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Economic Cooperation**

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**Workshop on e-Rulemaking and Good Regulatory
Practices, November 2013: Summary Report and
Final Agenda**

Purpose: Information
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Summary Report on November 2013 APEC Workshop on e-Rulemaking and Good Regulatory Practices

In Washington, DC, on November 12-15, 2013, the United States hosted a successful workshop on helping regulators leverage information technology tools and the Internet to improve their public consultations on proposed regulations and therefore the quality, legitimacy, and effectiveness of their regulations. This workshop was designed to assist economies with achieving our APEC goal of strengthening the implementation of Good Regulatory Practices.

Participants from 13 APEC economies interacted with government, academic, and private sector experts from the United States, Canada, New Zealand, and Mexico in fifteen sessions and three breakout groups (see attached final agenda). Participants consisted of government officials responsible for 1) the issuance of regulatory proposals that are subject to public notice and comment; 2) promoting the implementation of GRPs across the whole of government; and/or 3) economies' own e-rulemaking programs.

Over the course of the workshop, participants gained a better understanding that a) solutions to the challenges they faced in improving their public consultations were readily available; b) learning from each other and sharing information and views on best practices in e-Rulemaking can catalyze improvements; and c) APEC can provide effective capacity building on e-Rulemaking to assist economies with improving public consultations. Participants also discussed possible capacity building ideas for APEC to explore in this area in the future, including whether to form a 'community of practice' where experts could exchange ideas, identify challenges, and offer solutions to those challenges.

Below is a summary of the main points discussed on each day of the workshop:

Day 1 - November 12, 2014

- Every APEC economy is improving its implementation of Good Regulatory Practices. Information Technology can help us address challenges we are already facing in doing this. But we should choose carefully which tools to use, and how to design them, to accelerate progress and achieve good results.
- Information technology is not a substitute for improvement in the conduct of public consultations and of rule-making; in this regard, regulators should avoid computerizing bad red tape, bad bureaucracy or bad rules.
- Regulators should always on outcomes. Information technology tools are a means to that goal of better outcomes, and should not become outcomes themselves.
- If they are to support e-Rulemaking tools, regulators and the public must both find value in e-Rulemaking. Public consultation in particular must be seen to provide value. If regulators listen to and address comments, they increase the incentive for stakeholders to participate. Ministries should also have incentives and support in adopting e-Rulemaking tools, even when they require additional effort, skills, and transparency.

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- e-Rulemaking might require new legal frameworks to give ministries the right guidance in implementation and the public the confidence that the government is committed to reform.
- e-Rulemaking can lower cost of public participation by providing a very low barrier to access. Flexibility in format is essential. But governments will need more standardized methods to handle the greater volume of comments and number of groups participating in consultation. Ensuring a system that is both standardized in key areas and flexible where it should be is a key challenge to the design of e-Rulemaking.
- Implementation of information technology tools should go step by step, be experimental, and roll out as proven. We should integrate old and new forms of consultation. We can learn from each other on what is and is not working, and customize the best practices to our own economies. Outcomes in terms of transparency and regulatory quality are what matters.

Day 2 – November 13, 2013

- As we see from the cases of WTO TBT and SPS notification requirements and various economies' use of databases for the reviews of tens of thousands of regulations, it is impossible to manage a modern regulatory system without information technology tools, which are no longer a luxury, but a necessity.
- Public consultation should be systematic and comprehensive, starting with the early stages of policy development.
- One important message from industry participants was that nothing could be more important to economies than developing and implementing an electronic system for communicating the development of new regulations to the public
- Establishing the context and reasons for public consultation is critical – what kind of materials/documents/information should be given to the public to make it easier for them to review and comment on proposed regulations?
- Regulators are increasingly turning to open dialogue in their public consultations. Therefore how can they use information technology tools to foster active dialogue in ways never before possible?
- Regarding social media, there is widespread support for the idea that social media can improve the breadth and ease of public participation in rulemaking, which is a good thing. The structure of public consultation using social media needs continued study to see what works and what doesn't work. What are the limits of social media in substantive discussion? How can data be mined and be made useful to regulators, stakeholders, and the public? What kinds of information can be collected?

