

出國報告（出國類別：出席國際會議）

赴印尼參加 2013 年亞太經濟合作會
議第十六次反貪腐暨透明專家工作
團體會議

**16th Anti-Corruption and
Transparency Experts' Working
Group Meeting**

服務機關：法務部、法務部廉政署

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派赴國家：印尼雅加達

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壹、會議行程紀要

一、2013 年 1 月 26 日會議

(一) 開幕式

本次 APEC 反貪腐及透明化專家工作小組 (Anti-Corruption and Transparency Experts' Working Grouping, ACTWG or ACT) 會議由印尼反貪委員會 (Corruption Eradication Commission of Indonesia) 主席 Bambang Widjojanto 擔任主席。主席於會議開始時先請各經濟體會員代表自我介紹，並於致詞中歡迎各經濟體會員代表遠道而來與會，並簡介本次會議於 1 月 26 日至 1 月 28 日召開的各項議程。

(二) 議程採認

- 1、 ACT 會員通過第 16 屆 (即本屆) 會議議程 (附件 1)。
- 2、 ACT 會員採認第 15 屆會議紀錄 (附件 2)。第 15 屆會議達成的成果甚多，諸如：
 - (1) 修正「海參崴打擊貪腐宣言」 (Vladivostok Declaration on Fighting Corruption) 草案，並提交至 APEC 部長及領袖會議。
 - (2) 更新 ACT 反貪腐及透明化期中報告之內容，包含 15 個會員經濟體的執行情形。
 - (3) 各會員經濟體報告他們在實踐聯合國反貪腐公約、OECE 反行賄公約及其他與反貪腐及透明化相關協議之情形。

(三) APEC 秘書處報告 (附件 3)

APEC 秘書處報告 APEC 於 2013 年之優先工作項目及 2012 年召開各項重要會議所達成之成果。

1、 APEC 於 2013 年的優先工作項目

APEC 就 2013 年所設立之主題為「活力亞太，全球成長的引擎」 (Resilient Asia-Pacific, Engine of Global Growth.)，其優先之工作包括：

- (1) 落實「茂物目標」(Bogor Goals，即考量 APEC 會員國差異性及經濟發展程度之不同，陸續達成貿易與投資自由開放的目標，並擬訂具體推動計畫)。
- (2) 永續發展並維護公平性。
- (3) 促進各會員國間之聯繫交流。

2、 APEC 於 2012 年召開重要會議達成的成果

2012 年 APEC 經濟領袖會議、部長會議、企業領袖高峰會議以及資深官員總結會議皆於 9 月 2 日至 8 日假俄羅斯海參崴召開。APEC 經濟領袖會議的結論為「海參崴宣言」(Vladivostok Declaration)，包含五個面向：

- (1) 革新與成長。
- (2) 強化 APEC 能源安全。
- (3) 制訂 APEC 環保貨品清單。
- (4) 促進跨域教育合作。
- (5) 打擊貪腐及確保透明化。

2012 年 APEC 部長會議除檢視該年度優先事項外，更進一步為 2013 年作準備，包括實踐茂物目標、區域整合及衡平、革新及安全的永續發展。該會議並作出聯合聲明，總結 2012 年的成果。

2012 年 APEC 企業領袖高峰會議主題為「迎接挑戰，擴大機遇」。本次高峰會議集合 APEC 經濟體領袖及區域性、全球性企業社群領袖，共同討論廣泛面向議題包括區域經濟整合、供應鏈聯結、食物、能源及水資源安全、教育、科技、人力資源發展、女性角色等。

2012 年 APEC 資深官員總結會議則聚焦於該年度的四大優先事項：

- (1) 貿易自由化及區域經濟整合。
- (2) 建立可信賴的供應鏈。

(3) 加強合作關係以促進革新及成長。

(4) 強化糧食安全。

APEC 貿易投資委員會 (Committee on Trade and Investment, CTI) 2012 年工作計畫係參考該年度 APEC 優先事項制訂。摘錄 2012 年 CTI 年度報告重點成就如下：

(1) 以明顯易懂之圖表總結 21 個 APEC 會員經濟體執行茂物目標進度報告之成效，以促進區域經濟整合。

(2) 臚列 APEC 環保貨品清單，以直接、積極地對 APEC 綠色成長及永續發展目標做出貢獻。列入該清單之貨品於 2015 年底將統一降低關稅為 5%。

(3) 簽署自由貿易協定 (FTA) 有關透明化之章節，該章節之內容將參考 2005 至 2008 年發展之 APEC 衡量自由貿易協定基準。

(4) 將「促進再生能源產品協議」融入 CTI 貿易投資工作計畫中。

(5) 推動 APEC 貿易及技術標準之進階合作控制機制 (ARCAM)。第 2 次 ARCAM 對話於 2012 年 11 月 7 至 8 日在越南河內召開，主題為「廣告標準－原則與實踐」，本次對話提供 APEC 會員經濟體一個分享訊息、政策及實踐原則的平台，CTI 也將在 2013 年舉辦之對話中回頭檢視本次成果及建議。

(6) 啟動「APEC 供應鏈連結架構自我評估調查」，以推動 APEC 會員經濟體將供應鏈成效(包括降低時間及成本等)於 2015 年提升百分之十之目標。

(四) APEC 於 2013 年之工作方向

1、 印尼於 2013 年之優先工作事項

印尼是本屆 APEC 會議之主辦國，其代表重申印尼 2013 年之優先工作事項 (同前述)，包括：

(1) 落實「茂物目標」(attaining the Bogor Goals)：

(2) 永續發展並維護公平性 (achieving sustainable growth with equity) :

