

## Report by the Chair of the Economic Committee on EC 1 2017

### Executive Summary

1. The EC held its first plenary meeting of 2017 from 27-28 February 2017 in Nha Trang, Viet Nam.
2. EC pursued four key objectives through its deliberations:
  - i. Agree process for the 2017 AEPR on Structural Reform and Human Capital Development
  - ii. Advance RAASR IAP Implementation, and early preparation for 2018 RAASR SOM
  - iii. Consider 'Competition Week' outcomes and possible next steps
  - iv. Consider next steps on Strengthening Economic and Legal Infrastructure work
3. EC endorsed:
  - Report from the EC to SOM 1 2017 under the APEC Services Competitiveness Roadmap;
  - PSU Terms of Reference, and Individual Economy Report Questionnaire, for the 2017 AEPR on Structural Reform and Human Capital Development;
  - The updated procedure for the RAASR Sub-Fund proposed by Australia;
  - Continuation of SELI on the same basis as the EC's other FotCs;
  - Work plan for development a cooperative ODR framework for MSMEs in B2B transactions.
4. EC also noted that CPLG had, during its earlier meeting, endorsed forward work with the OECD on competition assessments (see CPLG report annexed to this report).
5. The following events were held prior to EC 1:
  - APEC's first 'Competition Week' (20-26 February)
    - Workshop on Using Competition Assessments to Eliminate Barriers to Trade and Commerce in Goods and Services (United States, EC 06 2016S)
    - Seminar on Economics of Competition Policy (Viet Nam, CPLG 02 2016A)
    - Seminar on Investigative Powers of Competition Agencies (Peru, CPLG 01 2016A)
    - Competition Policy and Law Group.
  - Seminar on Use of International Instruments to Strengthen Contract Enforcement in Supply Chain Finance for Global Businesses (including MSMEs) (Hong Kong, China, EC 04 2016S) (24-25 February) (see conclusions in 2017/SOM1/EC/030, attached)
6. The EC's five Friends of the Chair groups also met, and presented new proposals for future work including on a cross-fora basis. Their updated work plans are annexed to this report.
  - Strengthening Economic Legal Infrastructure (SELI – led by Hong Kong, China)
  - Ease of Doing Business (EoDB – led by the United States; Phase II EoDB 2016-2018)
  - Corporate Law and Governance (CLG – led by Viet Nam)
  - Regulatory Reform (RR – led by Mexico)
  - Public Sector Governance (PSG – led by Thailand)
7. In addition to the EC's regular work under the Renewed APEC Agenda on Structural Reform (RAASR) and Phase II of Ease of Doing Business (EoDB), EC 1 featured three policy dialogues on:
  - Government Procurement: Best Practices to Advance Regulatory Mechanisms in APEC (initiative under PSG by the Russian Federation)
  - New Approaches to Competition Policy (initiative of CPLG)
  - Cross-Border MSME Access to Commercial Justice (initiative of SELI)

**Recommendation:** that Senior Officials note this report.

## Report

The following report provides more details on EC 1 2017.

### Briefing by SOM Chair

EC was opened by a briefing from the SOM Chair on the overall theme for Viet Nam APEC 2017 – “Creating New Dynamism, Fostering a Shared Future”. Vice Minister Bui expressed Viet Nam’s appreciation for the structural reform agenda of the EC and for the EC’s work to remove behind the border obstacles to cross-border trade and promote inclusive growth. Priority 1 for Viet Nam’s Host Year – Fostering Sustainable, Innovative and Inclusive Growth – was particularly linked to the EC’s areas of work. The EC Chair noted that RAASR sat very well with Viet Nam’s priorities for 2017 and said EC would continue to support Viet Nam, including on the issue of inclusion.

### Policy Discussions

#### 1. Dialogue on Government Procurement: Best Practices to Advance Regulatory Mechanisms in APEC

The Russian Federation presented the results of this dialogue, held under the auspices of PSG the day prior to the EC Plenary on 26 February. Based on their presentation, the dialogue provided an avenue to exchange perspectives on government procurement regulation for potential cooperation in APEC, including on:

- information technologies in public procurement
- anti-corruption measures and risk management in public procurement
- facilitation and support of SMEs participation in public procurement
- transparency
- innovations and new technologies
- green procurement; and
- SOE procurement.

Russia noted that it was not seeking a framework under which to pursue further work, but simply discreet projects on specific topics.

Members welcomed the potential for further ad hoc events on government procurement. EC Chair registered the EC’s appreciation to the Russian Federation for their efforts to organise this event. Russia will circulate a report for endorsement intersessionally.

#### 2. New Approaches to Competition Policy

The discussion featured presentations by Dr Frederic Jenny (Chairman of the OECD’s Competition Committee), Singapore and Australia, and updates on Competition Week events by the United States, Viet Nam, and Peru.

Dr Jenny provided an overview of the fundamentals of competition policy and law and its current relevance. He noted that to have effective competition in an economy you needed sound competition policy, enforcement, trade liberalisation and anti-corruption measures. The benefits included growth, resource efficiency and reduced poverty. However, there were three significant challenges to achieving this: making competition politically acceptable; enduring the relevance and knowledge of competition policy; and new technology. Competition induced change was not painless, and needed buy in from the politicians and population. It was important to ensure that existing competition frameworks were not in fact preventing technological development by locking in advantages held by existing providers.

Singapore shared the findings of the International Competition Network's Special Report 2016 on Government Advocacy and Disruptive Innovations, which looked at competition issues around new technologies – something that was a top priority for many competition authorities around the world. It was important to ensure that disruptive firms could achieve market entry, and could compete on an equal footing with incumbents, while still ensuring that other policy objectives such as consumer protection and consumer safety are met, so as to improve competitive outcomes in markets. Challenges included insufficient whole-of-government consideration of competition, a lack of data and studies on the technological developments and their impact, and political pressures. Singapore outlined one successful application of this work in respect of new taxi applications in Singapore (Uber and Grab).

Australia provided an overview of the Harper Review of Australia's competition policy in 2013 and the government's response in 2015, which accepted the majority of the recommendations made. However, the politics of the implementation of such changes were not straight forward. Australia gave a case study of reforms pushed by the federal government to coastal shipping regulations.

Competition Week outcomes were then highlighted. The United States spoke to its Workshop on Using Competition Assessments to Eliminate Barriers to Trade and Commerce in Goods and Services (United States, EC 06 2016S). Viet Nam outlined its Seminar on Economics of Competition Policy (Viet Nam, CPLG 02 2016A). And Peru detailed its Seminar on Investigative Powers of Competition Agencies (Peru, CPLG 01 2016A). (For more information see the CPLG Convenor's report attached to this report.)

Discussion centred on the issue of anti-global sentiment and rising protectionism, and what that could mean for competition policy settings. It was also noted that these competition policy and law issues permeated the broader APEC agenda and should be drawn more to the attention of other fora.

### 3. Cross-Border MSME Access to Commercial Justice

The discussion was in three parts. The first featured a dialogue between Mark Walter (US-ATAARI, Dr Net Le (Partner, LNT & Partners, Viet Nam) and Dr Peter Lovelock (Technology Research Project Corporate, Singapore) on the cross-border MSME. Mr Walter spoke to the rise of the global entrepreneur and to the importance of MSMEs in employment (viz their current importance in global trade). Through the discussion that followed, Dr Lovelock made the following points: MSME's lack genuine access to commercial justice; statistics under-represent MSME cross-border activity; jurisdiction issues for MSMEs including 'pop up registration'; asymmetry of resources in MSME commercial disputes. Dr Le note the centrality of needing to shorten the time for all forms of dispute resolution as a component of increasing access to commercial justice. The panellists agreed that the lack of effective commercial justice for MSME B2B disputes could be limiting regional trade. Dr James Ding, SELI Convenor, who introduced the panel, drew attention to SELI's proposal for a work plan for development a cooperative ODR framework for MSMEs in B2B transactions.

