

## Report by the Chair of the Economic Committee on EC 2 2017

### Executive Summary

1. The EC held its second plenary meeting of 2017 from 25-26 August 2017 in Ho Chi Minh City.
2. EC pursued four key objectives through its deliberations:
  - i. Consider draft 2017 AEPR on Structural Reform and Human Capital Development
  - ii. Consider outcome of OECD-CPLG work on Competition Assessment
  - iii. Consider preparation for 2018 High-Level Structural Reform Officials' Meeting (HLSROM)
  - iv. Consider future of APEC-OECD work on Good Regulatory Practice
3. EC agreed to the following, subject to final endorsement at CSOM where applicable:
  - The APEC-OECD Framework on Competition Policy (2017/SOM3/EC/002Rev1)
  - An expanded SELI Online Dispute Resolution Work plan (2017/SOM3/EC/051)
  - EC-SFOM Joint Action Plan (2017/SOM3/EC/018Rev1) – \*subject to SFOM consideration
  - Updated RAASR Sub-Fund Criteria (2017/SOM3/EC/021)
  - Australia's self-funded project: "Addressing Structural Barriers to Human Resource Development: A Capacity-Building Workshop for Targeted Developing Economies in APEC" (2017/SOM3/EC/032)
4. The EC also endorsed a process for completing the 2017 APEC Economic Policy Report on Structural Reform and Human Capital Development. Prior to the meeting, EC endorsed the topic of Structural Reform and Infrastructure for the 2018 APEC Economic Policy Report. Final approval in both cases will be sought from CSOM.
5. The following EC events were held prior to the plenary:
  - Workshop on Traffic Light Score Methodology (TLSM) (EC 03 2017A, 22-23 August, led by Mexico)
  - Workshop on Exploring Options for Future APEC-OECD Cooperation on Good Regulatory Practice (EC 01 2017S, 23 August, led by New Zealand)
  - Workshop and Technical Assistance on Starting a Business according to International Best Practices (EC 01 2017A, 24 August, led by the United States)
6. In addition, EC supported other events in the margins of SOM3 on Good Regulatory Practices (SCSC), Technical Barriers to Trade (SCSC), FTA Negotiation Skills on Competition (CTI), and Domestic Regulation of Services Sectors (GOS).
7. 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)
8. 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 2 featured specific detailed discussions on:
  - Regional Economic Outlook (led by PSU and PECC)

- The Use of Economic Evidence for Promoting More Effective Competition Policy and Market Functioning (under EC 02 2017A, led by Viet Nam)
- SELI Work Plan on Online Dispute Resolution (led by SELI Convenor)
- OECD Guidelines for the Governance of State Owned Enterprises (led by CLG Convenor)

<b>Recommendation:</b> that Senior Officials note this report.
--

## Report

The following report provides further detail on the key outcomes of EC 2 2017.

2 The Economic Committee held its second plenary of 2017 in Ho Chi Minh City, Viet Nam. All 21 economies attended, alongside representatives from ABAC, PECC, PSU and 3 year guest UNCITRAL. A large number of one-off guests also participated in various agenda items, and are referenced in those sections below. The EC also welcomed the participation of the HRDWG Lead Shepherd, EDNET Coordinator, and SCSC Chair.

### APEC – OECD Framework on Competition Assessment

3 The draft framework (2017/SOM3/EC/002) was introduced under the Competition Policy and Law Group report, and presented by CPLG, OECD and Viet Nam. It was noted that CPLG members, and OECD members, had already endorsed the draft. EC members considered and endorsed the draft as revised by Viet Nam (2017/SOM3/EC/002Rev1). The draft framework is included in the Annex to this report. EC members agreed to pursue a reference to this deliverable in the EC section of the 2017 AMM Declaration.

### APEC Economic Policy Report 2017: Structural Reform and Human Capital Development

4 The draft AEPR for 2017 (2017/SOM3/EC/016) was introduced by Canada, as Core Team lead. The importance, and cross-fora potential, of the report was noted and a joint EC/HRDWG event suggested for SOM1 2018.

5 The consultant for the AEPR, Dr Anne Krueger, introduced the substance of the report, noting at the outset that there was no inconsistency between inclusion and growth. Economies should first do no harm with respect to regulation on human capital development (HCD), and then should seek to do the most good they could. The foundation for HCD was primary education for all. After that, each stage of development came with its own HCD challenges. Achieving an appropriate mix of skills in an economy was a complex, hard task. Most core policy issues were a balancing act: what to do, how much, and when. Active labour market policies were needed to coordinate various aspects of HCD and employment. There were risks from both under and over regulation. Mr Emmanuel San Andres of PSU, who had worked with Dr Krueger to produce the main report, spoke to the opportunities identified in the report for cross-fora cooperation within APEC, particularly between EC and HRDWG.

6 Joining the session, the HRDWG Lead Shepherd hoped that the AEPR would also galvanize HRDWG initiatives in this area, and supported the idea of a joint event at SOM1 2018. He thought the draft report was thorough and had something in it for all economies. The EDNET Coordinator noted the relevance of the APEC Education Strategy, under which an Action Plan was now being developed.

7 There were a number of comments from members on the draft report and a robust discussion. The Chair commended the drafters and the Core Team on a high quality draft report overall. ABAC and PECC were very supportive of a greater focus in APEC on this issue. One member said a paragraph on page 38 of the draft report notably lacked any references or data sources and could be read as political and, as it was not in line with commitments as ILO members and other trade and investment agreements, would have to be redrafted.

8 In general economies were supportive of the draft, and many noted their intention to submit further comments on it to PSU by the 8 September deadline. Thereafter a revised draft would be produced, and circulated to EC and HRDWG for further consideration, with a view to forwarding the draft report to CSOM and AMM for final endorsement. A factsheet would also be presented to AMM.

9 Canada as Core Team lead also introduced its Forward Agenda (2017/SOM3/EC/017) as one suggested way of ensuring strong dissemination and follow-up of the 2017 AEPR and its recommendations after its endorsement. One member sought more time to consider the document and the same 8 September deadline was agreed for comments. The Chair will also report to CSOM on the Forward Agenda.

#### APEC Economic Policy Report 2018 (TBC): Structural Reform and Infrastructure

10 SFOM and the EC have both agreed that each should seek approval from their respective ministers for the proposed 2018 AEPR topic of Structural Reform and Infrastructure. If agreed, the report will be carried out on a collaborative basis between the two Committees. From the EC side, the outline of a potential Core Team was becoming clear with New Zealand having offered to lead (confirmed by New Zealand), and Australia, China, Mexico, Papua New Guinea, Philippines, Thailand and Viet Nam considering joining. ABAC was also interested and might look to contribute a case study on the Digital Infrastructure aspects of the topic. The Chair will attend the FMM in October with a view to agreeing a joint team with SFOM and will report on this to CSOM.

11 Viet Nam introduced the related EC-SFOM Action Plan (2017/SOM3/EC/018), and provided some oral updates to the suggested text. Members approved the revised version (2017/SOM3/EC/018Rev1) subject to SFOM inputs/approval (TBC).

12 Ms Donna-Jean Nicholson of the OECD spoke to the OECD's interest in potentially supporting APEC on the 2018 report, given the considerable expertise in the OECD on the topic. The Chair noted that PSU could provide the link to the OECD for the 2018 team.

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

13 The Chair introduced his paper on potential deliverables from the 2018 High Level Structural Reform Officials' Meeting (HLSROM) (2017/SOM3/EC/019), which was supported by economies. The United States suggested that the outcomes from a proposed EoDB Dialogue during EC 1 2018 could also feed into the 2018 HLSROM. It was noted that the HLSROM would likely be held in Port Moresby directly after EC 2 2018 and prior to SOM 3 2018.