(3) 促進各會員國間之聯繫交流 (promoting connectivity) :

2、 ACT 於 2013 年之工作計劃 (附件 4)

- (1) 依據先前主席提出優先工作事項和承諾，ACT 希望繼續促進和加強完成 APEC 現有承諾、聯合國反貪腐公約以及其他相關的國際標準和承諾的執行情況。APEC ACT 聖地牙哥承諾：致力於打擊貪腐和確保透明化。反貪腐和確保透明化將是今年 ACT 工作的指導方針。此外，ACT 將承諾執行去年在俄羅斯舉行的 APEC 領袖會議有關反貪腐之海參崴宣言。這個宣言在 APEC 經濟體的整個反貪腐工作是一個有價值的貢獻。它還重申 APEC 領袖會議在所有 APEC 地區遏制貪腐、加強透明化和問責制的承諾。在 2013 年，APEC 努力實現三個優先工作事項：實現茂物目標、達成公平的永續成長、和促進連結性。因此，將制訂 2013 年 ACT 工作計畫，以實現這些優先工作事項。
- (2) APEC 創始人於 1994 年提出茂物目標，以回應在亞太地區經濟體間對更大合作和有效的區域經濟系統不斷增加的需求。從那時起，APEC 領袖呼籲 APEC 成員實現自由和開放的貿易和投資，以提高經濟的可持續性、穩定性和亞洲太平洋地區的繁榮。另一方面，貪腐問題繼續阻礙經濟和社會發展。APEC 的角色有助於亞洲太平洋地區的經濟發展。此外，APEC 的績效改善跨論壇和其他國際和區域組織的共同作用，以支持茂物目標一直保持強大。因此，ACT 必須經由加強與其他 APEC 子論壇、地區和國際性組織合作，繼續努力實現茂物目標，同時將 ACT 活動和 APEC 的主要目標相結合。2012 年 ACT 工作計畫是在完成 APEC 的承諾，ACT 將尋求提高其他子論壇就反貪腐議題的認識，以便所有的 APEC 子論壇能將他們的活動和 ACT 工作相結合，對於反貪腐有更多的貢獻。

(3) 今年 APEC 第二優先事項是達成公平的永續成長。ACT 將藉由以通過建立良好治理和消除貪腐作為 APEC 領袖通過設置 8 項行動計畫的一部分，發展工作計劃以實現該優先事項。自 2004 年簽署之聖地牙哥承諾，APEC 領袖商定將反貪腐作為一個重要的優先事項。這一承諾對於 APEC 經濟體打擊貪腐的努力往前邁進一大步，並執行聯合國反貪腐公約。根據聯合國反貪腐公約，至關重要的是，要把注意力放在加強和支持反貪腐機構與其他執法機構在執行其任務和職責的努力。因此，ACT 將舉辦一個有關加強反貪機構在反貪腐倡廉中的現代世界的挑戰及對策研討會。ACT 邀請所有會員經濟體和其他有關組織必須積極參與這次研討會，討論並交流其最佳作法和開展反貪腐策略。之後的中期工作計畫依循聯合國反貪腐公約第四章，ACT 將藉由加強 APEC 經濟體和其他 APEC 子論壇之間的合作，致力打擊洗錢和非法貿易。關鍵是要建立一個反貪腐當局有效合作和協同作用的區域網絡。ACT 將繼續 2012 年在俄羅斯之工作倡議和對策。去年，俄羅斯和 OECD 在喀山舉辦關於打擊外國賄賂的研討會。若要支持此正在進行的工作，ACT 應執行 APEC 反腐敗和確保透明化行為準則，確保打擊賄賂和致力於促進誠信、透明化。ACT 還將著重加強公私夥伴關係，促進更多的透明化和企業誠信。因此，防止和處罰這二方面的行為，對於確保一個乾淨和透明化的企業環境是很重要的。ACT 成員應繼續鼓勵所有會員經濟體執行 APEC 領袖打擊和起訴貪腐的承諾。

(4) 2013 年預期活動：

- 主辦加強反貪機構在反貪腐倡廉中的現代世界的挑戰及對策研討會 (SOM 1)。
- 主辦透過建立私部門夥伴關係之禮物規則和便利支付規則維持企業誠

信的研討會（SOM 3）。

- 與其他國際組織，包括經濟合作暨發展組織（Organization for Economic Cooperation and Development, OECD）、聯合國毒品及犯罪辦公室（United Nations Office on Drugs and Crime, UNODC）、國際透明組織（Transparency International, TI）、世界銀行（World Bank, WB）和國際反貪腐學院（International Anti-Corruption Academy, IACA）共同促進並推動反貪腐。

（5）2013 年預期成果：

- APEC-ASEAN 引導計畫：關於打擊貪腐和非法貿易，2013 年 6 月（柬埔寨，暹粒）。
- 主辦有關加強反貪機構在反貪腐倡廉中的現代世界的挑戰及對策研討會（印尼，雅加達）。
- 透過建立私部門夥伴關係之禮物規則和便利支付規則維持企業誠信的研討會（印尼，棉蘭）。
- ACTWG 戰略規劃的制定。
- 發展 ACTWG 下的執行職權網絡。
- 泰國及智利共同舉辦之研討會：「有關對於使用資金流向分析技術和調查情報起訴貪腐和洗錢案件以有效定罪和追回資產方面，設計最好的模式，以促進區域經濟發展的能力建構研討會」（第一次研討會將於 2013 年 6 月 11-13 日在智利聖地牙哥舉行）。

