economy	# of RTAs in force	W/ TPP	W/ RCEP
Australia	12	✓	✓
Brunei Darussalam	8	✓	✓
Canada	11	✓	
Chile	25	✓	
People's Republic of China	15		✓
Hong Kong, China	4		
Indonesia	7		✓
Japan	15	✓	✓
Republic of Korea	17		✓
Malaysia	12	✓	✓
Mexico	14	✓	
New Zealand	11	✓	✓
Papua New Guinea	5		
Peru	15	✓	
The Philippines	7		✓
Russia	13		
Singapore	20	✓	✓
Chinese Taipei	6		
Thailand	10		✓
The United States	14	✓	
Viet Nam	11	✓	✓



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Elements found in APEC RTAs/FTAs

1. MARKET ACCESS
2. RULES OF ORIGIN
3. CUSTOMS PROCEDURES
4. SANITARY AND PHYTOSANITARY MEASURES
5. TECHNICAL BARRIERS TO TRADE
6. TRADE REMEDIES (AD, CVD, etc)
7. GOVERNMENT PROCUREMENT
8. INVESTMENT
9. CROSS-BORDER TRADE IN SERVICES
10. COMPETITION POLICY
11. INTELLECTUAL PROPERTY
12. LABOR
13. ENVIRONMENT
14. DISPUTE SETTLEMENT
15. ELECTRONIC COMMERCE
16. COOPERATION



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Increasing coverage of FTA provisions

- Provisions can be categorized into:
 - WTO +, with additional provisions already being discussed, introduced in WTO
 - WTO – K, relatively new areas, still unregulated in the WTO; found in many FTAs involving the EU. In APEC FTAs – WTO-K provisions usually include competition policy, anti-corruption, environment and other cooperation areas
 - TPP possibly with more WTO-K provisions than RCEP
- Areas covered (AC) have grown but many (especially in WTO-K) are not Legal Enforceable (LE)- “legal inflation” in WTO-K, i. e. many areas covered such as environment, anti-corruption, terrorism, anti-money laundering, labor rights, etc are not LE (Horn, Mavroidis & Sapir)



General Observation

All the APEC economies have engaged in FTAs/RTAs

Increasing number of FTAs and areas covered

Major obstacle to REI and FTAAP:

- Wide disparity in levels of development
- Wide variation in terms of depth and breadth of multiple FTAs/RTAs, different levels of ambition
- Changing global and trading environment (rise of GVCs)

Need for capacity building



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APEC Capacity Building Needs Initiatives (CBNI)

1st CBNI- spearheaded by Korea, in cooperation with Chile, Peru, and the Philippines (2010)

Survey (2010) results identified most challenging sectors/areas as:

- Challenging Sectors: E-Commerce, Labor and Environment, Intellectual property, Investment, SPS, and Rules of Origin and etc.
- Challenging Areas relevant to Negotiation: Lack of Expertise and Human/Financial Resources
- Challenging Areas relevant to Implementation: Consensus Building, Lack of Domestic Institutions, Structural Reform and Outreach of FTA/RTA benefits



Source: APEC Document; 2012 CTI REPORT TO MINISTERS, Appendix 1

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2012 CBNI Action Plan Framework

Pillar	Area ¹	Leading Economy(ies)	Participating Economy(ies)
Preparation	Scheduling Non-Conforming Measures on Services and Investment	US (New Zealand, Chile, Australia)	Chinese Taipei, Philippines, Thailand
	E-Commerce	China (US)	Thailand
	Labor	US	Peru, Thailand [TBC]
	Environment	Vietnam (US)	Papua New Guinea, Peru, Thailand
	Intellectual Property	(Peru)	Peru
	SPS	Vietnam (Peru)	Papua New Guinea
	Rules of Origin	Korea	Chinese Taipei, Philippines, Papua New Guinea
Implementation and Outreach	Consensus Building, Institutional Framework, Promotion of FTA/RTA Benefits	Korea (Chile)	Thailand
	Enhancement of FTA/RTA Utilization	Japan	Thailand
Research/Analysis	Research/Analysis		Philippines
Other Sectors	Legal Issue, Other Areas		Papua New Guinea, Peru, Philippines



Source: APEC Document; 2012 CTI REPORT TO MINISTERS, Appendix 1

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2014 CBNI Action Plan: Some suggestions based on Survey

Focus more on the services sector, as there is high demand for capacity building in its newly-developed areas.

Small-group discussions to facilitate an interactive sharing of experiences and best practices among the participating economies.

Page on the APEC website under the RTA/FTA area that provides a direct link to corresponding materials on the AIMP website, as well as a direct link to training resources offered by other international organizations.

Focus on where APEC can add value, which is in sharing best practices, deciding the future direction of the FTAAP and addressing specific challenges that may arise in the process of its implementation.

Lead economies to consider organizing capacity building activities on directly-related topics such as FTA implementation issues and ROO provisions.



Source: APEC Document: 2014/AMM/012app03

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2014 CBNI Action Plan: Suggested sectors to cover in 2nd CBNI

- Sectors requiring further discussion and clarification: negotiation techniques, SPS, e-commerce, labour, ROO and origin procedures, government procurement and FTA implementation;
- Sectors that were not covered in previous CBNI programs: trade in services (including services in general, financial services, telecommunications and professional services), competition, investment, intellectual property, and transparency; and
- Newly emerging sectors in mega RTAs/FTAs and next generation trade and investment issues: non-tariff measures, technical barriers to trade (including standards and conformity), environment (including trade in climate change), relationship between trade and benefit sharing arising from the utilization of genetic resources, and strategic private-public partnership.

Suggested additional considerations for the future CBNI include: building a website for e-learning and making the current database of presentations and reports more accessible to users.



Source: APEC Document: 2014/AMM/012app03

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Need for capacity building

Not just in terms of negotiation skills (all countries have some experience in FTAs, although LDCs behind in terms of expertise)

Most importantly- capacity building that would strengthen the underlying foundation in negotiating FTAs/RTAs

Readiness:

1. Coping/complying with reforms arising from FTAs – adjusting to increased competition; implementing required reforms
2. Taking advantage of increased opportunities



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Need for capacity building

1. Some sectoral/issues approach
 - Prime example- ROOs – for greater FTA utilization
 - IPRs- how far to go
 - Liberalizing traditionally closed sectors
 - Next trade generation issues
2. Research; Building database
 - Capacity building to do research; collaborative research
 - Exchange of information; building database
3. Analytical tools
 - APEC online regulatory learning tool
 - CGE/GTAP, gravity models

Challenging Areas relevant to Implementation: Consensus Building, Lack of Domestic Institutions, Structural Reform and Outreach of FTA/RTA benefits



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WEBSITE: www.pids.gov.ph

FACEBOOK: facebook.com/PIDS.PH

TWITTER: twitter.com/PIDS_PH

EMAIL: emedalla@mail.pids.gov.ph

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