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- Internal coordination of regulatory work remains a challenge for APEC economies. Participants discussed the important of encouraging coordination of regulatory policy at early stages. Forward planning that makes key information available across the government seems to be an essential piece of any effort to improve internal coordination. Establishing a central regulatory office or strengthening its role can also contribute to improving internal coordination.
- When developing e-Rulemaking programs, demonstrating the value-added of new public consultation instruments is essential for governments to leverage and sustain the required resources.
- One economy raised the idea of establishing an APEC 'community of practice' to discuss e-Rulemaking developments in different economies and foster improvements in economies approaches to public consultations.

Day 3 and 4 – November 14, 2013

- E-Rulemaking tools are not a luxury but essential in enabling regulatory agencies to manage workload and increasing volume of public participation in the development of regulations.
- E-Rulemaking should be used as part of an economy's general upgrading of the quality of regulatory work, including standardization of practices across regulators and implementation of minimum standards for public consultation.
- How do you start an e-Rulemaking program? One place to start is implementing de-duplication tools to sort comments by duplicates for easier handling.
- High-level support or legislative mandates for e-Rulemaking initiatives are essential for ensuring their success.
- Standardization of public consultation processes across regulatory agencies reduces public confusion and enhances internal coordination between rulemakings. Stakeholders should feel they are dealing with a single government, not separate entities within a government or separate economies.
- Time pressures to finalize regulations are always an issue, but regulatory agencies should embrace improving regulatory management and making e-Rulemaking investments rather than succumbing to pressure to publish final rules.
- Regulators in developing economies would benefit from new or improved skills on using comments to design new regulatory approaches, and responding to comments on proposed regulations.

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- In the U.S., the general policy across the whole of government is to engage in consultation on proposed regulations earlier before publication. Regulators can have public meetings, use webinars, and have discussions back and forth in addition to publication on consultation portal. A multilevel approach to consultation can improve the quality, legitimacy, and effectiveness of regulations, but public consultations using information technology tools are increasingly an important element in that approach.
- When the private sector is not skilled or organized enough to provide comments, regulators should play a more proactive role in seeking comments rather than expecting comments to come to them.
- Regulators also could continuously improve how they structure their requests for comment in order to get the best possible input from stakeholders on proposed regulations.
- Work could be done as well to build capacity of the private sector to provide useful views and data in responding to requests for public comment.



AGENDA

Good Regulatory Practices Capacity Building: e-Rulemaking Workshop

12-15 November 2013

Renaissance Hotel

999 9th St NW

Washington, D.C.

12 NOVEMBER - The Importance of Good Regulatory Practices	
8:30 – 9:00	Arrival and Registration
9:00 – 9:10	<p>Formal Workshop Introduction</p> <p><i>U.S. workshop leader to welcome participants and provide an overview of the workshop's purpose, objectives, and relationship to APEC's work on Good Regulatory Practices.</i></p> <p><i>Ed Brzytwa, Office of the United States Trade Representative</i></p>
9:10 – 10:15	<p>Session 1: Importance of Good Regulatory Practices to Economic Growth and International Trade and Investment</p> <p><i>This moderated discussion between two U.S. industry representatives will give participants a better understanding of how their work on implementing good regulatory practices can create more predictability and certainty in the regulatory and investment climates in their economies and therefore produce more economic growth and increased trade and investment.</i></p> <p><i>Scott Miller, The Center for Strategic and International Studies</i> <i>Mike Fitzpatrick, General Electric</i> <i>Scott Jacobs, moderator, Jacobs, Cordova and Associates</i></p>
10:15 – 10:30	Coffee Break

10:30 – 11:00	<p>Keynote Address: Regulating in the Internet Era</p> <p><i>The internet era is clearly changing the way economies regulate. This address will provide a vision for how economies can take advantage of the internet and new media innovations to increase the quality and efficacy of their regulations, conduct better and broader public consultations, and improve coordination on regulatory issues within governments.</i></p> <p><i>Howard Shelanski, Administrator of the Office of Information and Regulatory Affairs (OIRA)</i></p>
11:00 – 12:00	<p>Session 2: e-Rulemaking: An Overview</p> <p><i>For many economies, e-Rulemaking is a new topic. Participants in this session will learn more about the considerable body of academic and practical work on e-Rulemaking and hear from an e-rulemaking expert in the United States. Participants will gain a clearer understanding of “e-Rulemaking” that they can bring back to their domestic stakeholders and colleagues.</i></p> <p><i>Neil Eisner, Administrative Law Advisor</i></p>
12:00 – 13:15	<p>Lunch</p>
13:15 – 14:30	<p>Break Out 1: Challenges of Ensuring Broad Public Consultation in Regulatory Processes: Participant Perspectives</p> <p><i>In this session, participants at each table will engage in a moderated discussion about the challenges they face in conducting broad, meaningful public consultations, including what regulating in the Internet era might mean for them. Each table will draft a list of example challenges at their table for discussion in the broader group.</i></p>
14:30 – 15:15	<p>Read Out from Break Out Groups</p> <p><i>Table leaders will highlight the challenges their participants raised, so as to foster a fuller discussion in the broader group.</i></p>
15:15 – 15:30	<p>Coffee Break</p>
15:30 – 16:45	<p>Session 3: U.S. and Canada: Approach to Good Regulatory Practices: Public Consultations, Internal Coordination and Regulatory Impact Assessments</p> <p><i>U.S. and Canada speakers will describe the evolution of public consultations in the United States regarding proposed regulations, including laying out the legal framework for our system. They will also describe how in the United States regulators and other U.S. agencies coordinate and cooperate on developing regulations.</i></p> <p><i>Dominic Mancini, OIRA</i> <i>Kelly Moore, Treasury Board, Canada</i></p>