（五）ACT 於 2012 年舉辦之活動及成果

因 2012 年之 APEC 主辦國是俄羅斯，所以由俄羅斯代表報告在 2012 年中，ACT 所舉辦之主要活動及成就。

- 1、 提出財產揭露及打擊非法貿易之最新進展。

- 2、 ACT 與 OECD 共同舉辦打擊海外行賄研討會(於 2012 年 5 月 27 日舉行)。
- 3、 ACT 與 ABAC 共同舉辦打擊貪腐以促進經濟發展及競爭之對話(於 2012 年 5 月 28 日舉行)。
- 4、 各經濟體共同通過「海參崴宣言之打擊貪腐宣言」,其內容如下(附件 5):
我們, APEC 部長們, 更新我們在各自經濟體內打擊貪腐、提昇透明化及可信賴度之承諾。

我們了解,嚴格執行打擊貪腐與促進經濟、社會發展有直接之關聯。貪腐威脅我們所欲達到的市場公開、經濟發展、依法而治等共同目標。貪腐會阻礙外來及國內投資、妨礙及扭曲競爭、也會增加公共服務與基礎建設的成本。貪腐不但扼殺經濟成長及永續發展,更藉由弱化公眾信任而增加不安全、不穩定。公部門人員的貪腐破壞法律與司法體制,也減損公眾對政府的信任,貪腐所造成的惡果,最直接,且不成比例的由貧困之人承擔。

我們的承諾,將依據各自的內國法律,調查及起訴貪污犯行,並防止公職人員透過貪污犯行獲得不法利益。

我們強調採取有效反貪腐措施的重要性,貪腐在不透明的環境中盛行,惟有透明能抑制它,而透明化及公部門的廉潔,是預防貪腐、促進良善統治、健全公眾資源管理的有效原則。

我們依然承諾過去 APEC 高階政策對話所達成的目標,包括:開放政府及經濟成長;各經濟體與來自產業界、學術界、非政府組織、勞工團體等,藉由承諾透明化、公正、可信賴的統治,共同提昇公眾信賴;開放政府、科技、創新能掃除貪腐,使各社群能監督政府之政策及資源使用,並表達其等觀點。

我們承諾,將在各經濟體內強化公部門透明化及廉潔,並依據各自內國法律,以適當的方法降低行政負荷。我們將嚴格執行反貪腐法律,並透過財產揭露等制度,強化對公職人員的查核、控制,並努力追討貪污犯罪所得。

我們將依據各自的國際承諾及內國法律，持續調查、起訴公職人員的貪污犯行及行賄之人；我們將嚴格執行各自反貪污法律，並將行賄外國公務員刑罰化，確保我們各自的內國法能有效打擊貪污的供給面及需求面，我們也促請尚未將行賄外國公務員刑罰化的 APEC 經濟體，能採取如此之立法措施。

我們將持續與國際及各國金融市場之利害關係人合作，拒絕給予那些藉由貪污犯行而獲得不法財產利益的人庇護。在此架構下，我們重申，我們將採取具體步驟，確保金融市場免於貪污、行賄等犯罪之凌害。我們將嚴格對抗洗錢犯行，包括調查、起訴洗錢犯行，及依據各自內國法執行「防制洗錢金融行動工作組織」之各項建議。

我們將與國際及區域發展機構共同努力，積極打擊詐欺、貪腐及公共資源的濫用。我們支持各經濟體藉由強化反貪機關、依法而治、財政透明化及可信賴性以打擊貪腐；我們也支持各經濟體以改革公共採購體制、強化財產追償等方式打擊貪腐。

我們認為，將聯合國反貪腐公約作為反貪腐共通機制具有無與倫比的價值，並要求尚未批准該公約的國家儘早批准。我們鼓勵 APEC 各經濟體，依據其各自的內國法律體制，採取一切必要措施以實踐該公約。我們認知，雖然全球化及科技創新是發展及繁榮的正面力量，但非法網絡也已利用更緊密聯結的世界以擴張非法事業，因此我們承諾要強化反貪腐，併同強化其他執法機關及執法努力；我們也承諾，為了要因應新興之挑戰，經濟體對經濟體之合作方式必須簡化。

我們歡迎 APEC 商業諮詢委員會（ABAC）以及反貪腐及透明化工作小組（ACT），近來在這些重要議題及打擊貪腐、非法貿易上之貢獻。非法貿易增加跨國交易的成本，並將合法商業利益轉變成跨國非法網路的資金。因此，我們仍須繼續打擊非法貿易、打擊跨國犯罪組織及非法網絡之財源、剝奪犯罪企業

家及貪污公務員的不法財富、阻絕其等接觸全球金融體系。

我們認知，企業以及公、私部門的夥伴關係，在促進建立私部門行為準則、打擊貪腐措施上極具重要性。

（六）各經濟體報告其國內執行反貪腐公約情形及其他反貪腐作為

本時段是開放給各會員國報告各經濟體實踐聯合國反貪腐公約(UNCAC)之情形及其他反貪腐作為。謹將其中美國、馬來西亞、印尼、越南及我國報告之內容摘述如下：

1、 美國（附件 5）

（1） 執行聯合國反貪腐公約第 7-9 條：

概述涉及利益衝突，報告貪腐行為及資產申報的美國經驗。

（2） 執行聯合國反貪腐公約第 12 條：

概述實施公共和私營部門的合作夥伴關係的美國經驗。

（3） 執行聯合國反貪腐公約第 5、7、12、13 條：

選定美國政府在預防貪腐方面提高認識的政策，並倡議和相關的公共部門和預防腐敗的良好做法。概述實施公共和私營部門的合作夥伴關係的美國經驗。

（4） 執行聯合國反貪腐公約第 51-59 條：

在 2012 年，聯合國以六種語文出版美國資產恢復工具和過程指南。本指南概述了美國的資產回收的法律和程序，包括如何尋求國際合作，美國在 G8 多維爾夥伴關係的背景下，與阿拉伯國家的轉型中，曾在 2012 年與合作夥伴共同開發資產的恢復行動計劃。美國一直活躍在中東轉型國家提供資產恢復合作。在 2012 年，美國在一些情況下凍結或沒收外國貪腐所得款項，共計數百萬美元。美國有一個明確的政策和強有力的法律權威，拒絕給予貪腐犯罪的外國政府官員安全庇護，並追回這些犯罪