14 PSU updated members on the proposed RAASR Mid-Term Review of RAASR for delivery to the HLSROM (2017/SOM3/EC/020). The Chair clarified that the HLSROM would assess progress and provide strategic guidance on the work required to bring RAASR to a successful conclusion in 2020.

15 Updates to RAASR IAP implementation were provided by Papua New Guinea, Mexico, Indonesia, and Peru.

16 Australia presented a small update to the existing RAASR Sub-Fund Criteria (2017/SOM3/EC/021) which was endorsed by members.

17 PSU presented on the ASCR Baseline Indicators. The Chair noted he had attended the relevant GOS-led workshop on Principles for Domestic Regulation of Services Sectors. The different perspectives on the issue among the trade and regulatory communities had been evident, with future collaboration required. GOS had undertaken to fully involve the EC in follow-up work.

18 The Philippines presented on the Boracay Action Agenda on MSMEs Stocktake for 2017, including EC contributions in respect of the RAASR IAPs, and EODB. SELI Convenor subsequently provided input for the stocktake on SELI's contribution (reflected in 2017/SOM3/EC/023Rev1).

#### Ease of Doing Business

19 PSU presented an EoDB update, including information on Alternative Dispute Resolution and Depth of Credit Information. PSU requested any comments on the interim assessment (2017/SOM3/EC/024) from members by 15 September.

20 The United States spoke to the outcomes from the Simplified Business Registration Workshop held prior to EC2, noting their intention to circulate the Draft Study post EC2, and to finalise it for EC 1 2018. The United States also made an offer of capacity building on the issue to economies that might wish to take that up, and noted the possibility to hold follow-up workshops in the future.

#### Good Regulatory Practice

21 The SCSC Chair reported on GRP 10, which SCSC had organised during SOM3 2017. GRP 10 had seen very strong participation from APEC members, in addition to the participation of Cambodia, Laos and Myanmar. The Chair noted that the EC would take responsibility for organising GRP 11 during SOM3 2018, and warmly invited the SCSC Chair and members to join.

22 New Zealand spoke to the outcomes from the APEC – OECD Workshop on Exploring Options for Future Cooperation on GRP (2017/SOM3/EC/049). A menu of follow-up options had been discussed and the Regulatory Reform FotC would take these up and present some suggestions for consideration at EC 2 2018. EC members supported this approach. The report on options for future cooperation is annexed to this report.

23 The OECD also updated on their work on GRP, with Ms Celine Kauffmann noting the value at the OECD of bringing together the trade and regulatory committees to tackle the challenge. The OECD was working hard on informing further the case for international regulatory cooperation. The Chair noted the same issue (trade and regulatory cooperation) was prevalent in APEC.

#### Policy Discussions

##### i. APEC Regional Economic Outlook

24 Dr Denis Hew, Director of the Policy Support Unit, sounded 'cautious optimism' on the regional economic outlook. Steady household consumption, and stronger export performance, was boosting APEC GDP growth. Trade activity had strengthened, and industrial production remained strong. In addition, FDI was also healthy, with APEC economies among the top recipients world-wide. Further, trade facilitating measures had increased. However, the rest of the world was catching up and was expected to soon match APEC growth rates.

25 Dr Hew also spoke to the opportunities and challenges associated with globalisation, noting that more openness and transparency on the costs of globalisation was warranted. Growth, poverty reduction and living conditions were part of the positive story, while inclusion and an uneven impact were on the negative side. Critical policy responses included structural reform, and regional cooperation.

26 Dr Eduardo Pedrosa was similarly cautiously optimistic, though noted that PECC's survey had shown that the perceived risks of protectionism were rising. Failure to implement structural reforms was the 3<sup>rd</sup> highest risk to growth. Corporate trends, such as the release of a new popular smart phone, were now so significant that they alone could swing growth numbers. Investment was also a critical driver of growth.

27 Some members agreed with the cautious optimism expressed by Dr Hew and Dr Pedrosa, with some citing their own domestic progress as evidence.

ii. The Use of Economic Evidence for Promoting More Effective Competition Policy and Market Functioning

28 This Policy Dialogue was held under EC Project 02 2017A, and heard a presentation by Prof Frederic Jenny, Chair of the OECD's Competition Committee, plus economy presentations by Australia (Mr Richard York, ACCC), Japan (Mr Yasunori Tabei, JFTC) and Viet Nam (Mr Phan Duc Hieu, CIEM).

29 Prof Jenny noted the importance of the topic to market efficiency and economic growth, and provided an overview of the issues involved in ensuring economic evidence could effectively be used. Mr York noted that competition was a process, not an outcome, and that it was in effect the opposite of market power. Definition of a 'market' was fundamentally about constraints. The right policy settings needed to avoid being too prescriptive. Mr Tabei spoke to the very effective utilisation of economic evidence by the Japan Fair Trade Commission, and discussed the challenge of defining multi-sided markets. Mr Phan spoke to the challenges of this in Viet Nam and noted Viet Nam's desire for more training and capacity building on the subject. He suggested that APEC and the OECD could work together to assist economies in adopting economic evidence procedures into law.

30 Comments from members noted that the institutional design and codification of the law of any system was critically important. Members supported Viet Nam in bringing forth this discussion.

iii. SELI Work Plan on Online Dispute Resolution

31 Discussion was split into three parts: the Summary of the ABAC Survey; a Panel on Lessons from Current ODR Experience; and a Panel on Working Towards an APEC ODR Framework. Hong Kong, China, introduced the survey results, noting the generally positive response to the potential of B2B ODR. That said, some SMEs had indicated that they did not want to pilot such a system, often due to insufficient knowledge or awareness of ODR. In addition, the survey had uncovered a strong desire for an additional focus on prevention of disputes and support for contract management by modern technology.

32 Under the first panel, Prof Yoshihisa Hayakawa from Rikkyo University in Japan outlined the experience of Japan with CCJ-Net, and the efforts of the UNCITRAL Working Group on ODR – including through the adoption of the Technical Notes on ODR. However, he noted, those notes had no legal effect and therefore there was still a critical need for uniform rules and a common platform. APEC could play a role in this regard. Mr Nguyen Anh Duong of Viet Nam recognised the importance of ODR initiatives for MSME cross-border transactions. He also recognised some challenges, including whether existing frameworks could support electronic access to justice. Ms Ada Chen of Hong Kong, China, outlined the examples of CIETAC, the Zhejiang Online Court, the Hangzhou Internet Court, and the Asian Domain Name Dispute Resolution Centre in Hong Kong, China, as well as the mechanism within the European Union. Ms Chen noted the need for a clear view of the APEC ODR vision and scope and suggested it may include modern technology for prevention of disputes and contract management. She also noted that Hong Kong, China, was prepared to engage a consultant to research and help lay the foundation for that expanded scope including on smart contracts and block chain technology. Earlier during the SELI FotC meeting, New Zealand had similarly noted that an academic from New Zealand now had funding for research on this issue, and would be able to work with other academics from other economies in pursuing that.

33 During the second panel, Ms Julie Nind from New Zealand noted the possible need of any ODR system in APEC to require legislative change, triggering GRP and RIA. This was a complex new area, with both opportunities and challenges. Dr Nicolas Vermeys of the University of Montreal spoke to the software aspects of ODR, noting what was available now and the future potential. Mr Michael Dennis of the United States presented an outline for APEC ODR, the rationale, and a vision for the system including

broadening of the scope to cover the use of modern technology in dispute resolution and electronic agreement management. Mr Dennis suggested the holding of a Workshop at EC1 2018 on the issue, supported by SELI.

