

Summary Record
APEC Anti-Corruption and Transparency Expert's Working Group Meeting (ACT 21)
22 August 2015, Cebu City, Philippines

The 21st meeting of the APEC Anti-Corruption and Transparency Working Group (ACTWG) was held at Marco Polo Hotel, Cebu City, Philippines on 22 August 2015, followed by related meetings, workshops and roundtables.

Agenda 1 - Opening Remarks

ACTWG Chair, Honorable Ombudsman Justice Conchita Carpio Morales (the Philippines), welcomed the delegates to Cebu City. She underscored the importance of the meeting as an avenue to hear and discuss the member economies' reports on anti-corruption initiatives, actual court cases and best anti-corruption models/practices. She highlighted the significance of regional integration as not only desirable, but also necessary, with the hope to consolidate the gains of each member economy in advancing the agenda of good governance. The Chair also gave an overview of the SOM3 activities including a meeting and a workshop to advance the work of ACT NET, a discussion on illicit trade and trafficking of persons, and a joint meeting on illegal logging and other threats to the environment.

The 21st ACT meeting was attended by 19 APEC member economies (except Japan and Papua New Guinea).

Agenda 2 - Adoption of the Agenda

The Chair asked for comments on the proposed Agenda.

Chile, China, Vietnam, Canada, the Philippines and Peru manifested that they will report on UNCAC compliance under Agenda 6. Thailand and Chile also requested to report on their common project under Agenda 8. The Philippines requested that the proposed draft of a Cebu Manifesto on the Protection of Anti-Corruption Advocates be included in the discussion under Agenda 10 (Other ACT Deliverables during 2015).

ACT members adopted the agenda of the 21st ACT Meeting (**2015/SOM3/ACT/001**), and endorsed the 20th ACT Meeting Summary Record (**2015/SOM3/ACT/002**).

Agenda 3 - APEC Secretariat Report

The Secretariat reported on the APEC Project Management Update and Intersessional Issues. The member economies were advised to view the report on the APEC website. The APEC Secretariat encouraged the member economies to submit their concept notes for purposes of getting funding on their projects from the APEC (**2015/SOM3/ACT/003**).

Agenda 4 - Report on the Direction/Achievements of ACT Work in 2015

The Russian Federation made an extensive report on *"Public-Private Partnerships in Combating Corruption," "Lobbying Regulation,"* and *"Transparency of Activities of Executive Bodies"*.

Agenda 5 - Report of member economies on UNCAC implementation and other ACT-related initiatives

The Russian Federation announced that the 6th Session of UNCAC Conference will be held in St. Petersburg on 2-6 November 2015. Accordingly, several MOUs have been entered into by the Russian Federation to ensure the security and success of the Conference. It is committed to ensure a depoliticized discussion/forum.

Hong Kong, China manifested that the UNCAC Report would be made by China. It also gave a summary of a keynote speech given at the 6th ICAC Symposium titled "Five Years of UNCAC Implementations Review: What have we learned".

Korea reported on two major developments of its corruption legislation involving: (1) improper solicitation and graft act; and (2) the amendment of the public interest whistleblower protection act.

Chinese Taipei informed the participants that it uses four approaches to combat corruption: 1) localize the UNCAC by the promulgation of the "*Enforcement Rules of the UNCAC*" on May 20, 2015; (2) strengthen preventive anti-corruption strategies; (3) promote administrative transparency and encourage social participation; and (4) draw up a draft for a Whistle Blower Protection Act and revise anti-corruption informant rewards and protection regulations.

Malaysia, for its part, declared that in line with the implementation of Article 48 of the UNCAC, it assisted the Republic of Palau to prepare the *Self-Assessment Checklist (SACL)* for Chapter 2 on Prevention. In addition, as reviewing State Party, Malaysia conducted country visits for Iran, Palau and Turkey. Malaysia is also seeking amendments to the Anti-Money Laundering and Terrorism Financing (AMLATF) Act of 2001 by virtue of AMLATF Act of 2014.

Thailand has its National Anti-Corruption Strategy (NACS) which serves as a roadmap towards the implementation of Phase II between 2013 and 2017, which is highlighted by the strengthening of its legislative framework. State Parties Nepal and Bahrain recently visited Thailand, a move which would result to the improvement of its legal framework.

Mexico adopted, in February 2015, a framework for transparency regarding procurement of licenses. To this end, it is pushing for the amendment to its Constitution which seeks to include "*information access*" as a basic human right.