所得款項，以幫助解決一些貪腐所造成的危害。2010 年，司法部推出高層貪腐追回資產倡議，以過去的經驗和使用資產的恢復工具來打擊高層次的外國官員腐敗。例如，美國對涉及外國貪腐、濫用美國銀行和金融系統的相關洗錢所得款項，啟動調查和沒收行動。美國試圖利用沒收外國官員否認他們的犯罪活動的成果，追回外國貪腐犯罪所得。

(5) OECD 反行賄公約執行情況：

於 2012 年 11 月發布「反海外貪腐法」(指南)，其主要法源是美國依 OECD 反賄賂外國公職人員公約規定的義務。其規定涉及範圍廣泛，包括「外國官員」的定義、什麼是適當和不當的禮物、旅遊和娛樂開支、促進支付的性質、繼任者責任如何適用於兼併和收購的情況等。

(6) 防止利益衝突公開財務資料的使用：

美國行政部門財務信息披露系統，簡要介紹了防止利益衝突的美國行政部門高級官員披露財務資料系統的概述和使用披露報告，以防止利益衝突。

(7) 參與開放的政府夥伴關係 (Open Government Partnership, OGP)：

美國是 OGP 的創始成員之一，多方利益相關者於 2011 年倡議提高透明度、加強問責和打擊貪腐行為，並致力制定和實施一個強有力的 OGP 行動計劃。歐巴馬政府承諾在美國國家行動計劃進行開放政府倡議，這些措施的目的，在提高公眾的完整性、促進公眾參與、更有效地管理公共資源、改善公共服務。美國一直與民間社會和公眾密切合作，以落實這些倡議，並已經遵循通過多項承諾。

2、 馬來西亞 (附件 6)

(1) 簡介：

馬來西亞計劃於 2020 年成為一個完全開發和高收入的國家，反貪腐是其

高度重視的議題。為此，國家重點發展的舉措，即經濟轉型方案（ETP）和政府轉型計畫（GTP），以推動國家前進。GTP 渴望實現成功的經濟轉型，基本建構處理貪污腐敗問題是這七個國家關鍵結果領域計畫（NKRA）下 GTP 之一。其相信貪腐必須被完全消除，以降低企業經營成本，並消除效率低下的組織，否則將嚴重地限制其經濟轉型和增長，阻礙其成為一個全面發展的國家。了解貪腐對國家的社會和經濟發展造成的嚴重後果，反貪腐的 NKRA 設置實用目標和措施，以杜絕貪腐，並減輕公眾對貪腐的感覺。

（2）執行聯合國反貪腐公約第 3、4 章：

有關審查 UNCAC 執行情形，馬來西亞於 2012 年正式獲選復審，並於 2013 年提出 UNCAC 第三章「定罪和執法」及第四章「國際合作」的審查。馬來西亞反貪委員會（MACC）已經提交了一份填妥的問卷予 UNCAC 秘書處審查。後續階段將通過國別訪問進行審查，由菲律賓和肯亞審查，該次審查為第 3 次，於 2013 年 2 月 8 日開始進行。

（3）執行聯合國反貪腐公約第 45 條：

2008 年，馬來西亞開始推行一項行動計畫，考慮建立一個制度，在國際上通過專門立法，執行聯合國反貪腐公約第 45 條移交囚犯的規定。有關第 45 條的具體立法制度的行動計畫，締約國可考慮締結雙邊或多邊協定或安排轉移到其領土判處監禁，或其他形式的剝奪自由，使其可以在那裡服滿其根據本公約確立的犯罪的刑期。馬來西亞的民政事務部負責有關國際轉移囚犯的問題，已召集部門間的會議，討論該制度的法案，以便讓馬來西亞確認該制度將如何運作，以及如何才能成功地實施。該法案在 2012 年 12 月已提交國會並等待實施。

（4）主辦國際反貪局聯合會（International Association of Anti-Corruption

Authorities, IAACA) 會議：

馬來西亞於 2012 年 10 月 4 至 7 日主辦了第 6 次 IAACA 年度會議和一般性會議。會議期間，馬來西亞經由 MACC 簽署了兩項備忘錄 (MoU)，馬來西亞政府也捐了 100 萬令吉 (約 25 萬歐元)，支持國際反貪腐學院 (IACA) 的一般預算，反映了馬來西亞連續在本地和國際承諾根除貪腐的決心。

(5) 國際合作：

由反貪腐機制達成共識，國際社會的大門是敞開的，在傳統的地區位置上加強多邊和雙邊合作是重要的。反過來，鼓勵分享最佳作法，是建立信任和合作的國家之間的關係，最終增加了有效的雙邊和多邊的努力和發展援助計劃及簽署 MoU，以交換預防和反貪腐工作的資訊，並就對貪污罪行為人之貪腐行為的檢測方法和手段經驗交流。泰國的國家反貪腐委員會和維也納的國際反貪腐學院也一起簽署該 MoU。