16:45 – 17:00	<p>Wrap Up Day One</p> <p><i>Workshop moderator to review key takeaways from Day 1, invite comments from participants on what they learned, and highlight points for consideration for the remaining days.</i></p> <p><i>Ed Brzytwa, Office of the United States Trade Representative</i></p>
18:00 – 20:00	<p>Opening Reception: Industry Views on e-Rulemaking</p> <p><i>Sponsor : Distilled Spirits Council of the United States</i></p>
<p>13 NOVEMBER – Perspectives on e-Rulemaking</p>	
8:30 – 9:00	<p>Arrival</p>
9:00 – 10:45	<p>Session 4: Panel Discussion: Successes and Challenges in Conducting Public Consultations and Ensuring Internal Coordination of Regulatory Work</p> <p><i>Panel participants will broadly describe the systems in their economies for conducting public consultations on proposed regulations and ensuring the internal coordination of regulatory work within their governments, highlighting for the broader group what challenges they have faced in the evolution of these systems, what successes their economies have achieved, and what improvements they could make to strengthen their implementation of good regulatory practices in these areas.</i></p> <p><i>Nadia Webster, Department of Internal Affairs, New Zealand</i> <i>Julio César Rocha López, Federal Commission of Regulatory Improvement (COFEMER)</i> <i>Alex Hunt, Office of Information and Regulatory Affairs (OIRA), the Office of Management and Budget (OMB)</i> <i>Scott Jacobs, Jacobs, Cordova and Associates</i></p>
10:45 – 11:00	<p>Coffee Break</p>

11:00 – 12:00	<p>Session 5: Leap-frogging the United States: How to Overcome the Challenges Identified in Session 4</p> <p><i>U.S. speaker will offer guidance on how economies can use e-Rulemaking tools to overcome the challenges they face in conducting public consultations and ensuring the internal coordination of regulatory work, using challenges raised by panelists in Session 4 and by participants in the Day breakout sessions as concrete examples. Where appropriate, the U.S. speaker will describe how economies can avoid the problems faced by the United States in the evolution of our system. Economy participants are welcome to offer own thoughts during this session.</i></p> <p><i>Adam McWilliams, eRulemaking Program, U.S. Environmental Protection Agency (EPA)</i></p>
12:00 – 13:30	<p>Lunch</p>
13:30 – 14:30	<p>Session 6: How e-Rulemaking Can Help APEC Economies Implement WTO Obligations Concerning Transparency</p> <p><i>WTO Members are obligated to notify their proposed regulations (TBT and SPS) to the WTO and accept comments on those proposed regulations. E-Rulemaking can help economies implement these obligations and drive down the costs for economies in doing so. In this session, participants will learn how economies through e-Rulemaking can meet their WTO obligations regarding transparency in a timelier and less expensive manner, while conducting broader and more informative public consultations.</i></p> <p><i>Jennifer Stradtman, moderator, Office of the United States Trade Representative</i> <i>Anne Meininger, National Institute of Standards and Technology</i> <i>Julio César Rocha López, COFEMER</i> <i>Gene Eckhart, The Association of Electrical Equipment and Medical Imaging Manufacturers (NEMA)</i></p>
14:30 – 14:45	<p>Coffee Break</p>
14:45 – 16:15	<p>Session 7: Case Study: How a Proposed Regulation Becomes a Final Regulation through e-Rulemaking</p> <p><i>This session will be a step by step real world explanation of how e-Rulemaking works in practices. Participants will learn how U.S. officials applied e-Rulemaking tools in the development of a recently final regulation in the United States.</i></p> <p><i>Leslie Kux, U.S. Food and Drug Administration</i> <i>Scott Jacobs, Jacobs, Cordova and Associates</i></p>