The second part was between Mark Walter, Jeffrey Chan (Attorney-General's Chambers, Singapore) and Michael Dennis (Department of State, United States) on how to move toward APEC-wide access to commercial justice. Mr Dennis gave an overview of the changes to international commerce and of the role online dispute resolution (ORD) could play in helping to reduce risk for the cross-border MSME. Mr Chan noted that whereas Alternative Dispute Resolution (i.e. traditional mediation and arbitration of disputes) required presence – this was not so for ODR and therefore ODR was more likely to be favoured by time and resource poor MSMEs. ODR was already being widely used in the B2C content including through leading e-commerce portals such as eBay, but the prospect of an APEC framework to deliver ODR in the B2B content for MSMEs had real potential. This would require a tech intermediary to administer the 3 stages of ODR, i.e. automated negotiation, mediation by a neutral and a final stage which can be arbitration or neutral determination. The UNCITRAL Technical Notes which provide a description of the ORD process can be helpful in designing an ODR system. To be viable in the B2B

context, ODR outcomes must be enforceable. Here, the current UNCITRAL work on the enforcement of mediated settlement agreements is relevant. Mr Dennis then outlined the potential way forward in APEC based on the proposed SELI Work Plan.

The third part was a general discussion chaired by the EC Chair. Discussion noted that the areas showed great promise, yet further information and research was required. 11 economies offered to co-sponsor the initiative: Australia; Chile; Hong Kong, China Mexico; New Zealand; Papua New Guinea; Peru; Philippines; Russia; Chinese Taipei; and the United States. Some other economies may co-sponsor following domestic consultation. In terms of next steps, the speakers also suggested further efforts to check demand, and research with private sector and academic input.

Members endorsed the proposed work plan (2017/SOM1/EC/046).

#### APEC Regional Economic Outlook

The EC Chair moderated a panel discussion on the Regional Economic Outlook and Trends, featuring Dr Denis Hew of PSU, Dr Cyn-Young Park of ADB and Dr Vo Tri Thanh of CIEM Viet Nam.

Dr Hew noted that overall there was still regional economic growth (largely through domestic consumption, with trade lethargic) but that uncertainty had increased. FDI flows were healthy with 5 of the top 10 global recipients being APEC members. It was possible that the overall outlook could rebound somewhat in 2017. Dr Hew noted that his analysis showed the importance of structural reforms which would boost medium term growth prospects and increase economic resilience to shocks.

Dr Cyn-Young Park said the ADB expected overall APEC growth to increase to 3.3% in 2017 from 3.0% in 2016. However, there were large variations in the region. Risks included Brexit, US rate rises, and private debt levels in Asia. Dr Park said that in terms of FDI, not only was Asia the top recipient, but intra-regional flows were growth and outbound flows increasing. Key determinants to FDI attractiveness were institutional quality and investor-state dispute settlement.

Dr Vo Tri Thanh spoke to his perspectives on Viet Nam's experience, noting how in earlier years growth had been strong yet the quality of that growth had been low and Viet Nam had been less resilient. Now Viet Nam had improved its macro-economic stability and its growth was of higher quality including through FDI and exports. That said, not all sectors, for example agriculture, had done well lately, and structural reforms had not always occurred as fast as expected. Key to future success was to increase investor confidence.

Discussion focused on the issues surrounding inequality and anti-global sentiment, migration, currency issues, and the communication challenge faced by governments. Japan encouraged PSU to do further work on FDI analysis. Chile suggested connection between the EC and ABAC on ABAC's collaboration with the Marshall School.

#### Implementation of the Renewed APEC Agenda for Structural Reform (RAASR)

Canada introduced the progress of the Core Team (Canada (lead), Indonesia, Peru and Viet Nam, plus PSU and the Secretariat) for the 2017 APEC Economic Policy Report on Structural Reform and Services, and presented four papers:

- Draft 2017 APEC Economic Policy Report (AEPR) Outline
- Concept Note: Core Study for Structural Reform and Human Capital Development in the Asia Pacific Region for the 2017 APEC Economic Policy Report (AEPR)
- Policy Support Unit Terms of Reference for APEC Economic Policy Report (AEPR) 2017: Structural Reform and Human Capital Development
- Individual Economy Report Questionnaire

Canada also noted its desire to consult members on post-2017 AEPR implementation activities.

EC Chair noted the growing enthusiasm for this work across APEC, including during his discussions with the SOM Chair and HRDWG. EC and HRDWG would collaborate closely on the work, despite the lack of physical connection due to disconnected scheduling of the meetings of the fora. Australia and New Zealand indicated their hope to be able to provide funding to hire an expert to contribute to the framework chapter of the report. Indonesia offered to provide a Case Study which was warmly welcomed (Viet Nam had earlier pledged one also). The United States noted the relevance of the work to many current issues associated with shifts in labour markets.

Members endorsed the Questionnaire (2017/SOM1/EC/026), and the PSU ToR (2017/SOM1/EC/025Rev1), though the latter on the understanding that work undertaken would have due regard to other work on mobility and connectivity issues in APEC.

In respect of the potential topic for the 2018 AEPR, the Chair noted that at EC 2 in August there would need to be a discussion and if possible a decision on what topic to recommend to AMM.

Turning to the instruction in RAASR for a Policy Framework on Inclusive Growth, members had an initial discussion on the idea. PSU presented on the endorsed external quantitative indicators for RAASR in terms of their links to inclusive growth, with some interesting ideas put forward that could contribute to the policy framework. The PSU's presentation noted that while APEC was making progress, there was still room to improve for example on women's economic empowerment. In addition, while regulatory stances in the region had become less restrictive for manufacturing and the tertiary sector, restrictiveness in the primary sector had gone up over the assessed period and hence may not be supportive of inclusive growth.

Regarding the 2018 Structural Reform Senior Officials' Meeting, the EC Chair said he would bring a proposal to EC 2 for the consideration of members for the substantive deliverables from that meeting. Those were likely to include (i) advice on progress of RAASR (ii) inclusive growth indicators progress and (iii) the policy framework. The SRSOM would also need to issue guidance and instructions on how to complete RAASR for the 2020 SRMM.

On other aspects of RAASR's implementation, the EC Program Director introduced preliminary analysis to show potential areas for collaboration between economies in implementing their structural reforms identified in their IAPs. Australia and Mexico also noted their analysis. Members welcomed the various analyses conducted. The Secretariat's document (2017/SOM1/EC/024) was updated based on inputs from economies for the meeting record.

Further presentations on RAASR implementation were delivered by Russia (ICT Solutions for Public Services in Russia), Mexico (Traffic Light Score Methodology) and Viet Nam (an update to Viet Nam's IAP to capture economic evidence in competition policy enforcement). Members welcomed the updates provided. Discussion followed on the procedure for updating IAPs (as they are living documents). EC Chair suggested that economies wishing to update their IAPs notify the Secretariat and that once a year the Secretariat updated the published IAPs on the APEC website and report to EC members. Members welcomed this suggestion.

#### Ease of Doing Business

The PSU presented on progress for 2015-2016 on EoDB Phase II. Against an overall target of 10% improvement for the 2016-2018 period, the results in 2016 were encouraging with APEC's average progress at 3.6% improvement beating the required improvement of 3.3%. That said, progress had been uneven with good progress in getting credit but less progress in other areas. Hong Kong, China encouraged PSU to look more at whether ADR was helping with enforcing contracts.