34 Questions considered the online/offline justice issue, cross-fora collaboration, the fact that technology is just a tool for this and not the final goal, and the public or private service nature of ODR. Following further consultations on Day 2 of the EC Plenary, members endorsed an expanded version of the SELI ODR Work Plan (2017/SOM3/EC/051) to take forward this initiative. There are now 14 co-sponsors of this initiative.

iv. OECD Guidelines for the Governance of State Owned Enterprises

35 Ms Nguyen Nguyet Anh of the World Bank – International Finance Cooperation introduced the OECD Guidelines, noting their role and contents. She explained how SOEs were increasingly prominent in international markets, yet governance challenges and definitional issues persisted. The Guidelines had been first introduced in 2005, and revised in 2015. They were recommendations to governments.

36 Mr Kojiro Fujii of Nishimura & Asahi, a law firm in Japan, spoke to the example of Japan Post, noting its history, privatization, current structure, and the economy's role. Mr Fujii used this example to discuss the challenges and issues associated with SOEs in the market place, and the importance of good corporate governance and transparency. Ms Cheryl Tseng of Chinese Taipei gave examples of the governing framework for SOEs in Chinese Taipei, and their application of the OECD Guidelines. Mr Nguyen Dinh Cung of Viet Nam provided an overview of the situation in Viet Nam, including the disclosure practices and institutional aspects of SOE Governance.

37 Members appreciated the exposition of the SOE Guidelines and their application. They also noted the definitional challenges in the areas – e.g. what is 'significant control', and suggested that this area of work had potential for EC – CTI collaboration in the future. Japan noted that it would be happy to continue to contribute to this important area of work. CLG Convenor welcomed this and confirmed it would continue to be a CLG priority. CLG Convenor also expressed his intention to consult members on the possibility for scoping cross-fora collaboration on SOE issues. The Chair noted that this appeared to be a fertile area of work.

APEC Projects

38 The EC Program Director outlined the EC and CPLG's current projects and provided advice to members regarding the forthcoming changes to APEC's project system from 2018.

39 Australia updated on their existing project under HRDWG entitled "APEC Labour Mobility Initiative". ABAC supported Australia's initiative. Japan updated on their existing project under CTI, "FTAAP Capacity Building Workshop on FTA Negotiation Skills on Competition", which had been implemented during SOM3 2017.

40 New EC projects were introduced by:

- United States: "APEC Workshop on Access to Credit". This project is funded in-principle under Session 2, with a full project proposal to follow.
- Mexico: "Capacity Building Online Program on Regulatory Improvement". This project will be presented for Session 1 2018.
- Australia: "Addressing Structural Barriers to Human Resource Development: A Capacity-Building Workshop for Targeted Developing Economies in APEC". This was endorsed on a self-funded basis. (2017/SOM3/EC/032)
- Hong Kong, China: "Workshop on the Use of Modern Technology for Dispute Resolution and Electronic Agreement Management (Particularly ODR)". Hong Kong, China, invited further

comments on and endorsement of this self-funded project within 1 week of EC 2 (by 4 September). (2017/SOM3/EC/052)

41 The SCE Chair's representative presented on the Guidelines on Promoting Cross-Fora Collaboration.

#### EC Governance

42 The Chair and Members confirmed by acclamation the appointment of Mr Robert Logie of Canada as EC Chair for 2018-2019, and the re-appointments of Dr Rosemary Edillon of the Philippines and Dr Sun Xuegong of China as Vice Chairs for 2018-2019.

43 Members warmly welcomed the Chair-elect and thanked the Vice Chairs for their continued service. Members also wholeheartedly appreciated the work of the outgoing Chair, Mr Rory McLeod of New Zealand, for his outstanding contribution to the EC throughout his chairmanship.

44 The Chair noted that in respect of the CPLG, the election of office holders was ongoing with nominations being considered by CPLG members. Chile had nominated Mr Sebastian Castro for Convenor for 2018-2019, with Japan nominating Mr Kazuo Oya for Vice Convenor for 2018-2019.

45 The Secretariat updated members on the SOM Governance reforms agreed at SOM2 2017, and the implications therein for the EC and CPLG. EC and CPLG would need to take action to comply with the new guidelines at SOM1 2018.

46 The Convenors for the following EC FotCs were reconfirmed for 2018:

- Ease of Doing Business – United States
- Public Sector Governance – Thailand
- Regulatory Reform – Mexico
- Strengthening Economic and Legal Infrastructure – Hong Kong, China

47 Viet Nam indicated its interest in opening the Corporate Law and Governance FotC for new leadership and invited expressions of interest from economies. Viet Nam said it was willing to stay in the role until a new FotC Convenor was found.

48 Finally, the Committee recorded its profound thanks to its outgoing Program Director, Mr Alex Rogers.

#### Looking ahead: EC 2018

49 Papua New Guinea showed a video of PNG 2018 and presented on the outline for EC priorities. There was one question about the distinction between EC1 and EC2 events. PNG noted it would be working further with the Secretariat to confirm the line-up for 2018.

50 PSG Convenor noted two proposals for PSG themed Policy Discussions at EC1 2018: Open Government (Thailand) (2017/SOM3/EC/056) and Public E-Services (Russian Federation) (2017/SOM3/EC/044). Thailand and Russia introduced those proposals and members supported them.

51 Based on all information exchanged during the meeting, the Chair provided the following rough outline of forthcoming events in 2018:

#### EC 1 2018

- PNG Merger Control Regime Workshop (EC, RAASR)
- SELI Online Dispute Resolution Workshop (EC, Self-Funded)
- Dialogue on Structural Reform and Inclusive Growth (PNG Initiative)

- Joint HRDWG/EC event on 2017 AEPR (TBC)
- Competition Policy and Law Group
- EC 1
  - o Policy Dialogues:
    - Ease of Doing Business Stocktake (USA)
    - Open Government (Thailand)
    - Public E-Services (Russia)
  - o EC Plenary

#### EC 2 2018

- 11<sup>th</sup> Good Regulatory Practices Workshop (with SCSC)
  - EC Plenary
    - o Future of OECD – APEC Work on Good Regulatory Practices
  - High Level Structural Reform Officials' Meeting
-

# APEC – OECD Framework on Competition Assessment

## *What is competition assessment?*

The competition assessment of laws and regulations is a process that helps identify regulatory restraints to competition and develop alternative, less restrictive policies that still achieve government objectives.

Laws and regulations<sup>1</sup> are crucial for achieving public policy objectives, such as consumer protection, public health and environmental protection, as well as for preventing companies from taking advantage of market power or resolving market failures. When regulations are overly restrictive, however, they can hinder competition and have negative economic repercussions. For example, domestically, restrictive regulations may hamper business entry, meaning that new startups would otherwise fail to materialize in an otherwise stagnant market.

The benefits of competition for consumers and for the overall economy are significant. A large number of studies confirm that more competitive industries experience faster productivity growth leading, in turn, to economy-wide growth. Other benefits from competition are also important, including lower consumer prices, greater consumer choice and better quality of products and services, higher employment, greater investment in R&D and faster adoption of innovation.

To prevent unduly restrictive regulations and ensure that regulations help to achieve the benefits of competition, a useful technique is competition assessment of regulations. This technique ensures that regulations do not unduly restrict competition and is the focus of this framework.

A competition assessment can be performed at different stages of making regulations. It can be embedded in the very process of developing new legislation and policies, which APEC addresses under the various Good Regulatory Practices workstreams, by ensuring that new regulations do not unduly restrict competition. This is called the *ex ante* approach. An alternative or complementary practice is an *ex post* assessment, which analyses the legislation in force and can take account of the market outcomes resulting from the implementation of a given policy. Each approach has its advantages; they can be implemented separately, or both at the same time.