Singapore already completed review of the implementation of Chapters 3 and 4 of UNCAC. States Parties Lebanon and Swaziland recently visited Singapore for this purpose. Its executive summary has been finalized.

Chile is in the process of updating/modifying its anti-money laundering legislation. It also reported that a high-ranking commission was created in view of the recent corruption cases involving the son of the President and several high-ranking government officials. Likewise, it is addressing compliance with Chapter 5 of the UNCAC on asset recovery.

China was recently reviewed by States Parties Bahamas and Vietnam. It is a State Party reviewer for Sri Lanka and Afghanistan.

Vietnam's anti-corruption measures are comprehensive although the following areas still need improvement: (1) transparency measures and the development of a national database system; and

(2) improved anti-corruption bodies in terms of powers and resources. On UNCAC implementation, Vietnam was recently reviewed by Italy and Lebanon. It has participated as a State Party reviewer for China and Congo.

Canada published its first cycle of UNCAC review at the APEC website. It encourages the member economies to similarly publish their respective UNCAC implementation reports on the APEC website.

The Philippines reported on its compliance with Chapters III (Criminalization and Law Enforcement) and IV (International Cooperation) of the UNCAC covered by the first review cycle.

To address the challenges as identified in the subject report, the Philippines has undertaken the following significant efforts, particularly on the enactment of the following legislative bills:

- 1) Criminalization of active and passive trading in influence,
- 2) Provision of sufficient resources for the effective implementation of the Witness Protection Act,
- 3) Improvement of capacity and increase of resources of law enforcement agencies,
- 4) Authorization of the Ombudsman to have access to bank records and other relevant data, among other things.

For the first cycle, the Philippines cited as one of its best practices, the establishment of an effective monitoring mechanism by virtue of a Presidential Executive Order to oversee the review of its compliance on Chapters 2 and 5 of the UNCAC.

On the second cycle pertaining to Chapter 2 on Prevention and Chapter 5 on Asset Recovery, the Philippines cited as best practice, the conduct of continuous consultation meetings with various stakeholders, including the business sector, academe, media, professional groups and other relevant government agencies.

The preparation of the final report on the Self-Assessment Checklist in Chapters 2 and 5 is deferred pending the approval by its States-Parties of the proposed revised Self-Assessment Checklist.

Recently, delegations from Zambia, Tanzania and Vietnam visited the Office of the Ombudsman, the premier anti-corruption agency of the Philippines for sharing of challenges and best practices in the implementation of the UNCAC. Indeed, these milestones are strong manifestations of the Philippines' serious resolve to fight corruption with the Office of the Ombudsman performing its mandate as the premier anti-corruption institution under the leadership of the Honorable Chair, Justice Conchita Carpio Morales.

Agenda 6 - ACT Strategic Plan 2013-2017

The United States brought up two concerns: (1) the date when the final reports/templates are to be submitted to the Secretariat; and (2) the plan concerning these reports.

After discussion, it was agreed upon that all final reports/templates are to be submitted to the Secretariat at the end of the year.

Chile proposed that the group hire somebody who will compile/consolidate all the submitted reports.

The APEC Secretariat manifested that it does not have the funds to pursue the project regarding the compilation/consolidation of the reports. It suggested that the participants make a proposal on this project so that there will be a good chance for approval of funding.

Chile manifested that it is willing to sponsor the project with the support of other member economies. The US expressed its willingness to co-sponsor the project with Chile.

The US suggested that the timeframe on other actions contained in the Agenda should be updated in view of the decision to submit the final report/template by the end of this year.

Agenda 7 - Reports on ongoing and proposed projects and ACT initiatives and related synergies with other relevant fora

The US (First Report) gave updates on the activities undertaken by the G20 Anti-Corruption Working Group currently chaired by Turkey. During their June meeting, they discussed issues and shared best practices involving financial disclosure and immunities, procurement principles, foreign bribery and corruption high risk areas.

The US (Second Report) revealed that the illegal economy which comes from illegal logging and deforestation comprises 8% to 15% of the world economy, and the effects of this underground economy escalate global warming. It likewise stated that corruption and bribery facilitates illegal fishing. It thanked the American Bar Association (ABA) for helping prepare the Pathfinder Dialogue II and invited everyone to participate in the coming activities.

Chile and Thailand updated on the final workshop entitled *“Designing Best Models on Prosecuting Corruption and Money Laundering Cases Using Financial Flow Tracking Techniques and Investigative Intelligence for Effective Conviction and Asset Recovery to Promote Regional Economic Integration.”* The expected outcome would be the publication of a handbook of best practices intended for practitioners who handle complex transnational corruption cases.