The EoDB Convenor also noted earlier in the meeting the need to collaborate with CTI on supply chain connectivity and to shortly give further consideration on how to finish Phase II strongly. The United States study on secured transaction reform (under 'Getting Credit') would be sent to member intersessionally.

EC Chair welcomed some recent successes among members in their EoDB scores, including Indonesia and Papua New Guinea.

#### Cross fora collaboration

Prior to EC 1, the EC Chair on behalf of the Committee visited the following fora:

- SCSC, HRDWG, LSIF, HWG, FCBDM, GOS, ECSG, TWG, CPLG, CTI, and AHSGIE

The EC Chair promoted cross-fora collaboration, provided briefings on the EC's priorities in 2017, and reviewed the EC's 2016 APEC Economic Policy Report on Structural Reform and Services. Reactions from the other fora had shown the importance of the 2016 AEPR for the broader APEC system and had shown firm areas for future collaboration including with CTI/SCSC on Good Regulatory Practices.

With respect to the Finance Ministers' Process, the EC Chair outlined his conversation with FCBDM and the proposed way forward: intersessional consideration of activities; EC Chair to SFOM in May; SFOM Chair to EC in August; joint proposals to FMM (October) and AMM (November) and instruction from Ministers to implement joint proposals in 2018 and beyond. Members agreed to this process and were encouraged to actively talk with their SFOM colleagues about this.

Russia introduced its SOM-level initiative "Bridging Gap in Economic Development and Integration of Remote Areas for Sustainable Economic Growth in the APEC Region". Several economies offered support. It was noted that if approved by SOM, SCE would be designated as the coordinating fora.

Australia introduced its HRDWG initiative for an APEC Labour Mobility Framework. A cross-fora meeting would be held at SOM2 and in advance a project advisory team would be established.

Later in the meeting, the CTI Chair attended and briefed on the CTI's priorities for 2017 and the potential intersections with the EC's work, including in the areas of ASCR, SCFAP Phase II (Chokepoint 4), FTAAP and NGETI (Competition Policy) and MSMEs. EC Chair noted potential further connections on domestic regulations of the services sector, good regulatory practice, and ODR.

The GOS Convenor also joined EC to discuss GOS and EC work on services, in particular under the ASCR where GOS and EC could work together on the issue of domestic regulation – on which a workshop would be held by Korea at SOM3. The United States noted the importance of using the endorsed APEC-OECD Checklist on Regulatory Reform as a best practice guide for this work. The GOS Convenor also noted the forthcoming sub-fund on services to be contributed by Australia.

The EC endorsed its report to SOM 1 2017 on its contributions to the ASCR (2017/SOM1/EC/012).
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#### APEC Projects

The EC Program Director outlined the EC and CPLG's current projects and provided advice to members for the forthcoming Project Session 1 2017.

Australia updated members on its proposed amendment to the previously endorsed procedure for accessing the RAASR sub-fund, which was suggested with the intention to deliver the highest-quality possible concept notes to implement the Individual Action Plans.

The EC endorsed this proposed amendment (as clarified through a subsequent email to members). The RAASR sub-fund guidance will be updated accordingly for Session 1 2017.

The United States updated on its ongoing self-funded project entitled 'Assessing APEC Starting a Business according to International Best Practices'. The first draft of the associated study would be sent to members around June, with the study completed by EC 2. An event might be held at EC 2 to support the work.

New projects were proposed by:

- Mexico: Traffic Light Score Methodology (2017/SOM1/EC/022)
- Viet Nam: (i) Promoting the Use of Economic Evidence for More Effective Competition Policy and Market Functioning (2017/SOM1/EC/014) and (ii) *under SCSC* - 10th Conference on Good Regulatory Practices (2017/SOM1/EC/015)
- Papua New Guinea: (i) Information Sharing Best Practices Workshop on Merger Control Regimes Used by APEC Economies (2017/SOM1/EC/016) and (ii) Technology Led Growth for Trade and Development – A Digital Economy Symposium (2017/SOM1/EC/028)
- Malaysia: APEC Peer Review on Public Consultation initiatives (2017/SOM1/EC/019). Malaysia also noted its intention to bring forward intersessionally another Concept Note on Behind the Border Internal Coordination for Trade Facilitation.

Members provided feedback on the concept notes including the need for some refinement prior to submission to the Secretariat and consideration of cross-fora aspects. The Secretariat reminded members of the 7 March deadline for submission.

#### Other Business

The SELI Convenor put forward a paper on the Future Direction of SELI (2017/SOM1/EC/032) which recommended "the continuation of the SELI FotC on the same footing as other FotCs under the EC".

The EC agreed that SELI could become a permanent EC FotC and the EC Chair congratulated SELI and the SELI Convenor on their excellent efforts made over the past two years.

The Director for the Communication and Public Affairs Unit of the APEC Secretariat presented on the communications challenge identified by APEC Economic Leaders and Ministers in Lima last year and noted the potential for the EC's work to feature in APEC's public communication in 2017.

#### EC Governance

The EC Chair sought views on the EC's Terms of Establishment (ToE), which require a review every 2 years, noting that the ToE had served the committee well to date and were tightly drafted.

Members made no proposals regarding the existing ToE, and the ToE were re-endorsed for a further 2 year period for review again at EC 1 2019.

The EC Chair proposed that a procedure to identify the next EC Chair and Vice Chairs (from 2018) was run intersessionally so that the new office holders could be found prior to EC 2 and formally endorsed at EC2. Members supported this proposal. The EC Chair noted that he would definitely be finishing his term this year.

#### Looking ahead: EC 2 2017

The Chair provided the following rough outline of forthcoming events at EC 2 in Ho Chi Minh City during SOM 3:

- *Support* SCSC's 10<sup>th</sup> Good Regulatory Practices (GRP) Conference
  - o Consider additional GRP-related events to compliment
- *Support* CTI/GOS event on Workshop/Policy Dialogue on Developing a Set of Non-Binding Principles for Domestic Regulation of the Services Sector
- EC 2:
  - o Consider draft AEPR 2017 on Structural Reform and Human Capital Development
  - o Consider outcome of APEC – OECD work on Competition
  - o Consider substantive products for the 2018 Structural Reform Senior Officials' Meeting
  - o Potential event on Simplified business registration and incorporation for APEC (EC 01 2016S, United States)
  - o Potential policy dialogues on:
    - online dispute resolution (SELI sponsored)
    - the use of economic evidence for promoting more effective competition policy and market functioning (Viet Nam EC Project)
    - the OECD Guidelines for the Governance of SOEs (CLG sponsored)

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**APEC COMPETITION POLICY AND LAW GROUP MEETING FOR 2017**  
**26 February, 2017**

**Nha Trang, Viet Nam**

**CONVENOR'S SUMMARY REPORT**

The Competition Policy and Law Group (CPLG) held its meeting on 26 February 2017 in Nha Trang, Viet Nam. The meeting was chaired by Mr Jesus Espinoza of Peru, and attended by Chile; the People's Republic of China; Japan; Malaysia; New Zealand; Papua New Guinea; Peru; the Philippines; the Russian Federation; Singapore; Chinese Taipei; Thailand; the United States of America; and Viet Nam.

The Chair of the Economic Committee (EC) also attended the meeting, and the SOM Chair's Office.

**1. Convener's Opening Remarks**

The CPLG Convener opened the meeting by welcoming the CPLG members to the meeting. The Convener expressed his appreciation to Viet Nam for its hospitality.

The draft agenda for the meeting was adopted.

**2. APEC Priorities for 2017**

Viet Nam's SOM Chair Office outlined the APEC Host Economy priorities for 2017 under the theme of "Creating New Dynamism, Fostering a Shared Future".