## *Rationale*

Competition policy has been an important priority of APEC since the Osaka Action Agenda (adopted in 1995, amended in 2002) and contributes to achieving the Bogor Goals of economic integration and trade liberalization. Competition assessment was featured as a component of the *APEC-OECD Integrated Checklist on Regulatory Reform*, published in 2005. The adoption of sound competition policies, laws and rules coupled with their effective implementation and enforcement helps to realize these APEC objectives. In addition, promoting free market competition helps bring about open, well-functioning, transparent and competitive markets - which is one of three priority areas for structural reforms under the Renewed APEC Agenda for Structural Reform (RAASR) for 2016-2020.

---

<sup>1</sup> Henceforth, we refer to government laws and regulations as regulations, while recognizing that regulatory review may have a different role in primary and secondary legislation, particularly when the primary legislation is proposed and drafted by legislators.

Currently, experience among competition authorities in the APEC region remains uneven in terms of scoping and assessing issues that potentially hamper competition. More recently established, or younger, competition authorities among APEC developing economies encounter the continuing need to build capacity for conducting economic analyses of existing and proposed regulations in particular. Among the needs to foster and enhance competition policy in APEC, therefore, is to build capacity to systematically, justifiably and consistently identify and assess the implications of regulations –both existing and proposed—on sound market competition.

The *APEC - OECD Framework on Competition Assessment* provides a clear and structured framework to help identify laws and regulations that potentially restrict competition with a view to then establishing areas to focus on for regulatory change. The framework has been designed so that it can be usefully applied by government officials with no prior knowledge of competition policy. In the latter case, training sessions and hands-on experience alongside competition professionals can make the competition assessment process more effective. The framework builds on the OECD's *Competition Assessment Toolkit*, which was introduced to APEC member economies on the margin of APEC SOM1 in Nha Trang, Vietnam, in February 2017.

### *Objectives*

The APEC – OECD Framework on Competition Assessment serves the below objectives:

- Set out non-binding principles and approaches to implement systematic and consistent competition assessment in APEC member economies;
- Identify needs and build capacity to APEC member economies to implement competition assessment;
- Introduce principles of competition assessment into APEC's ongoing work in Good Regulatory Practices;
- Promote APEC-wide and APEC-OECD cooperation on competition assessment.

### *Principles*

The APEC – OECD Framework on Competition Assessment adheres to the below principles:

- Non-binding;
- Transparent and effective communication;
- Collaboration and engagement with various stakeholders; and
- Ensure meaningful efforts to build human and institutional capacity and to increase participation of developing member economies.

### *How the checklist works*

The *APEC - OECD Framework on Competition Assessment* is organised around a list of questions (the so-called Competition Checklist). The Checklist addresses four main types of regulations, i.e. regulations that: (i) limit the number or range of suppliers; (ii) limit the ability of suppliers to compete; (iii) reduce the incentive of suppliers to compete; or (iv) limit the choices and information available to customers.

### *In-depth review and proposals for regulatory change*

An in-depth analysis is necessary to assess whether the potential restrictions identified based on the checklist are indeed harmful. Occasionally, restrictions that have been put in place to fulfill a policy objective go beyond what is necessary to achieve the objective. Competition assessment does not aim at the removal of all regulations. It is a careful review of existing or draft policies to ask whether they *unduly* restrict competition, given the ultimate policy objectives.

One of the first steps to understanding a regulation is to investigate its policy objective. This is important for various reasons. Even if the analysis finds that the regulation leads to a restriction of competition, this harm may be justified in light of the public policy objective. In addition, when the regulation is indeed found to be restrictive, understanding its objective is essential in order to develop suitable alternatives.

The in-depth analysis of the harm to competition can be conducted by drawing on the economic and legal literature, identifying relevant case law, and researching regulations applied in comparable economies. When suitable data are available, a quantitative analysis can also be performed.

When a regulation is found to harm competition, the next step of the competition assessment process is to develop alternative policy options and to identify the benefits of each of the alternatives with respect to the *status quo*. One good way to do this is to look at other regulations in other comparable businesses or in the same business in other economies. Following the identification and comparisons of the options, a policy options for change can be identified and presented to policymakers, explaining the reasons for the suggested change to the regulation.

### *The Way Forward*

- Conduct pilot competition assessments in APEC member economies;
- Promote economy-level attempts to build capacity for competition assessments using the APEC-OECD Framework on Competition Assessment (i.e. the checklist);
- Organize policy dialogues and workshops to share experiences on practical competition assessment in APEC member economies;
- Encourage member economies to update to CPLG about framework implementation; and
- Build on experiences in the region to develop APEC casebook on competition assessment.

### *Desired Outcomes*

- Enhanced capacity for APEC member economies to conduct competition assessments using the Checklist;
- Contribution to Good Regulatory Practices; and effective competition policy;
- Greater regulatory quality and ease of doing business in the APEC region thanks to competition-friendly regulations; and
- Support the pursuit of economic, financial and social inclusion in the APEC region.

## Annex: Checklist on Competition Assessment

Further competition assessment should be conducted if the existing or proposed regulation has any of the following four effects:

- A. **Limits the number or range of suppliers.** This is likely to be the case if the proposal:
1. Grants exclusive rights for a supplier to provide goods or services
  2. Establishes a license, permit or authorisation process as a requirement of operation
  3. Limits the ability of some types of suppliers to provide a good or service
  4. Significantly raises cost of entry or exit by a supplier
  5. Creates a geographical barrier to the ability of companies to supply goods services or labour, or invest capital
- B. **Limits the ability of suppliers to compete.** This is likely to be the case if the proposal:
1. Limits sellers' ability to set the prices for goods or services
  2. Limits freedom of suppliers to advertise or market their goods or services
  3. Sets standards for product quality that provide an advantage to some suppliers over others or that are above the level that some well-informed customers would choose  
Significantly raises costs of production for some suppliers relative to others (especially by treating incumbents differently from new entrants)
- C. **Reduces the incentive of suppliers to compete.** This may be the case if the proposal:
1. Creates a self-regulatory or co-regulatory regime
  2. Requires or encourages information on supplier outputs, prices, sales or costs to be published
  3. Exempts the activity of a particular industry or group of suppliers from the operation of general competition law
- D. **Limits the choices and information available to customers.** This may be the case if the proposal:
1. Limits the ability of consumers to decide from whom they purchase
  2. Reduces mobility of customers between suppliers of goods or services by increasing the explicit or implicit costs of changing suppliers
  3. Fundamentally changes information required by buyers to shop effectively

Examples of types of regulations that fall under each of these broad headings are provided through more specific questions. The fact that a regulation meets one of the headings does not necessarily mean the regulation is unjustified.

- The first group of questions addresses, for instance, regulations granting exclusive rights to businesses. Such regulations have applied to public utilities sectors, such as electricity and railways, as well as to professions or guilds. For instance, local governments often restrict entry into the taxi services market by setting the number of licences, sometimes in combination with price controls on taxi fares. Restrictions on the retail channels that can sell certain products, such as the requirement to sell vitamins and over the counter medicines only in pharmacies, also fall within the first category identified by the Checklist.
- In the second group of questions, the Checklist identifies regulations that limit businesses' ability to compete, e.g., through their pricing decisions or the freedom to advertise and market products. For instance, many professions restrict comparative or any advertising in some countries (e.g. medical services, pharmacies and auditing services). Price regulation,

such as price caps, notifications or approvals, and requirements to keep prices stable for a given period, limit firms' flexibility to set prices in line with market conditions. Grandfather clauses are other examples of regulations that limit the ability to compete: when a regulatory framework changes and becomes more restrictive, existing firms are often "grandfathered", and do not have to comply with the new stricter regulations at all or are treated in a more favourable way than newcomers. This differential treatment places at a disadvantage the firms that have entered the market at a later stage.

