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APEC Chemical Dialogue: Regulatory Cooperation Checklist

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**APEC Chemical Dialogue:
Regulatory Cooperation Checklist**

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I. Introduction

The APEC Chemical Dialogue's work on regulatory cooperation aims to build capacity and technical skills among chemical sector regulatory officials in APEC economies and increase cooperation and regulatory alignment within the region. This work helps to reduce non-tariff barriers and make regulatory systems more efficient while maintaining high levels of protection for human health, safety, and the environment.

The APEC Chemical Dialogue Regulatory Cooperation Checklist seeks to supplement the APEC Chemical Dialogue Regulatory Cooperation Report¹, endorsed by the APEC Chemical Dialogue in 2020, by providing APEC economies and their regulators a step-by-step guide to implementing regulatory cooperation discussions. The following components for regulatory cooperation reflect a sub-set of best practices identified by other international organizations such as the OECD's International Regulatory Cooperation Toolkit². The Checklist works within the framework already provided by the OECD International Regulatory Cooperation Toolkit, but provides a step-by-step, practical process to support an APEC economy that is interested in entering regulatory cooperation discussions with a partner economy.

Tackling complex, interconnected and rapidly changing trans-boundary policy challenges requires economies to work together. International regulatory cooperation (IRC) plays a strong role to “harness” and create common rules of globalization and mobilizes an extensive variety of stakeholder in the national and international rulemaking environment. This includes policy makers and regulators across policy areas on each economy, intergovernmental organizations, and international networks of regulators, among others. This document aims to support international regulatory cooperation through providing practical steps of engagement.

The regulatory cooperation components are sequenced in an order that aims to first establish, and then build, trust between chemical regulators in individual economies over time. Ultimately, regulator trust (trust with whom?) is the critical prerequisite to more robust and sustainable regulatory cooperation.

II. Key Steps for Regulatory Cooperation

PREPARING

1. Who are you interested in cooperating with?

Identify which economy or economies you are interested in cooperating with.

- Identify metrics to evaluate possible partners, for example:
 - Bilateral trade and investment profile
 - Levels of intra-company trade in the chemical industry
 - Engagement in multilateral fora (WTO, OECD Chemicals Committee, or regional fora (APEC))
 - Regulatory status/maturity

¹ <https://www.apec.org/-/media/Files/Groups/CD/2020/Chemical-Dialogue-Regulatory-Cooperation-Report---clean.docx>

² <https://www.oecd.org/gov/regulatory-policy/irc-toolkit.htm>

- Identify motivators for engaging in regulatory cooperation, for example:
 - Achieving specific regulatory objectives
 - Aligning / harmonize regulations
 - Reducing trade and investment barriers
 - Improving the efficiency of one's own regulatory system
 - Achieving a mutual reduction in regulatory burden
 - Achieving mutual recognition on certification schemes
 - More efficient government expenditure of scarce resources
 - Easier acquisition of relevant information and data
 - Achieving a balance of economic priorities with public and workers' welfare
 - Responsiveness in providing technical assistance and support
 - Learning and sharing best regulatory practices
 - Accessing latest relevant scientific and economic studies supportive of regulation and/or regulatory impact assessment
 - Recognition or awards on the successful implementation of the objectives of the cooperation or activities/ programs/best practices which can be adopted by other economies.

PLANNING

2. What do you want to achieve by engaging in regulatory cooperation?

Determining the key objectives you want to achieve through regulatory cooperation is a critical step that can occur as you identify possible partners for regulatory cooperation or after you identify those partners. There are a number of approaches to determine those objectives. Those approaches can include the following action items:

- Describe existing regulatory approaches used by each partner, ideally in defined areas.
- Conduct an appraisal of you and your partner's organizational capacity to undertake cooperation. It may be that limited resources dictate the form of cooperation.
- Understand each partner's goals for cooperation. Possible questions include:
 - What is the issue area you want to focus on?
 - What are your targets/goals for the issue area?
 - What is the current state-of-play for the issue area?
 - What is the ideal outcome for achieving the targets/goals?
 - What are the gaps/challenges between the current state-of-play and the ideal outcome? How was it overcome? Lessons learned?
 - What are the policies of each partner that needs to be aligned?
 - Are the goals implementable within an agreed time frame?

- Conduct a public consultation:
 - Are there key objectives early on in the regulatory cooperation process to identify and consult the stakeholders most likely to be impacted by cooperation?
 - Is there a mechanism to ensure that all comments on a regulatory cooperation proposal are adequately addressed before it is finalized?

What are the emerging issues that may affect current agreements / activities or state of the cooperation?