**3. Progress Reports on CPLG Projects in 2016**

**a. Report about the progress of the Seminar on OECD Self-Assessment of Barriers to Competition**

Mr. Timothy Hughes from the US FTC attended the CPLG SOM1 meeting as U.S. delegate. Mr. Nicholas Klissas from USAID in Washington, DC also attended. Mr. Klissas reported on the U.S. self-funded Seminar on OECD Self-Assessment of Barriers to Competition held on February 20-21. The U.S. delegation asked CPLG to forward to EC with CPLG endorsement the following statement adopted by the participants of the Self-Assessment Seminar:

*As a result of the workshop, participants supported the idea to continue working with OECD to promote the use of competition assessments to improve regulatory frameworks by looking to develop an APEC-OECD Framework on Competition Assessments, which would include a competition assessment checklist. Viet Nam, as APEC host economy, volunteered to work with the OECD on a first draft inter-sessionally with a view to getting endorsement by economies through CPLG and EC this year.*

The CPLG members endorsed and agreed to forward the statement to the EC.

**b. Report about the "Seminar on Economics of Competition Policy"**

Vietnam briefed about the workshop on Economics of Competition Policy. This workshop had over 50 participants, being officials of APEC competition authorities, delegates and high-profile experts. The presentations were well-organized to facilitate understandings and discussions. The workshop also dedicated a session for discussing experiences of various APEC member economies. The workshop received excellent feedbacks from participants. The US and Japan congratulated Vietnam for the successful workshop.

### **c. Peru reported about the progress of its projects**

Peru reported on the outcomes of the CPLG project, the “Seminar on International experience regarding the Role of Leniency Programs in the Repression of Anticompetitive Conducts – Highlighting its effectiveness in the fight against cartels”, in Lima.

*In this seminar, Professor Joseph Harrington spoke about why competition agencies should implement the leniency program. Theoretical support for the implementation of the leniency as a tool to detect anti-competitive conduct. Mr. Marvin Price, Director of Criminal Enforcement of the Antitrust Division of the United States Department of Justice of America, spoke about the Design of the Leniency Program (economic literature and comparative jurisprudence). Multiple applicants, leader, repetition, Leniency (Amnesty) Plus. Benefits. Scheme-Internal structure of the program. How to make the program work in your economy? And Professor William Kovacic spoke about How to maximize the effectiveness of the Leniency Program. Relevant aspects in the institutional design of the program. Markers, cooperation among competition agencies, confidentiality of information, commitment of exemption from punishment. Dissemination of the program. American experience in the application of the Leniency. Claim for damages form a legal perspective in the United States of America.*

In addition, Peru organized a Seminar on Investigative Powers of Competition Agencies in Nha Trang last 24-25 February 2017. In this seminar the participants discussed the importance that competition authorities have the necessary powers to investigate effectively suspected competition law infringements. To that end, the Authorities must have appropriate fact-finding tools at their disposal which enable them to require such information to be supplied and to undertake such investigations as a necessity to bring to light an infringement of the competition rules. At the end of the event, the participants endorsed the following statement:

#### **STATEMENT FROM PARTICIPANTS IN**

#### **THE SEMINAR ON INVESTIGATIVE POWERS**

*The APEC economies participant in the Seminar on Investigative Powers of Competition Agencies in the context of the First Senior Officials’ Meeting and related meetings held in Nha Trang, Vietnam, on 24-25 February 2017 state that:*

- *In order to enhance the investigative powers of the competition agencies, it is important that the investigator and prosecutor know how to prepare and conduct an interview or and interrogation. This tool can provide the agencies great amount of information for the purpose of the investigation and to initiates proceedings against undertakings involved in anticompetitive behaviors.*
- *It is important to learn the legal and technical aspects of the management of information in order to improve the tools that competition agencies have in the investigation. The use of forensic tools and maintaining the chain of custody can introduce better practices for the treatment of the evidence. In addition, the different information obtained in the dawn raids or searches should be treated according to the laws of each economy for preserving the evidence of the investigation.*
- *The economies recognize the importance of searches in the prosecution of anticompetitive conducts, highlighting the necessity to develop guidelines and good practices in its implementation.*

The CPLG members endorsed and agreed to forward the statement to the EC.

Continuing with the agenda, the CPLG Family Photo was taken with the participation of all the APEC Economies attended.

### **4. CPLG Work Plan in 2017**

The CPLG Chair's Assistant presented the CPLG Work Plan for 2017. Considering that all the projects that APEC Economies will present following, he focused into the CPLG objectives that all the projects are addressed. In that sense, the CPLG works to promote an understanding of regional competition laws and policies, to examine the impact on trade and investment flows, and to identify areas for technical cooperation and capacity building among APEC member economies.

The CPLG is responsible for practical aspects of competition law and enforcement to develop and enhance competition law and policy in APEC member economies. It covers the legal and regulatory issues of competition law and enforcement, including sharing new developments in the law, comparative aspects of competition law, the role of the courts, and the degree of autonomy granted to competition authorities, better methods to improve success of monitoring and enforcement of the law and appropriate remedies. It requires high degree of technical expertise, in-depth understanding and ability to analyze the legal and regulatory issues from the members involved.

## **5. New Projects for 2017**

### **a. APEC Secretariat will provide briefing on project approval process for 2017**

The CPLG Program Director outlined CPLG projects in 2016 and the procedures for both funded and self-funded projects in 2017.

### **b. Papua New Guinea's concept note for an Information Sharing Workshop on Merger Control Regimes.**

PNG's concept note proposes for a two (2) days Information Sharing Workshop on Merger Control Regimes. An effective Merger Control Regime (MCR) can prove an important tool to foster effective competition and facilitate benefits like economic growth and productivity. The workshop seeks to help APEC developing economies, especially for new competition agencies to gain a better understanding of MCR's and aim to collectively share information, ideas and good practices from APEC economies and experts. Workshop would align with APEC's RAASR agenda.

### **c. Peru's Concept Notes**

Peru presented the following concept notes:

- Seminar on Challengers in prosecuting individuals involved in hard core cartels: The purpose of this seminar is to exchange experiences and share views and information of the APEC members in prosecuting individuals involved in hard-core cartels, with the intention to analyze in detail the pros and cons of the mechanisms that the different economies have and in order to identify best practices.
- Seminar on Settlements as an effective tool for fighting cartels: when, how and where to use them. The purpose of this seminar is to facilitate information sharing on settlements experiences among APEC members, in order to identify, evaluate, apply and improve best practices related to the settlements, as a tool for solving in less time cartel investigation that enables the competition authorities to be more efficient in time and resources.

### **d. Viet Nam's Concept Note**

Vietnam proposes to a one-year project on "Promoting the use of economic evidence for more effective competition policy and market functioning", to be implemented in May 2017-May 2018. The key activities are trainings for local competition agencies in Vietnam on the using economic evidence in their professional work and a policy dialogue on the margin of EC2 in 2017. This Project fits with the priority of APEC and EC, and Vietnam's individual action plan to implement the RAASR for 2016-2020. Vietnam thanked Peru and Australia for co-sponsoring the project. Japan also indicated co-sponsorship of Vietnam's proposal.

## **6. APEC Competition Policy and Law Database**

Chinese Taipei reported on progress of the APEC Competition Policy and Law Database, which Chinese Taipei set up and maintained. Since its last report, Chinese Taipei noted that the database had received positive responses and acceptance by international community, with increased number of visitors to the database captured.

CPLG Convenor expressed gratitude to Chinese Taipei on its efforts made to establish and maintain the database.