- The third group of questions addresses, for instance, mechanisms that facilitate the sharing of information among competitors and that allow them to co-operate in specific activities. Allowing co-operation in some areas, such as research and development, has the potential to bring substantial benefits to society. This is also the case for self-regulation. For instance, a standard setting organisation provides a forum for the industry to define standards. However, at times, these mechanisms might have the unintended effect of leading to information exchange on sensitive business matters that could facilitate co-ordination of prices and production.
- In the fourth group of questions, the Checklist includes selected demand-side factors. These are restrictions that limit consumer choices or reduce consumer mobility by creating switching costs. While in some cases switching costs are monetary (e.g. a fee charged to close a banking current account), there are also important non-monetary factors (e.g. arranging for pre-arranged bank payments to be moved from one account to another). If consumers possess insufficient, confusing or misleading information about products, they may find it difficult to properly evaluate them. In these cases, the market is unlikely to deliver the best outcomes for consumers and therefore a review of the existing regulations becomes necessary.

**Background paper**  
**EC-SFOM Joint Action Plan**

**I. Background**

- In 2016, FMM provided an instruction to SFOM that: “We invite the Senior Finance Officials to identify areas in which possible collaboration with the APEC Economic Committee could take place in 2017.”
- In February 2017, EC Chair attended FCBDM in Nha Trang for an initial discussion to consider potential areas for collaboration, including a follow-up discussion with SFOM.
- Between March and May 2017, EC and SFOM started to scope the opportunity for collaboration.
- At the SFOM meeting in May 2017, EC Chair, SFOM Chair and SFOM Members discussed some initiatives with potential for collaboration. There was support, in particular, for collaboration on the EC-proposed initiative for the 2018 APEC Economic Policy Report with the proposed theme of “Structural Reform and Infrastructure”.

**II. Objectives**

- To respond to FMM instruction and to enhance collaboration between EC and SFOM in practical work programs/initiatives.

**III. Time frame:**

- EC and SFOM shall implement pilot initiatives during 2018-2019;

**IV. Plan of Joint Action**

1. EC and SFOM will jointly prepare APEC Economic Policy Report (AEPR) 2018 titled “Structural Reform and Infrastructure”

Timeline	Item/Activity	Responsibility by
November-December 2017	Identify lead economies/core team for preparing AEPR 2018	EC and SFOM.
December 2017-January 2018	Draft scope, outline and terms of reference for AEPR 2018	<ul style="list-style-type: none"> <li>• EC to lead;</li> <li>• SFOM and PSU to comment.</li> </ul>
December 2017-February 2018	Identify funding mechanism	EC and SFOM.
February and March 2018	<ul style="list-style-type: none"> <li>• Report progress to EC Plenary (February);</li> <li>• Report progress to FCBDM (March)</li> </ul>	<ul style="list-style-type: none"> <li>• EC and SFOM (jointly for both meetings);</li> <li>• Core Team to present draft template for individual economy report at both meetings.</li> </ul>
February-March	Recruit consultants (if required)	EC / PSU

Timeline	Item/Activity	Responsibility by
2018		
March-August 2018	<ul style="list-style-type: none"> <li>Finalize and endorse individual economy report template;</li> <li>Complete and submit individual economy report template.</li> </ul>	Coordination by representatives of EC and SFOM in each member economy.
March-September 2018	<ul style="list-style-type: none"> <li>Prepare and finalize contracted work, and any additional member contributions e.g. case studies</li> <li>Compile and finalize full AEPR report;</li> <li>Prepare and finalize executive summary of AEPR report.</li> </ul>	<ul style="list-style-type: none"> <li>Core Team;</li> <li>Consultants;</li> <li>EC, SFOM and PSU to comment.</li> </ul>
May 2018	Report progress to SFOM	EC and SFOM
August 2018	Report progress to EC2 Plenary	EC and SFOM
October 2018	Report progress to FMM	EC and SFOM
November 2018	Report progress to AMM	EC and SFOM

2. By November 2018, SFOM will propose an initiative of APEC-wide importance for EC-SFOM collaboration in 2019.

Timeline	Item/Activity	Responsibility by
May 2018	SFOM discuss potential initiative for EC-SFOM collaboration in 2019	SFOM
August 2018	EC discuss SFOM's proposal for EC-SFOM collaboration in 2019	EC and SFOM
October 2018	Report to FMM	EC and SFOM
November 2018	Report to AMM	EC and SFOM

3. By November 2019, EC and SFOM will develop a joint work plan for collaboration in 2020 and beyond.

4. EC and SFOM will review collaboration at the end of each APEC year.

## V. Deliverables

- APEC Economic Policy Report 2018 on “Structural Reform and Infrastructure”;
- Periodic reports to AMM and FMM.

## VI. Recommendations

- EC side:
  - EC to discuss at EC2 and intersessionally by September;
  - EC to endorse joint-action plan by end of September;

- AMM to acknowledge collaboration with SFOM and EC on the AEPR and instruct EC to implement it.
- SFOM
  - SFOM to discuss intersessionally by September;
  - SFOM to endorse joint-action plan by end of September;
  - FMM to acknowledge collaboration with SFOM and EC on the AEPR and SFOM to implement it.

## **Report from APEC Economic Committee Workshop on Exploring options for future APEC-OECD cooperation on GRP**

A half-day workshop on *Exploring options for future APEC-OECD cooperation on good regulatory practice* was held on 23 August 2017 in Ho Chi Minh City. The workshop was attended by representatives of a number of APEC economies and 2 representatives from the OECD's Secretariat.

The workshop was opened by the Chair of the Economic Committee. The workshop looked at the practical application of the APEC-OECD Integrated Checklist on Regulatory Reform with a particular focus on the recent OECD Regulatory Policy reviews of Korea and Peru. The workshop also heard from Chinese Taipei, Malaysia and New Zealand about their recent developments on GRP. The OECD also spoke about their recent work on GRP.

The workshop ended with a brainstorming session which confirmed the value and currency of the APEC-OECD Integrated Checklist. The session also came up with suggestions of areas for potential future work that could be developed into a menu of options in 2018 for consideration by the Economic Committee. These suggestions included:

- Peer review – consider different ways to involve other APEC economies in helping individual economies to assess their regulatory reform and implementation of GRP. This could include considering the OECD regulatory policy review process
- International regulatory cooperation (IRC) – consider how APEC could draw on the OECD work on improving collaboration between trade and regulatory policy officials, consider how to use the breadth of APEC work on IRC, including possible APEC case studies to enrich the OECD's on thinking on IRC and create a resource for APEC economies.
- Developing an APEC information base or evidence to assist each economy and to underscore where GRP and IRC has worked or not – consider option for this, including drawing on OECD experience.
- Digital economy – considering how regulation and developments on GRP can assist economies in dealing with issues raised by the digital economy and disruptive technology.
- Regulatory delivery – consider options for drawing on OECD and individual APEC economies' work on implementation, enforcement and regulator practice.
- SME participation in global value chains
- Inclusive growth – consider opportunity to combine efforts to improve understanding of how GRP can help improve inclusive growth, including how to involve marginalised groups in the regulatory reform process and increasing access to economic opportunities for those groups.
- Services – consider how to improve awareness and use of the Checklist in the regulation of services.

Conclusions from the workshop:

- GRP continues to be central to improving regulatory quality and delivering competitive and open markets.
- The APEC-OECD Integrated Checklist remains fit for purpose. Economies should be encouraged to make use of it.