3、 印尼 (附件 7)

印尼認為聯合國反貪腐公約之履行對反貪腐非常重要，因此，印尼採取多項措施以履行其基於聯合國反貪腐公約所為之承諾。

首先，為執行聯合國反貪腐公約第 3 章第 16 條之規定，印尼現正著手修正反貪法律，將就海外行賄行為刑罰化，這次修法包括主動行賄與被動收賄均納入，也規範公司的責任，修正後的法律將可作為執法機關調查、起訴公司涉入貪污行為的依據。

為了加強反貪機關遵守聯合國反貪腐公約第 3 章第 36 條之要求，印尼於 2012 年舉辦有關反貪專責機關議題的研討會。參與本次研討會的反貪專責機關負責人、地區網絡代表各自提出他們的經驗、挑戰，並且提出確保反貪專責機關獨立、有效的主要因素。這場研討會的重要成果之一為通過

「雅加達反貪專責機關聲明」，這項聲明提出確保反貪專責機關獨立及有效的原則。此外，為符合聯合國反貪腐公約第 4 章所要求之強化打擊貪腐的國際合作，印尼已與多個國家簽署雙邊司法互助協議與引渡協議，並且透過積極參與地區及國際網絡促進多邊合作。

為履行聯合國反貪腐公約第 2 章有關防貪之要求，印尼反貪腐機關(KPK)已於雅加達省長選舉期間發起乾淨選舉計畫，這項計劃包括候選人財富報告的調查，另候選人也須簽署廉潔公約，作為其對乾淨政府的承諾，另有關良好治理的訊息也會傳遞給候選人，這項計畫預期可降低公部門的貪腐及行賄。

為鼓勵公務員提出接受餽贈(gratuity)報告，印尼於 2012 年 11 月 29 日實施新的 e-gratuity 模式，以取代過去的傳統報告模式。E-gratuity 模式包括法律依據、常見問答、提出餽贈報告程序、互動式餽贈模擬等，這個模式提供收受餽贈應有的觀念教導，以及收受餽贈後的報告程序。

除了上開在防貪方面所做的努力，KPK 也對反貪教育極為關切，尤其是對兒童的教育。首先，KPK 發起廉潔萌芽計畫，包括出版反貪道德故事書，也為父母及教師舉辦研討會，透過讀詩、說故事等兒童日常活動灌輸反貪價值。另外，也透過社交媒體進行反貪競賽達到教育目的，KPK 與若干贊助機關合作，在 2012 年策畫了一部名為「我們對抗貪腐」的影片，這部影片目前在印尼已有超過 5 萬人觀賞過。

此外，KPK 也鼓勵超過 200 個反貪團體支持反貪活動，並透過 2012 年所舉辦之「少年反貪營」引領改變。

我們相信，也如同聯合國反貪腐公約所認為，當反貪腐不再單純是國內議題時，國際合作是必要的，反貪必須走出國界。因此，強化合作不僅能預防貪腐，更能使貪污行為受到刑事懲罰。為履行聯合國反貪腐公約，印尼

將持續在反貪及肅貪方面研擬反貪策略及措施。

我們期待與其他經濟體進行更廣泛的交流及更深入的合作，我們也期望 ACT 更致力於廉潔及有效治理的建立，以及在亞太地區打擊貪腐。

4、 越南（附件 8）

（1） 達成高層反貪腐政治承諾：

- 回顧五年來反貪法規成效，證明越南反貪腐的政治決心。
- 越南中央委員會共產黨持續推動防貪作為，並在該黨領袖帶領下，建立中央反貪委員會。
- 2012 年 11 月 23 日，國會修正一系列反貪腐法規，新法規於 2013 年 1 月 1 日生效；越南政府亦於 2012 年 12 月 6 日通過「2012-2016 年反貪腐及反浪費行動計畫」。這些重要的法律文件都為越南 2012 至 2016 年的反貪工作打下堅實基礎。

（2） 喚醒社會打擊貪腐的角色和責任：

越南政府持續推動社會打擊貪腐的角色和責任，以創造民眾、組織、企業、協會及傳播媒體共同反貪的環境。大眾傳播媒體促進政府反貪政策及法律的宣傳，政府方面則積極規劃並推動反貪腐倡議及方案；越南商務及工業部門也透過政策對話或論壇等方式，協助在政府及民間企業間建構一個健康、透明、免於被貪腐傷害的貿易環境。另外，社會團體對反貪政策及法律的監察角色也得到強化，諸如能夠監控政府經費來源、經費用途、公有財產管理...等，並藉由媒體揭露貪污案件之不法事證，使得政府機構防貪責任得到進一步增強。

（3） 增強政府廉能品質：

越南政黨及政府致力於執行中央政黨委員會章程第 4 條之內容，強調政黨成員的廉潔自持。至 2013 年止，國會已通過並執行針對國會、人民議

會及中央政府官員被選舉人信任案的投票機制。

(4) 強化防貪能量：

- 促進政府機關行政程序公開透明。
- 各種領域的法律文件都導入回顧監控機制。
- 財產定期申報制度。
- 於 2011 至 2015 年間，將現有付費機制更新為「非現金付款」。
- 許多政府組織及民間單位都發展各自的倫理規範。
- 各級政府機關及工業部門都實施職位輪調制度，以降低長期任職於同一職位衍生的貪腐風險。