#### **7. Members' reports/Presentations on updates and developments of Competition Policy**

Economies updated the meeting on developments within their respective competition policy and legal frameworks. The presentations were made by Chile, China, Japan, Malaysia, New Zealand, Papua New Guinea, Peru, Philippines, Russian Federation, Singapore, Chinese Taipei, the United States of America and Viet Nam. The presentations prompted a wide range of questions and good exchange of views among members on the different approaches that were taken by economies towards the enforcement of competition policy and law.

#### **8. Updating on Preliminary results from MCPAT application to road cargo and logistics sector in Peru, Philippines and Viet Nam**

Mr. Nicholas Klissas from USAID in Washington, DC, on behalf of the World Bank, reported on the preliminary results from the market competition policy and assessment tool as applied to road cargo and logistics in Peru, Philippines and Vietnam. The project is ongoing, being conducted by the World Bank with USAID support.

#### **9. Dialogue with the EC Chair**

The EC Chair Mr Rory McLeod outlined the EC's priorities for 2017 under the framework of the Renewed APEC Agenda on Structural Reform.

#### **10. Other Business**

##### **Next CPLG Convenor (2018-2019)**

The APEC Secretariat Program Director presented the proceeding for electing the next CPLG Convenor and Vice Convenor for next two years. The procedure will commence at the latest by end-September.

#### **11. Next/Future Meeting**

Papua New Guinea welcomed to the APEC Economies for the next APEC meeting in PNG 2018.

CPLG Convenor thanked all participants and adjourned the meeting.

## APEC EoDB Implementation Plan (2016-2018)

(as of February 2017)

Proposed Activity	Priority Area(s)*	Champion Economies/Co-sponsor Economies	Participating Economies	Other APEC Fora/Organization	Timeframe	Status / Comments
<b>Cross-cutting activities</b>						
<i>Workshop: Best practices and innovative techniques in EoDB public administrative transformation: one-stop shops and beyond to improve the business environment</i>	<i>Starting a Business, Dealing with Permits, Trading across borders.</i>	<i>US Singapore</i>	<i>All</i>	<i>World Bank Group OECD</i>	<i>ECI- 2016</i>	<i>Completed</i>
<i>Study: "Assessing APEC Getting Credit and Enforcing Contracts Frameworks according to International Best Practices (including UNCITRAL and Hague Conference Texts)".</i>	<i>Getting Credit Enforcing Contracts</i>	<i>US</i>	<i>All</i>	<i>UNCITRAL</i>	<i>2016</i>	<i>Ongoing</i>
<i>Workshop and/or case studies: Improving inter-agency coordination in EoDB reforms</i>	<i>All</i>	<i>(US idea but taken from priorities listed in August 2015 workshop)</i>	<i>All</i>		<i>2017</i>	
<i>Best practices implementing EoDB reforms at the local level</i>	<i>All (or select a subset where reform has been more challenging)</i>	<i>EC members and champion economies are welcomed to join</i>	<i>All</i>		<i>2017</i>	

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<i>Workshop (or follow up) on Reforms to Support One Stop Shops (back office, administrative etc) – (idea to be defined)</i>	<i>Starting a Business Dealing with Permits Trading across borders</i>	<i>US Singapore (TBC)</i>	<i>All</i>		<i>2017</i>	
<i>Follow up activity related to implementation one of the above activities (1-4) – TBD</i>					<i>2018</i>	
<i>Follow up activity related to implementation one of the above activities (1-4) –TBD</i>					<i>2018</i>	
<i>Stocktake workshop</i>	<i>All</i>				<i>ECI- 2018</i>	
<b>Starting a Business</b>						
<i>Technical assistance to implement reform recommendations from Phase 2 diagnostics</i>	<i>Starting a business</i>	<i>US and New Zealand</i>	<i>Volunteer economies</i>		<i>2016-2018</i>	
<i>Technical assistance to implement/improve online platforms for business registration</i>	<i>Starting a Business</i>	<i>US and New Zealand</i>	<i>Volunteer economies</i>		<i>2017-2018</i>	
<i>Study: “Assessing APEC Starting a Business according to International Best Practices”</i>	<i>Starting a Business</i>	<i>US</i>	<i>All</i>		<i>2017</i>	<i>Ongoing</i>

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<i>Workshop on Starting a Business</i>	<i>Starting a Business</i>	<i>US</i>	<i>All</i>		<i>2017</i>	
<i>Improving public sector capacity for SAB (registry staff training, operations manuals, etc.)</i>	<i>Starting a Business</i>				<i>2017</i>	
<i>Improving information and support services for SMEs</i>	<i>Starting a Business</i>		<i>All</i>		<i>2018</i>	
<b>Getting Credit</b>						
<i>Technical assistance to implement reform recommendations coming out of study: Assessing APEC Getting Credit and Enforcing Contracts Frameworks</i>	<i>Getting Credit</i>	<i>US and Mexico</i>	<i>Volunteer economies</i>	<i>UNCITRAL</i>	<i>2016-2018</i>	<i>Ongoing</i>
<i>Secured Transactions: Technical assistance on implementation of a security rights registry (diagnostics, technical visits, etc)</i>	<i>Getting Credit</i>	<i>US and Mexico</i>	<i>Volunteer economies</i>	<i>UNCITRAL, World Bank, IFC</i>	<i>2016-2018</i>	
<i>Secured Transactions: Workshop on Supply Chain Finance and implementation of secured transactions in cross border context</i>	<i>Getting Credit</i>	<i>US; Hong Kong, China, and Mexico</i>	<i>All</i>	<i>UNCITRAL, World Bank, IFC, HCCH, UNIDROIT, SELI</i>	<i>EC2- 2016</i>	<i>Completed</i>

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<i>Secured Finance and Supply Chain Finance/Warehouse Receipts</i>	<i>Getting Credit</i>	<i>US and Mexico</i>	<i>All</i>	<i>UNCITRAL, IFC</i>	<i>2017</i>	
<i>Best practices to improve access to credit information (credit bureaus, security of information, positive and negative data, etc)</i>	<i>Getting Credit</i>	<i>US and Mexico</i>	<i>All</i>		<i>2017</i>	
<b>Enforcing Contracts</b>						
<i>Workshop on Alternative Dispute Resolution – the key to efficient settlement of business disputes</i>	<i>Enforcing Contracts</i>	<i>Hong Kong, China</i>	<i>All</i>	<i>UNCITRAL and Permanent Court of Arbitration, SELI</i>	<i>ECI-2016</i>	<i>Completed</i>
<i>2016 APEC Conference on EoDB in the Field of Enforcing Contracts</i>	<i>Enforcing Contracts</i>	<i>Korea</i>	<i>The Philippines, Thailand, Mexico</i>	<i>World Bank, UNCITRAL</i>	<i>January 2016</i>	<i>Completed</i>
<i>Seminar on EoDB in the Field of Enforcing Contracts</i>	<i>Enforcing Contracts</i>	<i>Korea</i>	<i>Malaysia</i>	<i>UNCITRAL</i>	<i>September 2016</i>	<i>Completed</i>
<i>2016 2<sup>nd</sup> APEC Conference on EoDB in the Field of Enforcing Contracts</i>	<i>Enforcing Contracts</i>	<i>Korea</i>	<i>Malaysia, New Zealand, Thailand, Sri Lanka, Vietnam, The Philippines, Myanmar and Indonesia</i>	<i>World Bank, UNCITRAL</i>	<i>December 2016</i>	<i>Completed</i>

APEC EoDB Implementation Plan (2016-2018)  
(as of February 2017- EC1)

