

SUMMARY REPORT

APEC WORKSHOP STRENGTHENING TRANSPARENCY AND PARTICIPATION IN THE PROCESSES OF NEGOTIATION OF TRADE AGREEMENTS

(20 August 2017, Ho Chi Minh City)

BACKGROUND

The inclusion of people's perspectives and concerns about trade is now crucial for the configuration of enhanced trade agreements that respond to current and future economic and social challenges, ensuring that trade agreements reached are relevant and balanced to the citizens.

We are witness to ongoing changes in international trade. There is more interest than ever in matters of trade and equivalent amount of claims for more transparency and engagement instances. Behind this interest is an increasing distrust in what are the objectives and future results of current trade policies and agreements in force and future. Today it is widely known that trade agreements have impacts in people's lives and in the development of their countries.

In specific terms, today's FTAs and RTAs within the region are evolving beyond traditional disciplines, including next generation issues that have begun to attract greater levels of public interest. In some instances, stakeholders have held critical or defensive stance on issues such as the environment, health, intellectual property, e-commerce, ISDS, among others. One of the main problems contributing to this relates to lack of access to information during the processes of trade negotiations. The configuration of this new trade agreements have been characterized by what may be perceived as strict confidentiality in its negotiation processes. However, this may be in contrast with the need to provide greater transparency and information to domestic stakeholders and better communicate trade contents that are relevant for the common interest.

Providing greater transparency and enforcing communication channels is also essential in attaining wider support for *trade initiatives* and to achieve greater efficiency to "new" commitments, ensuring that these are widely beneficial for parties. Moreover, the wide range of new issues being negotiated under trade agreements have shown the need for mechanisms that promote the participation of relevant stakeholders with specific knowledge and experience that can strengthen negotiating positions to achieve satisfactory agreements to the interests of each party involved. This is a cornerstone in achieving an expansion of the APEC agenda for the liberalization and facilitation of trade and investment, with sufficient legitimacy and effectiveness for its implementation.

THE WORKSHOP

The workshop was held on 20 August 2017, in Ho Chi Minh Viet Nam, and represents one of the main stages of the project submitted to the CTI under the title *Strengthening Transparency and Participation in the Processes of Negotiation of Trade Agreements*. This project seeks to facilitate the construction of a wide support base that enable agreements to achieve greater public approval and create greater benefits from regional economic integration; it aims to address capacities and experiences that allow greater involvement of multiple stakeholders interested in the issues under negotiation; to attain a better knowledge of the current standards of transparency and participation

in the processes of negotiation among APEC economies; and to share experiences and proposals oriented to generate recommendations for strengthening the transparency and the participation of stakeholders in the process of negotiating and implementing trade agreements in APEC economies. Before this workshop a survey was circulated among APEC economies, with the aim of achieving a better understanding of current level of implementation on transparency and participation mechanisms or its lack, among them. It is considered that the information gathered with this survey will be useful for regulators and public officials involved in this matters and also for research and academic work.

The main objective of this workshop was to share experiences and proposals oriented to generate first approaches for future recommendations for strengthening the transparency and the participation of stakeholders in the process of negotiating and implementing trade agreements in APEC economies. It is considered that the final recommendations gathered during the execution of this project will contribute to the design of a good practices framework within APEC fora.

20 AUGUST - ONE-DAY WORKSHOP:

Opening remarks

Mr. Felipe Lopeandia, Chile's chief negotiator of the TPP, delivered the welcome remarks emphasizing the importance of advance towards the generation of recommendations on transparency and participation in the negotiation processes of trade agreements in the current context of international trade, in which it is important to bring stakeholders closer to the new developments on trade, recognizing concerns and proposals from them, to achieve relevant and balanced trade agreements to stakeholders.

Session 1: “Trade under public scrutiny. The importance of promote a more inclusive and participatory agenda on trade”.

In this session, speakers addressed different perspectives on the current context of criticism and mistrust regarding trade and its benefits and their links with lack of information, engagement instances and the complexity of the technical contents of trade agreements.