- Thinking on GRP has developed over the last decade or more. APEC economies would benefit from drawing on this thinking, including from the OECD but also from APEC economies which are active in this area.
- The FoTC on Regulatory Reform would seem well placed to head work on developing the suggestions on possible areas for future APEC-OECD collaboration into a menu of options for the Economic Committee to consider at EC2 2018.

## **REPORT BY THE CHAIR OF THE CPLG ON EC2 2017**

### **APEC work on Competition Assessment Ho Chi Minh City, Viet Nam, August 25th**

Thank you Chair, as CPLG Convenor, I would like to present the advancing of our work Plan for 2017.

As I mentioned during the CPLG meeting on February 2017, 3 Concept Notes from CPLG seeking APEC-funding were submitted in Session 1 2017. They were well scored by CPLG members, and supported by EC members, but the funding was so tough under the APEC Support Fund - General Fund (under which both applied) so not all the Concept Notes were funded this time.

1. Workshop on Merger Control Regimes. Papua New Guinea proposed two days for this workshop in order to help APEC developing economies in applying best practices in merger control. This Concept Note was not funded and has been resubmitted to Session 2 under RAASR Sub-Fund.
2. Seminar on Settlements as an effective tool for fighting cartels. Peru proposed this seminar for sharing 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. This Concept Note was not funded in Session 1 2017 but Peru made some adjustments and submit it again for Session 2 seeking APEC funding. It is important to mention that this seminar was well scored by CPLG members, and supported by EC members, but the funding was so tough under the APEC Support Fund - General Fund.
3. Promoting the use of economic evidence for more effective competition policy and market functioning. Viet Nam proposed a one-year project to be implemented from May 2017 to May 2018. The training is focused on the using economic evidence in their professional work. This Project fits with the priority of APEC and EC, and Vietnam's individual action plan to implement the RAASR for 2016 to 2020. This was funded under the RAASR sub-fund.
4. In addition, the Concept Note "Application of Competition Policy to International Liner Shipping Industry" was submitted by Philippines for Session 2. This project aims to evaluate maritime consortia and alliances, vessel sharing agreements, liner consolidation, and related arrangements, and pro- or anti-competitive effects evaluations. This international workshop should be held in Manila on April 2018. Funding will be known in September.

I would like to strongly encourage to all APEC economies for participating in all these important events, addressed, in different ways, to help for identifying, combating and deterring anticompetitive conducts that affect negatively our economies.

Thank you Chair.

## **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.

**Key items/directions:**

1. Policy Dialogue on Internalizing OECD Guidelines for Governance of SOEs within EC2 2017 (see attached agenda);

2. Forward agenda on SOE governance:

Vietnam will consult member economies on the possible scope of work on corporate governance of SOEs, and on the possibility of cross-fora collaboration on SOE governance issues.

3. Next FotC convenor for Corporate Law and Governance:

Vietnam expressed the intention to open the position of convenor for FotC on Corporate Law and Governance for nomination. Vietnam will continue to support the work on Corporate Law and Governance, and will consult member economies on the possibility of finding the new convenor.

**Annex 1:**

**Policy Dialogue on Internalizing OECD Guidelines for Governance of SOEs**

**Date:** 14:00 – 15:30, 26 August 2017  
**Venue:** Camellia Room (2<sup>nd</sup> Floor – East Wing)  
Rex Hotel Saigon, Ho Chi Minh City, Vietnam

<b>Time</b>	<b>Contents</b>
14:00 – 14:05	<b>Introduction (5 minutes)</b> <b>Mr. Nguyen Anh Duong</b> , Vietnam's EC representative - Coordinator, Friend-of-the-Chair group on Corporate Law and Governance
14:05 – 14:25	<b>Brief note about OECD guidelines for corporate governance of SOEs (20 minutes)</b> <b>Ms. Nguyen Nguyet Anh</b> , Corporate Governance Officer, Vietnam Corporate Governance Lead, World Bank – International Finance Corporation <i>Focus:</i> <ul style="list-style-type: none"><li>✓ State's role as an owner;</li><li>✓ State-owned enterprises in the marketplace;</li><li>✓ Equitable treatment of shareholders and other investors;</li><li>✓ Disclosure and transparency;</li><li>✓ Responsibility of boards of State-owned enterprises</li></ul>
14:25 – 15:10	<b>Practical experiences/issues and recommendations on adapting/implementing OECD guidelines for Governance of SOEs</b> <b>1. Japan: Mr. Kojiro Fujii</b> , Partner/Lawyer, Nishimura &Asahi Law Firm <i>Focus:</i> <ul style="list-style-type: none"><li>✓ State's role as an owner;</li><li>✓ State-owned enterprises in the marketplace</li></ul> <b>2. Chinese Taipei: Ms. Cheryl Tseng</b> , Former Vice Chair of Economic Committee <i>Focus:</i> <ul style="list-style-type: none"><li>✓ Equitable treatment of shareholders and other investors;</li><li>✓ Disclosure and transparency;</li><li>✓ Responsibility of boards of State-owned enterprises</li></ul> <b>3. Vietnam: Dr. Nguyen Dinh Cung</b> , President, Central Institute for Economic Management (CIEM) <i>Focus:</i> <ul style="list-style-type: none"><li>✓ Disclosure and transparency;</li><li>✓ Responsibility of boards of State-owned enterprises.</li></ul>
15:10 – 15:25	<b>Discussion (15 minutes)</b>
15:25 – 15:30	<b>Summary and Recommendations (5 minutes)</b> <b>Mr. Nguyen Anh Duong</b> , Vietnam's EC representative - Coordinator, Friend-of-the-Chair group on Corporate Law and Governance

## APEC EoDB Implementation Plan (2016-2018)

*(as of August 17, 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>2017</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>	

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

<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/policy dialogue</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; Hong Kong, China; Indonesia; Mexico; New Zealand and Viet Nam</i>	<i>All</i>	<i>UNCITRAL, UNCTAD, World Bank</i>	<i>2017-2018</i>	<i>Ongoing</i>

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

<i>Workshop on Starting a Business: Simplified Business Registration and Incorporation according to International Best Practices</i>	<i>Starting a Business</i>	<i>US</i>	<i>All</i>	<i>UNCITRAL, UNCTAD, World Bank</i>	<i>EC2-2017</i>	<i>Ongoing</i>
<i>Improving public sector capacity for SAB (registry staff training, operations manuals, etc.)</i>	<i>Starting a Business</i>				<i>2017</i>	
<i>Possible project on “International Workshop on Protection of Small Shareholders’ Interest and Rights in APEC”</i>	<i>Starting a Business</i>	<i>Viet Nam; Chinese Taipei; Hong Kong, China and Thailand</i>		<i>CL&amp;G FotC</i>	<i>2017-2018</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>	

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

Secured Transactions: Workshop on Supply Chain Finance and implementation of secured transactions in cross border context	Getting Credit	US; Hong Kong, China, and Mexico	All	UNCITRAL, World Bank, IFC, HCCH, UNIDROIT, SELI	EC2- 2016	Completed
Workshop on Improving Access to Credit According to International Best Practices	Getting Credit	US; Hong Kong, China; and Mexico	All	World Bank, UNCITRAL	2017-2018	(Concept Note Submitted)
Secured Finance and Supply Chain Finance/Warehouse Receipts	Getting Credit	US and Mexico	All	UNCITRAL, IFC	2018	
Best practices to improve access to credit information (credit bureaus, security of information, positive and negative data, etc)	Getting Credit	US and Mexico	All		2018	
<b>Enforcing Contracts</b>						
Workshop on Alternative Dispute Resolution – the key to efficient settlement of business disputes	Enforcing Contracts	Hong Kong, China	All	UNCITRAL and Permanent Court of Arbitration, SELI	EC1-2016	Completed
2016 APEC Conference on EoDB in the Field of Enforcing Contracts	Enforcing Contracts	Korea	The Philippines, Thailand, Mexico	World Bank, UNCITRAL	January 2016	Completed