<i>Seminar on EoDB in the Field of Enforcing Contracts</i>	<i>Enforcing Contracts</i>	<i>Korea</i>	<i>Volunteer economies</i>	<i>UNCITRAL</i>	<i>2017-2018</i>	<i>Ongoing</i>
<i>APEC Conference on EoDB in the Field of Enforcing Contracts</i>	<i>Enforcing Contracts</i>	<i>Korea</i>	<i>Volunteer economies</i>	<i>World Bank, UNCITRAL</i>	<i>2017-2018</i>	<i>Ongoing</i>
<i>Seminar on Use of International Instruments to Strengthen Contract Enforcement in Supply Chain Finance for Global Businesses (including MSMEs)</i>	<i>Enforcing Contracts</i>	<i>Hong Kong, China</i>	<i>All</i>	<i>HCCH, UNCITRAL, UNIDROIT, SMEWG, SELI, World Bank</i>	<i>ECI-2017</i>	<i>Completed</i>
<i>Policy Discussion –MSME Access to Commercial Justice</i>	<i>Enforcing Contracts</i>	<i>United States; Chile; Hong Kong, China; New Zealand; Viet Nam;</i>	<i>All</i>		<i>ECI-2017</i>	<i>Completed</i>
<i>Follow up Study on SME Access to Commercial Justice</i>	<i>Enforcing Contracts</i>	<i>United States</i>	<i>All</i>		<i>2017</i>	
<b>Trading Across Borders</b>						
<i>Workshop on Best practices on critical issues in the Asia-Pacific region for the WTO Trade Facilitation Agreement</i>	<i>Trading across Borders</i>	<i>Singapore (Implemented by Peru)</i>	<i>All</i>	<i>CTI, WTO</i>	<i>SOM3-2016</i>	<i>Completed</i>

APEC EoDB Implementation Plan (2016-2018)  
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<i>Technical assistance to improve economies' TAB scores</i>	<i>Trading across Borders</i>	<i>Singapore</i>	<i>Volunteer economies</i>		<i>2016-2018</i>	
<b>Dealing With Construction Permits</b>						
<i>Technical assistance to improve economies' Dealing with Construction Permits processes</i>	<i>Dealing with Construction Permits</i>	<i>Singapore</i>	<i>Volunteer economies</i>		<i>2016-2018</i>	

## **Work Plan for the Corporate Law and Governance FotC Group**

**Name of the FotC:** Corporate Law and Governance

**Coordinating Economy:** Vietnam

**Membership Principles and Member Economies:**

All APEC member economies with interest in issues of corporate law and governance.

**Objectives:**

The Corporate Law and Governance FotC group aims to maintain a platform for economies to discuss and exchange information on corporate law and corporate governance issues in APEC.

(Annex)

List of Ideas on Possible New Projects

Issue/idea	Lead economy	Suggested next step	Timeframe	Format
<p><b>1. Protection of small investors' interest and rights.</b> Governance structure of enterprises has become increasingly diverse, yet the legal framework and enforcement structure to ensure proper exercise of rights by small investors remain inadequate. This may undermine the development potential of various groups of enterprises (especially SMEs) as big investors may focus more on taking full control of enterprises rather than promoting its development. Sharing of experience among APEC economies facing similar problems is thus necessary. This activity also represents a follow-up attempt to the self-funded project of Chinese Taipei on "Lessons from the financial crisis for corporate governance and law.</p>	Vietnam		Application for funding under Round 2 of 2016 failed. Follow-up action to be determined.	

(Annex)

<p><b>2. Promotion of credit ratings for financial market development in the APEC region.</b> As a prevalent issue in various APEC economies, financial market could not enjoy vigorous and long-term development due to information asymmetry. In this regard, credit rating services may promote information disclose since credit rating seeks to provide the users with credit situation of the issuers/debtors, thereby making way for financial market development. A number of papers have looked into the possibility of promoting credit ratings; yet it is high time more coordinated actions at APEC regions be developed and justified. A survey over banks and enterprises in APEC economies may be necessary.</p>		<p>May need to find leader; Additional idea for improvement of concept note is greatly appreciated.</p>		
<p><b>3. Internalizing OECD guidelines on Corporate Governance of SOEs.</b> SOEs are important part of the business community in various APEC member economies. Their ownership structure, linkages with Government agencies and competitive advantages over the private sector affect the implementation of corporate governance. Corporate governance thus encounters issues specific to the SOEs. The OECD guideline on corporate governance of SOEs are good to follow, but internalizing such guidelines is no easy task. EC member may thus need to share selected experiences on applying such OECD guidelines.</p>	<p>Vietnam is considering to lead</p>	<p>Draft concept note discussed at EC1 2017. Completion of draft concept note to be circulated intersessionally before EC2 2017.</p>	<p>EC2 of 2017</p>	<p>Possibly self-funded project by Vietnam</p>

## **New Scope for the Public Sector Governance FotC Group**

**Name of the FotC:** Public Sector Governance

### **Membership Principles and Member Economies:**

Economies with the intention of sizable/substantial contribution will be members, while other economies will be CC-ed when FotC e-mail discussion is conducted among such members. The eight start-up members include Canada, Indonesia, Korea, New Zealand, Chinese Taipei, Thailand, USA, and Vietnam.

### **Objectives:**

Good public sector governance strengthens the national economic environment and improves public service performance. APEC Economic Committee has been in charge of promotion of structural reform and established a set of principles of public sector governance. The 2007 APEC Economic Policy Report highlighted nine generalized high-level principles of good public sector governance to economies. As the progress of structure reform steps into a new phase in 2011-2015, the new PSG FotC aims to maintain a platform for economies to discuss and share practical experiences on public sector governance and to promote the application of the principles of good governance in the public sector. It will facilitate RAASR and support APEC Growth Strategy by improving the quality of public sector governance via providing opportunities for benchmark learning and best practices sharing among economies.

### **Scope:**

*In 2010, the member economies of the PSG FotC group agreed five priority areas, including strengthening public administration for the future, improving the quality of public service, leveraging ICTs to strengthen public sector governance, enhancing fiscal transparency and public accountability, and strengthening trust, integrity, and ethics, for advanced discussion. In 2011-2015, the PSG FotC group organized various relevant policy discussions and completed theme papers according to the priority areas (see annex1). On the basis of the past achievements and the interests of member economies, the PSG FotC group discussed in EC1 2015, and concluded the important issues for the next stage as follows:*

- **Open Government**  
*Openness strengthens the democracy and promotes efficiency and effectiveness in governments. Open government means that the public should have access to government-held information and be informed of government proceedings. Recently open government has expanded to include expectations for increased citizen participation and collaboration in government proceedings through the use of modern technologies. This issue aims to exchange ideas and mechanisms economies facilitate to enhance the transparency, public engagement and collaboration.*
- **Quality of Public Service**  
*Quality of public service delivery keeps to be essential when promoting citizen trust and satisfaction toward the public sector. Seeking ways to advance the efficiency and quality of the public service delivery, APEC member economies have developed various innovative measures in recent years. This issue aims to exchange the incentive mechanisms or initiatives economies design to evaluate the quality of public service and to encourage the citizen-oriented public service.*
- **Public Participation**  
*Public participation is a foundation of open, transparent and engaging government services. With the rising of public awareness, the demands for citizens to participate in public affairs increase. There are many different public participation mechanisms, including public consultation, focus group research, online discussion forums, deliberative citizens' juries or public hearings. This issue encourages economies to share best practices of understanding, communicating and empowering the participants and stakeholders in the policy-making processes.*

### **Optional Actions to proceed**

- Seminar, workshop, forum and roundtable discussion
- Paper and report on relevant issues