- Conduct surveys and gather position papers from regulators and regulated communities.
- Undertake information exchange, technical cooperation and assistance (e.g. mentoring, best regulatory practices, case studies, etc)
- Undertake impact analysis of proposed regulatory cooperation.
- Develop indicators to measure performance and effectiveness of the potential regulatory cooperation process
 - Use indicators to review what has been accomplished through previous internal and bilateral processes
- Develop mitigating / adaptive measures on an international level, on global issues like pandemic.

3. How do you plan to achieve your objectives?

- Establish a written strategy outline and/or plan for engagement. This can help identify potential alignments and misalignments with your potential partner. Elements of a written strategy include:
 - Establishing a coordination mechanism in government on regulatory cooperation activities and practices to build consensus and common language.³
 - Raising awareness on regulatory cooperation – inform and seek public comment from a broader audience (stakeholders, regional platforms such as APEC) on what you are trying to accomplish.
 - Establishing linkages to Multilateral Environmental Agreements, SAICM and other related chemical and wastes global initiatives.
- Develop a process for stakeholder consultation on regulatory cooperation proposals (including notice and comment). Public consultation is one of the key regulatory tools employed to improve transparency, efficiency and effectiveness of regulation⁴. This can include:
 - Receiving industry and civil society input on potential regulatory cooperation provisions.

³ OECD International Regulatory Cooperation Policy Brief, 2018. <http://www.oecd.org/gov/regulatory-policy/international-regulatory-cooperation-policy-brief-2018.pdf>

⁴ [2016 Final Report on Good Regulatory Practice in APEC Economies](#)

- Develop written implementation plans that could include benchmarks for advancing and achieving regulatory cooperation goals. Such benchmarks can address:
 - Sharing information and data on specific regulatory issues, including gaps and challenges
 - Eliminating requirements that are not supported by appropriate; compliance/enforcement actions;
 - Avoiding regulations that are: burdensome, costly, impractical, more resource intensive than required;
 - Ensuring regulatory cooperation/action is based on relevant and objective scientific and/or technological information and processes;
 - Personal exchange to provide hands-on insights into how the prospective partners actually work in practice. This can provide a benchmark on the practical compatibility of each other's systems;
 - Developing reporting mechanisms among partners; and/or
 - If there are similarities in regulation, sharing of results of regulatory impact analysis

COOPERATING

4. How do you communicate with your regulatory cooperation partners?

- Participate in an informal dialogue to provide an exchange of information. Exchanges of information can help identify ways to eliminate unnecessary or duplicative data generation and create efficiencies for both governments and industry. This can be in the form of:
 - Annual plenary and informal meetings, so regulators from different economies mutually benefit from having a better understanding of each other's regulatory systems, including laws and regulations concerning chemicals management and of the classification of chemicals based on the Globally Harmonized System of Classification and Labelling of Chemicals (GHS).
 - Joint seminars for local industries especially MSMEs trade association etc. from each region to prevent non-necessary technical trade barriers and better regulatory understanding/compliance.
 - Engaging in established regulatory cooperation schemes as an observer (e.g., in the OECD MAD scheme) in order to better understand how such schemes operate and to determine if entering into a formal engagement is appropriate.
 - Develop reporting mechanisms among partners (reporting template can be developed).
- Undertake stakeholder consultations on the proposed agenda for cooperation. This may include:
 - Communicating to stakeholders that the activity will address particular issues (e.g., through industry roundtables, webinars, or notice and comment); and
 - Fostering stakeholder participation to ensure that a common understanding of the technical and scientific information exists.

5. How do you develop a formal agenda with potential partners?

If you and your partner (or partners) choose to move forward after an informal dialogue and transparent consultation process, you can:

- Identify and establish a negotiating team from relevant government agencies/offices.
- Draft a written agenda based on priorities discussed during the informal dialogue and consultation process.

6. How do you memorialize regulatory cooperation?

Recognition and incorporation of international standards can support regulatory cooperation by allowing alignment of technical specifications for a sector of choice – like chemicals.⁵ To memorialize regulatory cooperation, economies can:

- Develop a Memorandum of Understanding (MOU) on regulatory cooperation. An MOU expresses an alignment of commitments between parties, indicating an intended common line of action. Through the elimination of unnecessary regulatory differences, MOUs can promote economic growth, innovation, competitiveness, and job creation. [ex. *U.S.-Canada Regulatory Cooperation Council (RCC) MOU*⁶; *Argentina-Brazil Memorandum of Understanding on Regulatory Cooperation for the Sound Management of Chemical Substances and Chemical Products*⁷]
- Develop mechanisms to ensure their compliance with the multilateral environmental agreements to which they are a party, and other initiatives in which they participate, including strategies for GHS implementation.
- Include regulatory cooperation provisions in bilateral/multilateral trade and/or science agreements. [ex. *Sectoral Annex 12.A of the U.S.-Mexico-Canada Agreement*⁸]
- Publish the results of regulatory cooperation in official journals of their respective government.
- Review and monitor progress of cooperation

⁵ As defined by the [OECD](#).

