



**Asia-Pacific
Economic Cooperation**

2017/SOM3/025

Agenda Item: 4

Report by the Chair of the Economic Committee on EC2 2017

Purpose: Consideration
Submitted by: EC Chair



**Third Senior Officials' Meeting
Ho Chi Minh City, Viet Nam
29-30 August 2017**

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)

Recommendation: 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 3rd 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

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