(5) 國際合作及落實聯合國反貪腐公約情形：

越南持續落實國際反貪腐協定、強化雙邊及多邊合作，並成功主辦 ADB/OECD 亞太反貪腐倡議舉辦之第 17 次推動小組會議及第 11 屆區域研討會。越南也同時是聯合國反貪腐公約（UNCAC）的簽署國，在歐盟（EU）及聯合國發展計畫（UNDP）的支援下，極力落實 UNCAC 之內容。越南於 2009 年 6 月 30 日簽署該公約，並於同年 9 月 18 日正式生效。為呼應 UNCAC 內容，越南本身亦發展「落實公約方案」，包含 53 項法律及公約宣導案，將公約之價值觀內化至政府及民眾。本方案之推動分為三期，分別為「2011 年之前」、「2012 至 2016 年」以及「2016 至 2020 年」。上述方案實施至今，已於第一階段取得以下主要成果：

- 反貪腐相關法律及公約內容以各種管道廣泛傳播至社會大眾。
- 遵循公約內容，越南正逐步規劃並制定相關政策，包括 2010 年監察法、2011 年陳情法及檢舉法，以及發展對機構的貪腐評估指標等。
- 政府機關間合作打擊貪腐作為變得更加重要。

為了衡量各國實踐 UNCAC 的程度，越南被選為第一輪接受評鑑的國家

之一，審查內容包括公約第三章（犯罪防治及立法）及第四章（國際合作），共計 35 條、180 個具體問題，其中 145 題用來評鑑對公約的實踐程度。結果顯示，在 145 題中，越南完全實踐的項目達到 102 題；部分實踐者則有 29 題；未實踐者有 14 題。大體而言，越南在第一輪評鑑中已大致上符合公約之精神，儘管仍有少數困難使得未能完全達到條文要求之內容，未來應朝著制定犯罪防治法律及加強司法互助等方向努力。

（6）未來展望：

- 修正並執行相關反貪腐法律。
- 發展一系列反貪法規或命令，包括：政府資產及所得透明化、對公務員課責、禁止不當接觸等。
- 強化法規的宣導。
- 辦理訓練計畫以培養對相關法律之專業人才。
- 在重大建設案件及人事案件中都加入反貪腐法律之精神。
- 持續實踐聯合國反貪腐公約，以接受之後的第二輪評鑑。

5、 我國（附件 9）

聯合國反貪腐公約強調行政透明化的重要，尤其應定期公布可能涉及貪瀆之相關報告，就此方面，中華台北了解許多貪腐常起源於不適當或不合法的請託、關說。實務上，當私部門基於業務必須與公部門接觸時，常有不依循法定程序，反而喜歡進行檯面下請託、關說之情形。基於這種請託、關說經常是提供舞弊的最佳機會，也是貪腐的溫床，中華台北乃於 2012 年 9 月公布「行政院及所屬機關機構請託關說登錄查察作業要點」。本要點對請託、關說有清楚明確之處理原則，凡是被請託關說者，必須於三日內，向各機關受理登錄單位進行登錄，受規範之公務員如未依規定將請託關說事件登錄，將視情節輕重予以不同程度之行政懲處。中華台北相信本

要點應能阻絕私部門任意向公務員進行請託、關說，從而降低貪腐發生之機會。

其次，打擊貪腐與增進治理、透明之間的關聯性很強，依此，中華台北認為政府採購在經濟全球化的時代中極為重要。如果沒有公正而透明的政府採購制度，跨國公司在經濟全球化中所能獲得的利益必然大幅降低；另一方面，一個不透明、不公正的政府採購環境，也容易在公部門滋生貪腐。中華台北認為，唯有健全由政府採購制度，才能降低貪瀆風險、增進跨國商業活動、促進經濟成長。因此，中華台北的廉政署及其他有關機關，於 2012 年就不同領域的政府採購，進行了多項行政及司法調查，透過這些調查，中華台北發現許多不同類型的採購弊端，也包括貪瀆弊端在內。中華台北希望透過這些調查，能因此建立公正而透明的政府採購制度。

最後，中華台北了解聯合國反貪腐公約第 3 條強調貪污不法所得的凍結、扣押、沒收及追償。所以中華台北即自 2009 年至 2012 年，執行一項中程計畫措施。依據本項措施，所有檢察機關都應成立財產追償專責小組，每個檢察官也被要求在個案中要積極追討不法犯罪所得，而為了整合跨部會資源，中華台北也成立了跨部會合作機制，藉由前開諸多措施，中華台北執行不法所得追償的績效一年勝過一年。此外，中華台北了解今年 ACT 的主題之一為提昇經濟體間的國際合作網絡，現今，不法所得追償既已成為跨國界之議題，中華台北在本議題上將與其他經濟體持續合作。

（七）其他國際論壇近期舉辦有關 ACT 之報告

- 1、由美國於 2013 年 6 月主辦「APEC-ASEAN 引導計畫：關於打擊貪腐和非法貿易」。
- 2、由印尼於 2013 年 1 月 28 日主辦「有關加強反貪機構在反貪腐倡廉中的現代世界的挑戰及對策研討會」。

- 3、由泰國於 2012 年 7 月 10 日至 11 日主辦「透過追蹤跨國現金流向促進資產追回及洗錢防制工作團體」。
- 4、由菲律賓主導完成 APEC 企業倫理準則制訂工作。
- 5、由泰國及智利於 2013 年 6 月 11 至 13 日共同舉辦「有關對於使用資金流向分析技術和調查情報起訴貪腐和洗錢案件以有效定罪和追回資產方面，設計最好的模式，以促進區域經濟發展的能力建構研討會」。