ANNEX 1

**Work Plan details of Public Sector Governance FotC Group (2011-2015)**

<b>Priority areas</b>	<b>Action items/Specific products</b>	<b>Timeframe</b>	<b>Led by</b>	<b>Format</b>
1. Strengthening public administration for the future	Good practice principles for public sector governance	2011 EC1	Canada	Theme report
	Policy discussion on bureaucratic reform	2013 EC2	Indonesia	Policy discussion
2. Improving the quality of public service	Policy discussion on improving the quality of public service	2015 EC1	Chinese Taipei	Policy discussion
3. Leveraging ICTs to strengthen public sector governance	Best practice for ICT strategy and public sector governance	2013 EC1	Chinese Taipei	Policy discussion
4. Enhancing fiscal transparency and public accountability	Improving public sector transparency: Good practices and reform experiences	2011 EC2	Chinese Taipei, New Zealand	Roundtable discussion/ Policy dialogue
	Policy discussion on international public sector accounting standards (IPSAS)	2013 EC2	New Zealand	Policy discussion
	2013 APEC Economic Policy Report on improving fiscal transparency and public accountability	2013	Chinese Taipei	Theme report
5. Strengthening trust, integrity, and ethics	Roundtable discussion on anti-corruption and public sector governance	2014	Chinese Taipei	Roundtable discussion

**Priority areas Public Sector Governance FotC Group (2016-2017)**

<b>Priority areas</b>	<b>Action items/Specific products</b>	<b>Timeframe</b>	<b>Led by</b>	<b>Format</b>
<b>1. Open Government</b>	Forum or Discussion on -- Open Government Data -- E-government/E-licensing	2017 EC 2	Thailand	Policy Dialogue/ Discussion
	Dialogue on Government Procurement: Best Practices to Advance Regulatory Mechanisms in APEC (E-Government Procurement)	2017 EC 1	Russia	Policy Dialogue
<b>2. Quality of Public Service</b>	Forum or Discussion on -- Citizen Satisfaction -- Government Process Reengineering/Single Hotline, Single Access			
<b>3. Public Participation</b>	Policy Discussion on Improving Participation and Transparency in Policy-Making and Implementation	2016 EC 2	Chinese Taipei Hong Kong, China	Policy Discussion

**Strengthening Economic Legal Infrastructure (SELI)  
Work Plan (as at February 2017)**

**Name of the FotC:** Strengthening Economic Legal Infrastructure ("SELI")

**Coordinating Economy:** Hong Kong, China

**Membership Principles:** All member economies are invited to nominate designated legal advisors or officials with legal background from relevant authorities or agencies.

**Objectives:**

1. To raise awareness of the role and importance of legal infrastructure for economic developments;
2. To promote understanding of relevant international standards and international instruments useful for strengthening the economic and legal infrastructure of member economies; and
3. To identify areas for technical cooperation and capacity building among APEC member economies (in collaboration with relevant international organizations such as HCCH, UNCITRAL, UNIDROIT and the World Bank Group).

**Scope of operation<sup>1</sup>:**

1. SELI is to serve as a network of focal points for relevant legal advisors and officials:
  - (i) To exchange information on legal infrastructure relevant to economic developments (including sharing of their law and practice in the relevant fields);
  - (ii) To develop and enhance in-depth understanding of international economic law including relevant international instruments such as the Hague Conventions and UNCITRAL and UNIDROIT instruments;
  - (iii) To share experiences and expertise on activities relevant to the implementation of these international instruments and to develop good practice guides in specific legal areas;
  - (iv) To identify areas for capacity building and technical cooperation on the implementation of international instruments or improvement to legal infrastructure essential to economic developments;
  - (v) To examine, when possible, the importance of legal infrastructure on trade and investment flows;
  - (vi) To develop and review appropriate action plans, when necessary; and
  - (vii) To do outreach and public relations to APEC Stakeholders on the achievements of the group as and when appropriate.
2. In collaborating with other relevant APEC fora and the legal sector in member economies, SELI will serve as a forum:
  - (i) To coordinate and discuss as appropriate the implementation of cooperative initiatives such as but not limited to Structural Reform with other relevant APEC fora (including other FotCs) and relevant international organizations;
  - (ii) To report progress and outcomes of each cooperative initiative to the EC, and when necessary make recommendations thereto; and
  - (iii) To invite when appropriate other relevant APEC fora, such as ABAC and SMEWG, and/or other relevant experts to participate in or observe the group's activities.

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<sup>1</sup> The specific activities are contained in the schedule to this work plan.

**Schedule – Operation Plan (2015 - 2017)**

(Living document: to be updated and may be changed at any time in light of the latest developments and further inputs by members)

Activity	Proposing APEC Economy	Other APEC Fora / Organizations	Timeframe
<i>Completed project on “Effective enforcement of business contracts and efficient resolution of business disputes through the Hague Choice of Court Agreements Convention”</i>	<i>Hong Kong, China</i>	<i>HCCH UNCITRAL</i>	<i>EC2 2015</i>
<i>Completed project on “Assessing APEC Getting Credit and Enforcing Contracts Frameworks according to International Best Practices (including UNCITRAL and Hague Conference Texts)”</i>	<i>USA</i>	<i>FotC EoDB HCCH UNCITRAL</i>	<i>2015 – 2016</i>
<i>Completed project on “Alternative dispute resolution - the key to efficient settlement of business disputes”</i>	<i>Hong Kong, China</i>	<i>UNCITRAL PCA</i>	<i>EC1 2016</i>
<i>Completed project on “Supply Chain Finance and Implementation of Secured Transactions in a Cross-Border Context”</i>	<i>USA Hong Kong, China Mexico</i>	<i>HCCH UNCITRAL UNIDROIT World Bank</i>	<i>EC2 2016</i>
<i>Completed Joint PSG-SELI Policy Discussion on “Improving Participation and Transparency in Policy-Making and Implementation”</i>	<i>Chinese Taipei Hong Kong, China</i>	<i>HCCH OECD UNCITRAL PSG FotC</i>	<i>EC2 2016</i>

ABAC Asia Pacific Financial Forum		ABAC	Annual
Seminar on "Use of International Instruments to Strengthen Contract Enforcement in Supply Chain Finance for Global Businesses (including MSMEs)"	Hong Kong, China	HCCH UNCITRAL UNIDROIT World Bank EoDB FotC	EC1 2017
APEC Workshop on "Using Competition Assessments to Eliminate Unnecessary Barriers to Competition"	USA Peru Viet Nam New Zealand Hong Kong, China	CPLG	EC1 2017
Policy Dialogue on Cross-Border MSME Access to Commercial Justice	USA Chile Hong Kong, China New Zealand Viet Nam		EC1 2017
Project on "Assessing APEC Starting a Business according to International Best Practices"	USA		2017
Possible project on "International Workshop on Protection of Small Shareholders' Interest and Rights in APEC"	Viet Nam Chinese Taipei Hong Kong, China Thailand	CL&G FotC	[2017]

Proposed project on APEC-wide cooperative online dispute resolution (ODR) framework for MSMEs in B2B transactions	Australia Chile Hong Kong, China Mexico New Zealand Papua New Guinea Peru The Philippines Russia Chinese Taipei USA	[SMEWG] [UNCITRAL]	2017 – [2019]
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Department of Justice  
The Government of the Hong Kong  
Special Administrative Region



United Nations  
UNCITRAL



APEC Seminar on

**Use of International Instruments to  
Strengthen Contract Enforcement in  
Supply Chain Finance for Global Businesses (including MSMEs)**

Nha Trang, Viet Nam  
24-25 February 2017

Organized by the Department of Justice of Hong Kong, China  
in collaboration with  
the HCCH through its Regional Office Asia Pacific,  
the UNCITRAL and its Regional Centre for Asia and the Pacific  
and UNIDROIT

**CONCLUSIONS AND RECOMMENDATIONS**

The Department of Justice of Hong Kong, China, in collaboration with the Hague Conference on Private International Law (“HCCH”) through its Regional Office Asia Pacific, the United Nations Commission on International Trade Law (“UNCITRAL”) and its Regional Centre for Asia and the Pacific, and the International Institute for the Unification of Private Law (“UNIDROIT”), organized this 1.5-day capacity-building seminar (“the Seminar”) on 24-25 February 2017 under the auspices of the APEC Economic Committee and its Friends of the Chair on Strengthening Economic Legal Infrastructure (“SELI”).