Julia Nielson, Head of the Development Division, Trade and Agriculture Directorate, OECD. Her presentation focused on the current trade and globalization perception and the challenges related to this topics from a social and economic perspective. The speaker began with reflecting on this current perception of general discontent with commerce as a matter that requires new approaches to be properly understood and managed; the importance of consider that trade is observed positively in diverse places of the world that have oriented their main development objectives thorough trade liberalization commitments and policies for openness and integration. The fact that throughout the last decades globalization has had a positive impact in all regions of the world, in areas of special importance such as overcoming extreme poverty, education and health must be take into account, as a solid base that needs improvements, not as a defective model that must be replaced. From the *protectionist vision* it is possible to observe other kind of defects that do not necessarily solve the problems denounced as a result of globalization and trade openness. A first crucial aspect to attend the challenges related to the weaknesses of this globalization era is the treatment that governments have to give to their domestic policies for the implementation, articulation and exploitation of the benefits of trade liberalization. Another relevant aspect

mentioned by Ms. Nielson is the importance of improve communication channels on trade contents., recognizing that the efforts must not be only directed at improving the way trade issues are timely communicated. It is especially necessary to work consistently on domestic policies that credibly support the decisions of authority in the fields of international trade. Other relevant points: the need for a more active public debate to raise trade issues to the knowledge of citizens; how to handle expectations with the consultations and other instances open to the participation of interest groups. Who are the relevant actors, and how to avoid corporatism in that exercises. Also, clarity about the real capacity of governments to incorporate those concerns; to invite new coalitions, new actors taking part in these discussions; to treat interests at a more local level, in order to understand how trade impacts each national reality (by region, sectors, etc.).

Erin Turner, Head of Policy and Campaigns, Choice (Australian consumer organization).

In her speech, Ms. Turner began with sharing information about CHOICE. The organization has a vision that aims to propose a constructive vision. They relate to academia, guilds, social organizations, among others. One of the main premises: trade has an immense potential impact on people. CHOICE represents about 150 partner organizations. The speaker referred to TPP process, sharing views from the organization experience through this process. The lack of access to information, not having access to the negotiation texts, the exclusion of policy experts in these processes, allowing instances of parliamentary "control" once the process is concluded, knowledge that certain corporate representatives have a privileged place in the negotiation process, worsens the perception of mistrust. Issues of most concern: IP chapters and ISDS systems. Ms. Turner suggested some reforms, attending these perspectives: (i) Broad and nuanced discussion for each negotiation process, before, during and after each negotiation meeting, of each milestone of the processes; (ii) Access to negotiation texts. Full negotiation text. There are intermediate options, for example, rules that interest civil society do not necessarily put at stake interest in product lists, access to markets and other strategic issues under confidentiality; (iii) Access to Parliament in a timely manner is also an issue; (iv) Negotiators open documents before delivering final document to signature; (v) Cost-benefit reports; and (vi) Impact studies are necessary prior to the negotiation process; among others.

Session 2. How to improve communications and channels of engagement on trade.

In this session, expert speakers shared their experiences and proposals to address the challenges for achieving more transparent and participatory trade agreements negotiations and/or implementations processes.

Alexandra Hernadi, Communication Manager, and Nataliya Hulusjö, Communication Strategist. National Board of Trade, Sweden.

In their presentation, the panelists shared methods and experiences of their work in to bring closer trade issues to citizens. How to communicate information that involves strong technical language and complex matters demands efforts to attain the interest and understanding from citizens and relevant stakeholders. The relationship between governments and citizens must be for the two sides, reciprocally. Government officials must learn to better communicate and to listen the concerns and proposals from stakeholders and citizens in general. The speakers presented examples of their work in this issues: video prepared for Brexit context; report on protectionism and its effects. The main messages: identify relevant actors to be reached, but also seeking to expand the scope of

the message. Today communications is about inclusion, including people and knowing how to listen them. Government agencies should be interested in knowing what the concerns of the people are.

John Riley. Trade Policy Engagement Unit, Ministry of Foreign Affairs and Trade, New Zealand.