二、2013 年 1 月 27 日會議

（一）國際組織在反貪腐行動上與 ACT 的合作

1、國際透明組織（TI）

TI 代表於會中介紹該組織公布的幾個重要指數及調查報告，包括 2012 年採用新計算標準的清廉印象指數（CPI）、企業海外行賄指數（BPI）、全球貪腐趨勢指標（GCB）、國家廉政體系評鑑（NIS assessment）和全球貪腐報告等。另本次會議印尼作為地主國，也介紹了 TI 在印尼分部的工作內容，其作為非政府組織之一員，同時對印尼反貪腐機關（KPK）有合作及監督之作用。

2、世界銀行（WB）

介紹了該機構在反貪腐層面的 4 個工作重點，包括不法資產追回、發展反貪腐策略、加強與反貪腐機構合作及促進透明化。

（二）2013 年 ACT 預定達到的成果

2013 年 ACT 之工作重點主要在持續執行 ACT 之 5 年工作計畫並追蹤後續成效，故 ACT 將於 2013 年舉辦多項有關之會議及行動，包括「APEC-ASEAN 引導計畫：關於打擊貪腐和非法貿易」、「加強反貪機構在反貪腐倡廉中的現代世界的挑戰及對策研討會」、「使用資金流向分析技術和調查情報起訴貪腐和洗錢案件以有效定罪和追回資產能力建構研討會」、「透過建立私部門夥伴關係之禮

物規則和便利支付規則維持企業誠信研討會」等。

（三）其他事項

主席敦促各經濟體代表，本次在會中的所有發言，如果尚未提供書面資料者，仍宜於會後補提，以利 APEC 檔案資料之完整。另本次各經濟體所提出之文件，如有標示不公開者，仍請各與會代表注意保密之要求。

三、2013 年 1 月 28 日會議

本日進行「加強反貪機構在反貪腐倡廉中的現代世界的挑戰及對策研討會」，主要討論如何增強反貪腐機構能量及確保其獨立性（議程如附件 10）。

（一）議程介紹

會議首先由本屆 ACT 主席 Mr. Adnan Pandu Praja 進行開場致詞。渠表示為增強各國反貪機構能量，未來應透過資訊交換或技術支援等方式強化國際合作，而這也是本日會議將進行的重點議題。

（二）第一場議程

第一場議程為上午 10 時 30 分至 12 時 15 分，主題為「反貪機構的獨立性：個案研究及經驗分享」（Anti-Corruption Authorities Independence: Case Studies & Lessons Learned），講者包括來自馬來西亞、汶萊、菲律賓、印尼等反貪機構或部門之代表，分享該國反貪機構成立之歷史背景、組織架構、獨立性等，供與會各國參考及討論。

（三）第二場議程

第二場議程為下午 1 時 30 分至 3 時，主題為「反貪機構的效能：挑戰及實踐」（Effectiveness of Anti-Corruption Authorities: Challenges and Best Practices），講者包括來自美國、澳洲、俄羅斯、中國大陸等會員國之代表，分享該國提升反貪機構效能之策略及面臨之挑戰。謹摘錄澳洲代表報告重點內容如下（全文如附件 11）：

1、 簡介

主席、在座的各位代表，感謝印尼政府及反貪委員會（KPK）主辦這個重要的工作團體，共同討論如何增強反貪腐機構的能量。

KPK 近年來的成就，證明了它是一個高效能的反貪腐機構，澳洲也很高興和 KPK 建立夥伴關係。在今天的會議中，我們會從 KPK 和其他區域性反貪組織學到許多寶貴的經驗。

接下來我會分三個階段說明澳洲強化反貪腐機構能量之作為。首先，我會列舉一些澳洲近年來發生的貪腐案件類型；其次，我會說明這些貪腐行為對澳洲經濟造成的損害；最後，我會分享近年來澳洲針對海關改革的一系列反貪腐作為。

2、 近年貪腐案例

- （1） 2005 年澳洲小麥採購案，有關官員收賄數百萬元。
- （2） 2011 年 7 月，澳洲聯邦警察偵辦國內企業於海外行賄案件。
- （3） 2012 年 12 月，10 人因非法走私藥品被逮捕，並牽扯出海關官員涉及受賄與包庇。

3、 貪腐行為對澳洲經濟造成的損害

- （1） 傷害澳洲在國際上的信譽：僅管貪腐案件只有一則，對國家形象的損害都是巨大的。舉例來說，2005 年澳洲小麥採購弊案發生後，澳洲在 2007 年國際透明組織的貪腐評比排名便掉出了十名之外。
- （2） 危及全球安全：澳洲政府將嚴重及集團犯罪定位為國家安全問題，且在跨國犯罪猖獗的現代，此現象更易升級為全球安全問題。

4、 澳洲海關的反貪腐作為

- （1） 廉潔測試：2012 年 11 月，國會通過針對貪污犯罪嫌疑人進行廉潔測試的法案，告誡受賄公務員，行賄者可能是警方之臥底，藉此達到嚇阻效

果。

- (2) 毒品及酒精測試：2012 年 4 月，政府授權海關有權力隨機對其員工進行毒品及酒精測試，該法案於 2011 年 11 月通過。
- (3) 海關有權自行開除嚴重品行不良之員工。
- (4) 確保海關內部員工檢舉管道。
- (5) 擴大監控網絡：規劃未來將此套作法應用於其他部門，如農業部、漁業暨林業部、財政單位等。

(四) 第三場議程

第三場議程為下午 3 時 15 分至 5 時，主題為「強化反貪機構之國際經驗」(Strengthening Anti-Corruption Authorities: An International Experience)，講者包括來自聯合國毒品及犯罪辦公室 (UNODC)、世界銀行 (WB)、聯合國發展計畫 (UNDP) 亞太區域中心等國際組織之代表。謹摘錄 UNODC 代表報告重點內容如下 (全文如附件 12)：