Agenda 8 - Report from International Organizations on their anti-corruption activities and synchronizing with ACT

The American Bar Association (ABA) announced that it is focusing on the creation of strategic plans to promote sustainable growth and security and to combat people smuggling and trafficking in persons. It narrated about the workshop in Thailand on human trafficking and people smuggling where for the first time, people were able to talk about people trafficking and what can be done about corruption. ABA fed the results to OECD’s current project to produce a concise set of principles to combat people smuggling and trafficking. It recognized Prof. Pakdee’s contributions to the APEC.

The United Nations Office on Drugs and Crime (UNODC) underscored that with the 10th Anniversary of the UNCAC, most member economies have acceded to the Convention. The Philippines has several anti-corruption laws such as the Witness Protection Law. Meanwhile, Thailand has introduced amendments to its legal framework in line with international standards. It commended Canada’s effort in making its reports available to the public. It likewise noted that Vietnam’s revised penal code incorporates almost all recommendations in the UNCAC.

The APEC Business Advisory Council (ABAC) declared that it is the voice of business in APEC. It raised its concern on the economies that are underperforming with respect to the Rule of Law Index. It elaborated that corruption undermines business, and that laws must be clear, publicized and fair to

address the need for legal certainty in business. It requested the APEC to support a meeting between ABAC and the Ministers of Justice of the APEC economies in Peru next year.

Canada asked about the Rule of Law Index to which ABAC explained that it is in a 2014 Report relating to the World Justice project where more than half of the economies were found to be below the benchmark.

Agenda 9 – Deliverables

The Draft ACTWG Statement for the 2015 APEC Leaders' Declaration and the Cebu Manifesto for the Protection of Anti-Corruption Advocates

The US congratulated the Philippines for working with APEC in highlighting the need to protect anti-corruption advocates.

The Philippines explained that the Manifesto is a reflection of the ACTWG's sentiments. The Chair revealed that she also had her share of threats on account of her job, but these only gave her more reason and courage to fight corruption and more energy to run after erring public officials and employees.

The US and Canada broached the idea of having the Manifesto elevated to the APEC highest level to obtain wider support.

The SOM Vice-Chair suggested that a shorter version of the Manifesto may be incorporated in the Declaration.

The US, Canada, Thailand, China and Chile proposed amendments to these documents.

The Chair acknowledged the need for the delegates to reflect on the contents of these documents and to consult with their respective economies regarding the matter. Hence, it was agreed upon that proposed modifications and comments on both the Manifesto and the Statement are to be submitted to the Secretariat by September 11, 2015.

Agenda 10 - Implementation of APEC Anti-Corruption Commitments

Final Reports

It was agreed upon that the Final Reports be submitted on or before the end of calendar year 2015.

On the need to hire somebody to consolidate the reports and prepare an executive-style summary on these reports, the APEC Secretariat suggested that a project proposal may be prepared by the member economies for this purpose.

As agreed by delegates, the APEC Secretariat mentioned that the templates should incorporate the member economies' reports on the implementation of the 2014 Beijing Declaration.

Agenda 11 - Other Issues

Meetings Documentation Classification

The APEC Secretariat presented the “*Document Classification List*”. It highlighted documents that are for public release, such as “*Handbook: Best Practices in Investigating and Prosecuting Corruption using Financial Flow Tracking Techniques and Financial Intelligence*,” “*Requesting Mutual Legal Assistance in Criminal Matters from APEC Economies: A Step by Step Guide, Workshop Training Tools and Materials – Other Materials*,” and “*Report on ABAC’s Good Governance and Anti-Corruption Activities*.”

The APEC Secretariat likewise mentioned that the “*Draft Cebu Manifesto for the Protection of Anti-Corruption Advocates*” is for restricted access, as delegates still have to confer with their respective economies to finalize their stand on the Draft.

ACT Chairmanship 2016 (Peru)

Peru declared that it is privileged to host the next APEC meeting in Lima. It announced that the first meeting will be in February 2016. Peru’s invitation was capped with a video presentation highlighting the beauty and grandeur of Peru.

Agenda 12 - End of Meeting

The Chair delivered the final remarks and expressed her gratitude to all economies present. She would like to believe that the member economies have taken steps towards the attainment of the mission of building inclusive economies in the region. She expressed hope for continued unity and encouraged the member economies to carry on with their zest and passion to pursue APEC’s goals and objectives, particularly on fighting corruption.