⁶ <https://www.whitehouse.gov/wp-content/uploads/2018/06/US-CanadaMOU.pdf>

⁷ <https://www.argentina.gob.ar/noticias/bergman-y-su-par-de-brasil-firmaron-un-convenio-por-la-gestion-de-sustancias-y-productos>

⁸ https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/12_Sectoral_Annexes.pdf

OPERATIONALIZING

7. How do you promote capacity building [within and across economies]?

Trainings, workshops, etc. can help stakeholders, including regulators, manage the unique challenges associated with sound chemicals management and examine sustainable solutions. For example, economies can:

- Develop trainings and/or workshops to:
 - Promote awareness of and knowledge about chemical hazards;
 - Manage risks associated with manufacture and use of chemicals;
 - Create risk assessment, regulatory impact training;
 - Develop the necessary national infrastructure and capacities for regulatory and voluntary approaches to chemical management⁹;
 - Develop guidance documents on GHS implementation alignment;
 - Establish websites where information (video materials, announcements, new policies, events, etc.) can be quickly shared among partners and/or other stakeholders; and/or
 - Develop instructional or presentation materials that can be publicly shared for easy reference anytime when they are needed.

- Identify pool of subject matter experts (SME) in each participating economy that can assist in the capacity building activities.

8. What types of activities can you pursue to operationalize your cooperation strategy?

If both parties have a good understanding for how common issues are addressed in different jurisdictions and confidence in their respective internal procedures, they can identify additional efficiencies and reduce mutual regulatory burdens. Activities could include:

- Identifying regulatory similarities or alignments between economies. This can help:
 - Build regulatory mechanisms to support science-based chemical regulation;
 - Align risk assessment methodologies and risk management measures for chemical substances;
 - Recognize and converge the classification of chemicals in each economy;
 - Facilitate potential alignment of technical requirements;
 - Provide access to existing databases;
 - Prioritize a risk-based approach when an economy is revising or improving their chemicals management system, and/or
 - Develop monitoring and reporting activities of the economies.

- Facilitating inclusive stakeholder consultation (including foreign), to gather information about the operationalizing of regulatory cooperation and ensure that findings are fed into regulatory processes and further exchanges between partners.¹⁰

⁹ As referenced by [ICCA](#).

¹⁰ OECD International Regulatory Cooperation Policy Brief, 2018. <http://www.oecd.org/gov/regulatory-policy/international-regulatory-cooperation-policy-brief-2018.pdf>

EVALUATION

9. How can you evaluate whether the cooperation process was successful?

Creating an evaluation process can help economies improve future cooperation, and to understand if previous cooperation efforts were successful. This process can include the following action items:

- Develop indicators to measure performance and effectiveness of the regulatory cooperation process (resource - [OECD Measuring Regulatory Performance](#)).
- Use indicators to review what has been accomplished through internal and bilateral processes.
- Analyze results to identify lessons learned, areas for improvement, and best practices moving forward through an established periodic evaluation process.
- Review the regulatory cooperation and its results through internal and bilateral processes – identify lessons learned, areas for improvement, and best practices moving forward.
- Undertake stakeholder consultations on the completed cooperation to facilitate feedback. This may include:
 - Notice and comment;
 - Stakeholder roundtables;
 - One-on-one meetings;and
 - Surveys on the progress/status of the implementation of the cooperation

III. Resources

APEC Resources

- [Final Report on Good Regulatory Practice in APEC Economies](#)
- [Best Practice Principles Checklist for Chemicals Regulation](#)
- [APEC Chemical Dialogue Regulatory Cooperation Report](#)
- [APEC-OECD Cooperation on Regulatory Reform](#)
- [APEC-OECD Integrated Checklist on Regulatory Reform](#)

OECD Resources

- [The International Regulatory Co-operation Toolkit - OECD](#)

- [Regulatory impact analysis - OECD](#)
- [Recommendations and Guidelines on Regulatory Policy - OECD](#)
- [Indicators of Regulatory Policy and Governance - OECD](#)
- [Best Practices / Guidelines - OECD](#)

World Bank

- [World Bank Group Environmental, Health, and Safety Guidelines](#)