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

<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>
<i>2017 1st APEC Conference on EoDB in the Field of Enforcing Contracts</i>	<i>Enforcing Contracts</i>	<i>Korea</i>	<i>Vietnam</i>	<i>World Bank, UNCITRAL</i>	<i>June 2017</i>	<i>Completed</i>
<i>2017 2nd 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>November 2017</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>

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

<i>Policy Discussion – SME 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>	
<i>Proposed project on APEC-wide cooperative online dispute resolution (ODR) framework for MSMEs in B2B transactions</i>	<i>Enforcing Contracts</i>	<i>Australia; Canada; Chile; Hong Kong, China; Japan; Mexico; New Zealand; Papua New Guinea; Peru; The Philippines; Russia; Chinese Taipei and United States</i>		<i>[SMEWG] and [UNCITRAL]</i>	<i>2017 -</i>	<i>Ongoing</i>
<i>Policy discussion on SELI Work Plan on ODR</i>	<i>Enforcing Contracts</i>			<i>ABAC; [AHSGIE]; [ECSG] and [SMEWG]</i>	<i>EC2 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)  
 (as of July 2017)

<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 and 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 (2016-2018)**

<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 -- E- Government Procurement	2017 EC 1	<b>Russia</b>	Policy Dialogue
	Policy Discussion on Open Government	2018 EC 1	<b>Thailand</b>	Policy Discussion
<b>2. Quality of Public Service</b>	Policy Discussion on Public E-Services	2018 EC1	<b>Russia</b>	Policy Discussion
<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

## **FOTC ON RR WORK PLAN UPDATE**

In the year 2016, the members of this group committed to follow a working plan with the objective of helping the EC in its efforts to implement the RR in our region.

To do so, the main objectives of this plan are the following:

1. Promote the effective implementation of Good Regulatory Practices.
2. Continue developing efforts in International Regulatory Cooperation.
3. Apply GRPs in Services Sector.
4. Boost Micro, Small and Medium Enterprises (MSMEs) participation.
5. Promote efforts on simplifying the regulatory burdens.
6. Promote studies that show the real benefits (impacts) of RR.
7. Promote Inclusive Growth through Regulatory Reform.
8. Enhance the usage of ITs for Transparency.

As the current president of this group, it was my responsibility to ensure the accomplishment and follow up of this work plan.

To analyze the progress, Mexico designed a survey to review the advance regarding the eight objectives in terms of RR throughout the region, to gain an overall perspective of the current status of this agenda. This survey was sent to the APEC economies and results were gathered from 11 of them. The economies that answered the survey were: Canada, Chinese Taipei, Malaysia, Papua New Guinea, Peru, The Philippines, Mexico, Thailand, The United States, Russia and Indonesia.

After reviewing the results obtained from each country, regarding the eight objectives, an average scale was assigned to show their overall progress. This percentage estimates the degree of completion of the work program, being 100 the highest possible value. The graph 1 shows the results, and as you can see, the global average shows that 85% of the goals were achieved.

Fortunately, this survey expressed that the implementation of the RR in our region is on its way to success, and this positive results reinforces the necessity to continue with the work that has been done. Particularly, out of the eight objectives, the ones that show the most advance are objectives the ones related to boosting MSMEs, simplifying administrative burdens, GRPs and IRC.

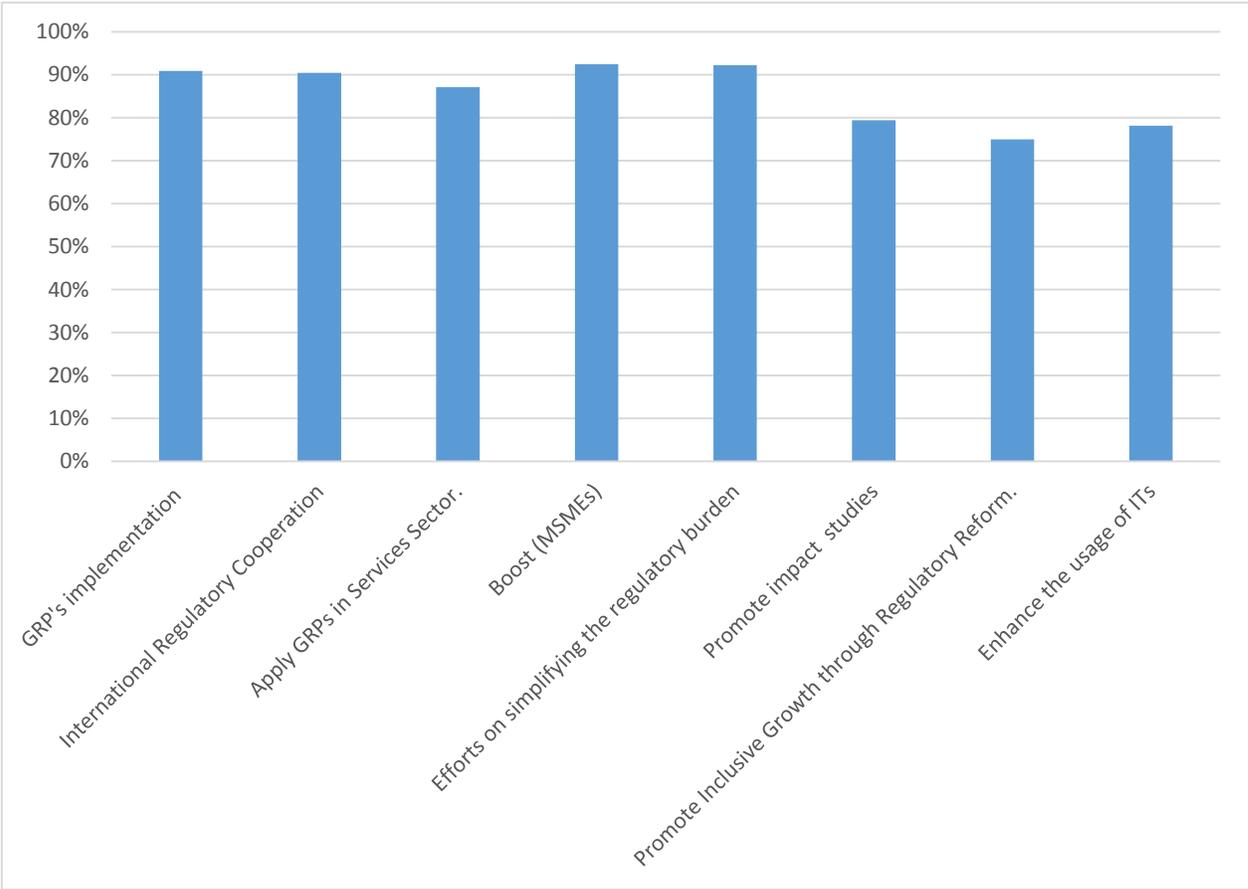
Finally, I would like to inform you that in SOM3 the FotC group on RR committed the following actions regarding the further implementation of the work plan:

- 1) Consult with members the issues that we should prioritize according to the eight pillars established in the work plan.
- 2) Continue the efforts for all EC members to answer the survey.