16:15 – 16:45	<p>Wrap Up</p> <p><i>Workshop moderator to review key takeaways from Day 2, invite comments from participants on what they learned, and highlight points for consideration for the remaining days.</i></p> <p><i>Ed Brzytwa, Office of the United States Trade Representative</i></p>
<p>14 NOVEMBER – Operating an e-Rulemaking Program</p>	
8:30 – 9:00	<p>Arrival</p>
9:00 – 10:00	<p>Session 8: Legal Elements Necessary for an e-Rulemaking Program</p> <p><i>Speakers in this session will describe the legal elements in their economies that make e-Rulemaking possible. Participants will learn what steps might be necessary from a legal perspective to make e-Rulemaking in their economies operational or more effective.</i></p> <p><i>Amy Bunk, Office of the Federal Register, National Archives and Records Administration</i> <i>Kristin Tensuan, e-Rulemaking Program, U.S. EPA</i> <i>Bryant Crowe, eRulemaking Program, U.S. EPA</i></p>
10:00 – 10:30	<p>Coffee Break</p>
10:30 – 12:00	<p>Session 9: Technical Elements Necessary for an e-Rulemaking Program</p> <p><i>Speakers in this session will describe the technical elements underpinning e-Rulemaking in their regulatory systems. Participants will learn about the types of ICT tools and methodologies that support ongoing e-Rulemaking programs and gain a greater understanding of what technical elements they might need to have in place to develop or improve their own e-Rulemaking programs.</i></p> <p><i>Kristin Tensuan, e-Rulemaking Program, U.S. EPA</i> <i>Bryant Crowe, e-Rulemaking Program, U.S. EPA</i></p>
12:00 – 13:15	<p>Lunch</p>
13:15 – 14:30	<p>Session 10: Innovations in e-Rulemaking</p> <p><i>E-Rulemaking is an exciting, evolving field, with innovations occurring in governments, academia, and in the private sector. In this session, participants will gain a greater understanding of the latest technical developments in e-Rulemaking and how they can take advantage of these developments in their own regulatory systems.</i></p> <p><i>Scott Jacobs, Jacobs, Cordova and Associates</i></p>
14:30 – 15:00	<p>Coffee Break</p>

15:00 – 15:45	<p>Session 11: Gaining Whole-of-Government Participation in e-Rulemaking Programs</p> <p><i>In every government, multiple regulators and agencies develop regulations, often using their own systems and acting alone in the regulatory process. Alternatively, other governments have clear procedures on coordinating the development of regulations across the whole-of-government. In this regard, regulators and agencies collaborate frequently and often place all of their regulatory information in single online locations for stakeholders and the whole-of-government to review. Gaining full participation across the whole-of-government in such programs is a challenge but very possible using state of the art e-Rulemaking tools. This session will help participants understand how e-Rulemaking will help them work with their various regulators and ministries to adopt a more coordinated approach to developing regulations across their governments and conduct open, broad, and meaningful public consultations.</i></p> <p><i>John Moses, Office of Environmental Information, U.S. EPA Wendy Liberante, Office of Information and Regulatory Affairs, OMB, Executive Office of the President Dominic Sale, OMB, Executive Office of the President</i></p>
15:45 – 16:45	<p>Breakout 2: Regulator-Moderated Dialogues with Economies on How e-Rulemaking Can Help Regulatory Work</p> <p><i>This breakout session is designed to connect participants at each table with U.S. regulators. Hearing directly from regulators who are frequent users of e-Rulemaking tools improve participants' understanding of how e-Rulemaking programs can help regulators perform their regulatory work and increase the quality and effectiveness of their regulations. This breakout will also assist participants with persuading their regulators at home to engage in e-Rulemaking and adopt new technologies in their regulatory work.</i></p> <p><i>Jim Wickliffe, Centers for Medicare and Medicaid Services (CMS), Department of Health and Human Services, Ben Kaczmariski, Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture Gene Eckhart, NEMA</i></p>
16:45 – 17:30	<p>Read Out from Break Out Dialogues</p> <p><i>Table leaders will highlight for the broader group key points raised in table discussions, particularly with respect to their views on how e-Rulemaking may help their regulators improve their regulatory work.</i></p>