The speaker informed that New Zealand Government recently implemented a specialized unit to manage issues of strengthening stakeholder's involvement in trade negotiation processes. New Zealand's economy is heavily based on trade liberalization and the interest of public opinion has been increasing. This context made necessary to respond with new policies. The diagnosis of Mr. Riley is that main criticisms are based on the perception of a prioritization of economic interests rather than public concerns and the concessions made in trade negotiation processes. Given this, government mandate for this Trade Policy Engagement Unit is to deliver to citizens sufficient information that allows to clarify the policies behind each authority decisions and to strengthen the involvement of citizens in trade issues. Mr. Riley presented some of the initiatives planned for this new Unit, such as: consultation processes, summaries of public negotiation rounds, publication of economic analysis reports, local calls, live streaming meetings, among others.

Session 3. Transparency and participation in processes of trade negotiations and confidentiality standards: experiences and learnings.

Mr. Felipe Lopeandía, Chile's chief negotiator of the TPP.

Mr. Lopeandía presented the background of the process of Chilean commercial opening the last 25 years, distinguishing stages of this process in terms of negotiation processes and the government approach with stakeholders. The speaker highlighted the US-FTA process: much more active civil society and degrees of specialization on issues under negotiation. In his view, TPP is a process that exhibits various relevant elements to understand current context and the efforts / challenges of the period. Among active actors, there are concerns in specific, more technical terms, and some of a more general, more politicized positions, in terms of criticizing trade policy maintained by the government. This new context motivates changes in how the traditional mechanisms of transparency and participation are handled. The Chilean government now is aware that to fail in this policies can have repercussions on doubts about the legitimacy of the agreements reached. The challenge is how to deliver specific technical content to the different actors. It is necessary to open discussion on institutional issues: the limited incidence of Congress in the process, conditions of the process in terms of pre-negotiation requirements, among others, raises a question of legitimacy. Mr. Lopeandía commented that Chile is currently working on the institutionalization of participatory instances for the negotiation processes.

Todd Mercer, Assistant Secretary in the Free Trade Agreement Division of the Australian Department of Foreign Affairs and Trade.

Mr Mercer reflected on Australia's experience negotiating FTAs with a particular focus on calls from a number of sectors for greater transparency during the various stages of the FTA negotiation process. The speaker noted the benefits of regular engagement with stakeholders, including representatives from business, civil society, the parliament and sub-central government. He noted that such engagement can help inform the development of trade and investment policies, raise community awareness of FTAs and build broad support across the community for trade and investment liberalisation. Mr Mercer detailed the efforts made by the Australian Government to

share information and consult as it pursues FTAs. He noted that the Department of Foreign Affairs and Trade, the agency which leads on FTAs, meets regularly with interested stakeholders either as a group or individually, encourages them to make written submissions and conducts regular seminars to inform the community about FTAs and the benefits of trade and open markets.

Dr. An Baisheng, Chinese Academy of International Trade and Economic Cooperation, Ministry of Commerce, P.R. China. In his speech, the following themes were presented:

China's recent trade experience has sparked new information and official dissemination policies. Trade liberalization is relevant for the country. The antecedents of the commercial agreements reached are treated and disseminated after the conclusion of the processes, signed the agreements. Mainly, there are used press and digital platforms to disseminate information.

Session 4. TPP process [Chile and Australia experiences]: presentation of experiences in transparency and engagement instances in the process of negotiation of TPP.

In this session, panelists and commentators shared experiences and reflections on the negotiation process of the TPP and its implications on government technical and political work to deal with instances of transparency and participation. The speakers referred to common or complex problematics and suggested possible answers or solutions to improve policies, accordingly to each country contexts and standards. Likewise, visions and evaluations were presented from a civil society perspective, by CHOICE representative, and from including a number of suggestions to attain better standards for transparency and participation mechanisms in this type of processes.

OUTCOMES

This workshop allowed to know and compare practices, experiences and learnings that will contribute to future work on recommendations and policies on this matters. Throughout the sessions there was a number of proposals, reflections and ideas that this project overseer consider as relevant content for the construction of the final report of this project, together with the results of the survey circulated previously this year.