**Mario Emilio Gutierrez Caballero**

*Head of the Federal Commission of Regulatory Improvement of Mexico and FOTC on RR President.*

**Graph 1. FotC on RR Work plan Implementation on APEC region**



Source: survey applied to EC members in 2017



**Asia-Pacific  
Economic Cooperation**

**Advancing  
Free Trade for Asia-Pacific  
Prosperity**

# Work Plan Proposal for FotC on Regulatory Reform

**Economic Committee Plenary**

**Mario Emilio Gutiérrez Caballero**

Ho Chi Minh Viet Nam, 26 August 2017

---

Presented by  
**MEXICO**

# Objectives of Work Plan Proposal for FotC on Regulatory Reform



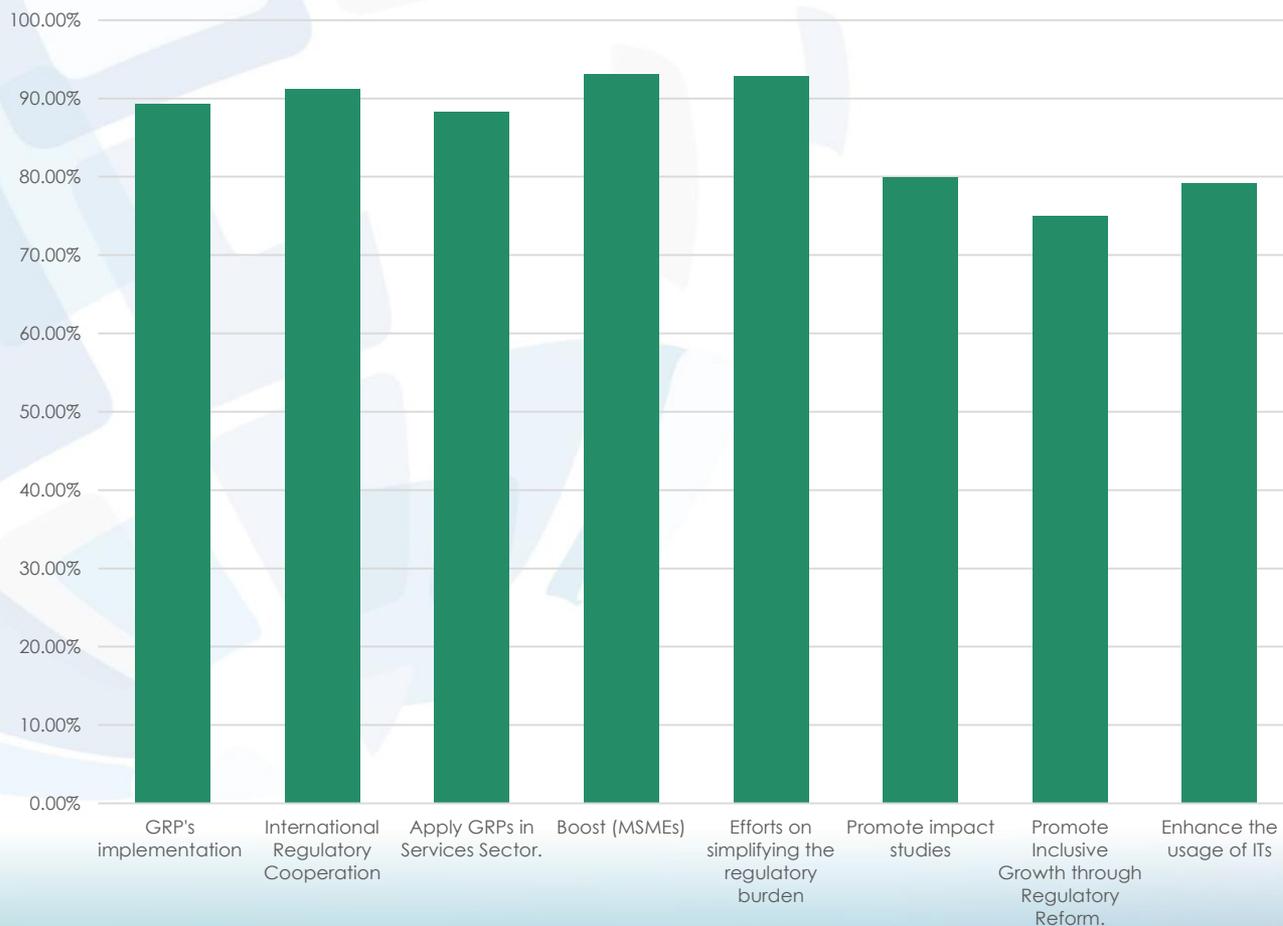
## The work plan of FotC on RR is embodied in the Renewed APEC Agenda for Structural Reform (RAASR) 2016-2020

- Promote the **effective implementation** of Good Regulatory Practices (GRPs)
- **Continue developing efforts** in International Regulatory Cooperation
- **Apply GRPs** in Services Sector
- **Boost Micro, Small and Medium Enterprises (MSMEs) participation**
- **Promote efforts** on simplifying the regulatory burden in fields such as business regulation, entrepreneurship, competitiveness and foreign trade
- **Promote studies** that show the real benefits (impacts) of RR (Regulatory Reform)
- **Promote Inclusive Growth** through Regulatory Reform
- **Enhance the usage** of ITs for Transparency purposes

# Progress Results



Asia-Pacific  
Economic Cooperation



○ The following 11 economies sent us the questionnaire:

- Canada
- Chinese Taipei
- Malaysia
- Papua New Guinea
- Peru
- The Philippines
- Mexico
- Thailand
- The United State
- Russia
- Indonesia

○ The main contributions are in terms of **simplifying the regulatory burdens, boost Micro, Small and Medium Enterprises (MSMEs) participation, GRPs and IRC**

# Future fields of action

According to the previous results were identified some fields of action:



**Strengthening Economic Legal Infrastructure (SELI)  
Work Plan (as at August 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.

---

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

**Schedule – Operation Plan (2015 - 2018)**

(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>

Completed project 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
Completed project on "Using Competition Assessments to Eliminate Unnecessary Barriers to Competition"	USA Peru Viet Nam New Zealand Hong Kong, China	CPLG	EC1 2017
Completed Policy Dialogue on Cross-Border MSME Access to Commercial Justice	USA Chile Hong Kong, China New Zealand Viet Nam		EC1 2017
The Fourth APEC Financial Infrastructure Development Network (FIDN) Conference on Financial Infrastructure Reforms		ABAC World Bank Group	July 2017
Modernizing International Trade Law to Support Innovation and Sustainable Development - UNCITRAL 50 <sup>th</sup> Anniversary Congress		UNCITRAL	July 2017
Completed workshop on Simplified Business Registration and Incorporation for APEC	USA	UNICTRAL	EC2 2017
ABAC Asia Pacific Financial Forum		ABAC	Annual

Proposed workshop on “Improving Access to Credit According to International Best Practices”	USA Hong Kong, China Mexico	[UNCITRAL]	2017 - 2018
Proposed study on “Starting a Business According to International Best Practices”	USA Hong Kong, China Indonesia Mexico New Zealand Viet Nam	[UNCITRAL] [UNCTAD] [World Bank]	2017 - 2018
Work Plan on APEC-wide cooperative online dispute resolution (ODR) framework for MSMEs in B2B transactions and use of modern technology for dispute resolution and electronic agreement management	Australia Canada Chile Hong Kong, China Indonesia Japan Mexico New Zealand Papua New Guinea Peru The Philippines Russia Chinese Taipei USA	[ABAC] [AHSGIE] [ECSG] [SMEWG] [UNCITRAL] [HCCH] [UNIDROIT]	2017 –
♦ <i>Completed Policy Discussion on SELI Work Plan on ODR</i>		ABAC	EC2 2017
♦ Proposed workshop on the Use of Modern Technology for Dispute Resolution and Electronic Agreement Management (particularly ODR)	Hong Kong, China Canada USA	[ABAC] [AHSGIE] [ECSG] [SMEWG] [UNCITRAL] [HCCH] [UNIDROIT]	EC1 2018