17:30 – 17:45	<p>Wrap Up</p> <p><i>Workshop moderator to review key takeaways from Day 3, invite comments from participants on what they learned, and highlight points for consideration on the final day of the workshop.</i></p> <p><i>Ed Brzytwa, Office of the United States Trade Representative</i></p>
<p>15 NOVEMBER – Regulator and Industry Testimonials Regarding e-Rulemaking</p>	
8:30 – 9:00	<p>Arrival</p>
9:00 – 10:15	<p>Session 12: Regulator Experiences with e-Rulemaking Tools</p> <p><i>This session will be another opportunity for participants to hear from U.S. regulators on their experiences with using e-Rulemaking Tools in their regulatory work. U.S. regulators will describe in concrete terms how they interact with Regulations.gov, the Federal Register website, and the Federal Docket Management System when developing regulations.</i></p> <p><i>Gene Eckhart, NEMA</i> <i>Jim Wickliffe, Centers for Medicare and Medicaid Services (CMS), Department of Health and Human Services,</i> <i>Ben Kaczmarek, Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture</i></p>
10:15 – 10:30	<p>Coffee Break</p>

10:30 – 12:00	<p>Session 13: Industry Experiences in Providing Public Comments on Proposed Regulations: Impact of e-Rulemaking</p> <p><i>Receiving comments from interested stakeholders across the world is a critical part of regulatory work in an era of increased connectivity amongst our economies. The private sector plays an important role in the development of regulations by helping regulators understand how various aspects of proposed regulations would practically impact their commercial or investment interests or international trade and investment. Industry comments not only help regulators assess the impact of regulations, but also how their regulations are consistent or inconsistent with similar regulations in their trading partners. This session will provide participants with an understanding from industry representatives of how e-Rulemaking helps them communicate their views more effectively to regulators and how e-Rulemaking can ensure that regulators take their comments into account in the regulatory process.</i></p> <p><i>Lynne Omlie and Christine LoCascio, Distilled Spirits Council of the United States</i> <i>Dick White, Global Issues and Multilateral Affairs at Grocery Manufacturers Association</i> <i>Nancy Travis, Global Strategy and Development, AdvaMed</i> <i>Tonya Kemp, Personal Care Products Council</i> <i>Nadia Webster, moderator, Department of Internal Affairs, New Zealand</i></p>
12:00 – 13:30	<p>Lunch</p>
13:30 – 14:30	<p>Breakout 3: Industry-Moderated Dialogues with Economies on How e-Rulemaking Helps Stakeholders Understand and Comply with Regulations</p> <p><i>Another benefit of e-Rulemaking is making regulations more accessible to stakeholders, which facilitates compliance with regulations by affected parties and reduces the costs of compliance for governments, the private sector, and consumers. In this breakout, participants at each table with dialogue with industry representatives on how e-Rulemaking helps their companies or members understand and comply with regulations. Participants will gain a greater understanding of how to work with stakeholders in the development of regulations through e-Rulemaking tools.</i></p>
14:30 – 15:00	<p>Readout from Breakout Dialogues</p> <p><i>Table leaders will highlight for the broader group key points raised in table discussions.</i></p>
15:00 – 15:15	

15:15 – 16:30	<p>Session 14: Exploring Future e-Rulemaking Capacity Building Efforts in APEC Economies</p> <p><i>In this session, participants will openly discuss what steps can be taken in APEC to help economies improve their public consultations through e-Rulemaking. This will also be an opportunity for participants to highlight specific aspects of the workshop that could be useful in elaborating in an on the ground context in their economies. Participants could also indicate whether they are interested in doing deeper, more technical capacity building work on e-Rulemaking in their economies.</i></p> <p><i>Ed Brzytwa, Office of the United States Trade Representative Scott Jacobs, Jacobs, Cordova and Associates</i></p>
16:30 – 17:00	<p>Session 15: Workshop Conclusion and Next Steps</p> <p><i>In this final session, participants will complete a Workshop Evaluation Questionnaire. The workshop moderator will also review key takeaways from the workshop and specific capacity building opportunities for APEC pursue regarding e-Rulemaking in the near future.</i></p> <p><i>Ed Brzytwa, Office of the United States Trade Representative Ann Katsiak, APEC Technical Assistance and Training Facility</i></p>