The Seminar gathered over 40 delegates and participants from APEC member economies and international organisations. It aimed to: (1) enhance understanding of relevant international instruments on how they may provide legal certainty and predictability, as well as to facilitate resolution of business disputes in APEC economies, in order to strengthen contract enforcement in supply chain finance for global businesses of any scale; (2) build the specific capacity of APEC economies to consider adopting and applying these international instruments; and (3) contribute to the development of a network of the relevant APEC officers, with a view to facilitating long-term information and experience sharing.

**THE SEMINAR :**

Recalling the *2014 APEC Economic Leaders' Declaration* on the role of internationally recognized private international law instruments in facilitating cross-border trade and investment, enhancing ease of doing business, and fostering effective enforcement of contracts and efficient settlement of business disputes and the *Joint Ministerial Statement* “to build awareness of private international law instruments to facilitate cross-border trade and investment, enhance ease of doing business, and foster effective enforcement of contracts and efficient settlement of business disputes”;

Giving effect to the *2015 APEC Structural Reform Ministerial Joint Statement* that “the development of international legal instruments and their adoption will create a more conducive climate for cross-border trade and investment, thus facilitating economic growth” and that the use of those instruments “provides greater legal certainty in cross border transactions, harmonization of finance and dispute resolution systems, closer economic and legal integration among cooperating economies, and the simplification of

procedures involved in international transactions”; and

Having regard to the Boracay Action Agenda on MSMEs, which promotes “measures to widen options on financing for MSMEs and further develop the infrastructure to facilitate lending to them [through] inclusive finance mechanisms. . . such as . . . trade and supply chain finance”; the initiatives of the Small and Medium Enterprises Working Group (SMEWG) to encourage the development of MSMEs and to build their capacity to engage in international trade; as well as the Finance Ministers Process (FMP) by seeking to address the financing difficulties faced by MSMEs by improving their legal and regulatory environments;

## **CONCLUDED AND RECOMMENDED**

1. The experience shared by some APEC member economies and the World Bank Group showed the growing use of supply chain finance as a form of credit support for the distribution of goods and services by global businesses, and the delegates and participants acknowledged the need for creating an enabling environment for these businesses (including MSMEs) as well as its importance in the area of contract enforcement, in order to facilitate supply chain financing for such businesses.
2. The delegates and participants appreciated that the adoption of international legal instruments and principles provides an efficient and effective way for APEC member economies to strengthen their economic legal infrastructure, in line with international best practices and international standards, which provides an important basis for their businesses to trade and to obtain finance across borders.
3. The delegates and participants recognised that implementation of international legal instruments such as the *UNCITRAL Model Law on Secured Transactions*, the *UNCITRAL Guide on the Implementation of a Security Rights Registry* and the *UN Convention on the Assignment of Receivables in International Trade*; the *UNIDROIT Convention on International Factoring and the Legal Guide on Contract Farming*; and the *Hague Choice of Court Agreements Convention and the Hague Principles on Choice of Law in International Commercial Contracts* , can greatly assist APEC member economies in benefiting and supporting various aspects of supply chain finance for their global businesses, including MSMEs.
4. The delegates and participants further recognised that for strengthening contract enforcement in the context of supply chain finance, instruments including the abovementioned international legal instruments from HCCH; the *UN Convention on Contracts for the International Sale of Goods* and the *UN Convention on the Use of Electronic Communications in International Contracts*; and the *UNIDROIT Principles of International Commercial Contracts* as well as the *Cape Town Convention on International Interests in Mobile Equipment*, would be highly relevant and beneficial.
5. The delegates and the participants noted the value of a proposed project on online dispute resolution (“ODR”) as a useful form of dispute resolution for MSMEs with limited resources through the use of digital technology to facilitate speedy dispute resolution in cross-border trade for APEC member economies.
6. The delegates and participants appreciated the valuable assistance and support provided by HCCH through its Regional Office Asia Pacific, UNCITRAL and its Regional Centre for Asia and the Pacific, and UNIDROIT towards this Seminar as well as the capacity building opportunities and technical assistance offered by them, and warmly welcomed activities similar to this Seminar in the future as well as further opportunities for enhanced collaboration between APEC and these international organisations.

## FoTC on Regulatory Reform: current work program

### Renewed APEC Agenda on Structural Reform Foresight 2017-2020



**Objective**  
Undertaking robust and ambitious structural reforms

**Goals**

- Reducing inequality
- Promoting a well balanced, inclusive, sustainable, innovative and secure economic growth in all APEC economies

**Structural Reform Priorities**  
Individual Action Plans

**Objectives and policies in focused on:**

- **Regulatory Reform**
- Legal Infrastructure
- Competition Policy
- Corporate Governance
- Public Sector Management

→ Guide reform actions across APEC economies

### Individual Action Plan 2017-2020 APEC economies



In line with the RAASR Individual Action Plans 2017-2020 of APEC economies, it is important that APEC economies **promote and encourage the regulatory reform actions** established, such as:

- Papua New Guinea**  
Structural reform priorities
  - Reform internal procedures regarding the most important tools of used by the Competition Agency, such as Leniency Program or the Plea Agreement
  - Create measures to reach public awareness regarding both Leniency Program and the Plea Agreement
- Chinese Taipei**  
Structural reform priorities
  - To plan and produce a RIA Manual
  - Strengthen the implementation of RIA in all government levels
  - Continue the reform actions carried out in laws and regulations
  - Promote the adoption of Good Regulatory Practices
- Thailand**  
Structural reform priorities
  - Conduct studies on legal and regulatory constraints on business operations
  - Regulatory reform measures to facilitate ease of doing business
- Australia**  
Structural reform priorities
  - Carrying out updates on progress in regulatory reform and red tape reduction
  - Strengthen the RIA analysis

## Individual Action Plan 2017-2020 APEC economies



**Indonesia**  
Structural reform  
priorities

- To implement Good Regulatory Practices
- To promote the adoption of a Single Outline Portal for Regulatory Information
- Reducing the number of regulations by 50% in the central and local governments

**Peru**  
Structural reform  
priorities

- Establishment of an oversight body of regulation
- Implementation of a National Regulatory Reform Policy
- Conducting RIA on high impact regulations
- Implementation of Public Consultation efforts

**Mexico**  
Structural reform  
priorities

- To promote the implementation of the Traffic Light Score Methodology (TLSM) in mexican regulations
- To encourage other APEC economies in the adoption and implementation of the TLSM



**"The implementation of all APEC economies actions will contribute to RAASR goals and promote economic growth in the region"**

## Constitutional Reform on Regulatory Improvement 2016 Mexico



On April 28, 2016, the Mexican President presented to the Congress a Constitutional Law initiative, proposing the mandatory implementation, at all governmental levels, the public policy of Regulatory Improvement. This law was voted, approved by both federal and local congresses and came into force on February 5, 2017.

**Goal:** To make mandatory the implementation of Regulatory Improvement Policy in all levels of government

### Objectives

- Create co-responsibility between the federation, the states and the municipalities
- Empower the Congress to issue a **General Regulatory Improvement Act**
- Creation of a National Catalog of Formalities mandatory for the authorities of the three levels of government



The act will consider to include, among others, the following elements

### General Regulatory Improvement Act