1、 摘要

本報告將以聯合國反貪腐公約中有關強化反貪機關之規範為討論重點，說明本公約之規定、本公約締約國會議之相關決議，以及從本公約履行審查機制中所獲得的啟示，另本報告也參考 OECD 反貪腐工作小組提供之資料。

2、 聯合國反貪腐公約第 6 條「預防性反腐敗機關」及第 36 條「專職機關」的相關討論

一項解釋提到第 6 條所指之機關，可以與第 36 條所指之反貪專責機關相同。該解釋認為，第 6 條所提及的預防性反腐敗機關，是要求締約國確保有效執行反貪腐政策及增進防貪知識傳播機關的存在。而第 36 條所指之專責機關，則要求締約國確保肅貪執行機關的存在。雖然本公約允許締約

國決定要成立何種類型之機關（是否為單一機關或多個機關、是否包含反貪及肅貪、是否該機關或人員屬於現有之國家組織架構），但仍有多項核心要求必須遵守：

- （1） 首先，必須有某種型的反貪及肅貪專責機關。
- （2） 其次，這個機關必須具有「必要的獨立性」，執行職務時不受其他政府機關、政治人物或該國任何其他人物的干涉（實務上要如何定義並不容易，這也是為何今天許多專家共聚一堂探討此重要之議題，以增進我們對於在什麼條件、情形下必須給予反貪機關獨立性的了解）。
- （3） 最後，必須給與這個機關所須的資源、人力及訓練，使其能夠執行所賦予的重要職責。

3、 聯合國毒品及犯罪辦公室有關聯合國反貪腐公約技術指引摘要

（1） UNCAC 第 6 條：關於獨立性及可責性

立法架構應確保反貪機關運作的獨立性，使其決定自身之工作方向及如何履行所負託之功能。就其所稱之獨立性，下列因素應列入考慮：

反貪機關的首長及經指定高階官員之任命、任期及免職的法令；反貪機關及其監督機關的組成；適當財務資源及人員薪資報酬；適當的預算；適當的人員聘僱；指派/選定、評估及升遷程序；定期對其他公家機關（如立法機關）報告義務；與其他機關合作及交換情資的正式管道；民眾及媒體參與的規畫；只要反貪機關及其人員基於職權及善意執行職務，即應免於受到民事訴訟之追究（但這種保障不應限制司法進行適當的審查，詳如後述）。

確保獨立性、可責性的方法，應透過法律而非行政命令（雖能以行政命令輕易成立反貪機關，但也能廢止該機關）。透過法律建立制度（或依經驗顯示，透過憲法保障獨立性），可增加反貪機關有效執行政策的可能

性，並傳遞穩定的訊息。反貪機關應有權力追縱其所為之建議是否及如何被執行，並可雇用具有反貪經驗之人員。對公務員及公眾而言，反貪機關應該是反貪聯繫窗口及資源。最後，反貪機關應定期提出工作報告。獨立性不應被視為與可責性矛盾。反貪機關應於已成制度的政府體系中運作，包括有適當且能發揮功能的制衡機制，且沒有任何人或任何事可凌駕於法律之上。獨立性需要制度制衡，以確保反貪機關的透明及可責，例如透過向國會委員會等有關機關報告或接受審查，或向國會報告、接受定期外部稽核、透過法院進行司法審查。

基於反貪事務的敏感性，程序上常須遵守保密之要求。反貪機關經常有機會掌握個人自由、資源、聲譽，除非已有足夠之事證可公布，否則即應謹守保密之義務。

反貪機關獨立性的其中一部分（也是確保公眾能見度的方法），是有權決定如何執行任務。尤其反貪機關應有權決定其工作是否對外公開，公開之聽證會即是一個重要的方法，可揭露貪污證據及對公眾進行反貪教育。同時，非公開之聽證會則可使調查保持完整，保護證人、檢舉人的身分，獲得可用於未來刑事、行政提告之資訊，避免受到其他程序干擾，並避免對個人名譽造成不必要之傷害。

然而，反貪機關仍應就調查結果或報告之公布提出整體政策，以強調其支持廉潔之地位。

（2）UNCAC 第 6 條：關於資源

反貪機關有適當且足夠的經費相當重要，達成此目標的方法之一是讓反貪機關直接提出每年工作計畫及完整的預算內容，送交立法機關相關委員會審議。如有可能，反貪機關的經費應以多年規畫為基礎，這樣可減少立法機關以預算審議為由，對反貪機關的獨立性或對特定貪污案件進

行不適當之干預。另一個可選擇的方案，為就反貪機關所須經費進行全盤性審議，避免立法機關影響個別項目之預算。如何運用經費是反貪機關之職責，每年反貪機關均應提出預算使用報告，並接受適當之外部行政機關稽核。雖然有其他多方式確保獲得適當資源，但重點仍在於維持反貪機關之獨立性。

(3) UNCAC 第 36 條：關於獨立性及資源

無論機關之型態為何，為確保反貪專責機關之有效性，締約國應考量諸多重要面向，包括確保獨立性、責任體制、資源獲得等法律及程序上之架構。

反貪專責機關的獨立性應有法律規範。藉此，人員之聘用、任命、懲戒及資深管理階層之免職標準可清楚的建立（一種可能的模式是透過司法程序來決定），締約國可考慮建立固定任期之任命方式，以避免受到政權更迭之影響。法律應規範反貪專責機關首長對人員任用及該機關功能發揮與否負責。

如有可信賴的內部、外部審查體系，則可進一步避免受到不適當干預。因此，締約國可參考某些國家之經驗，在立法機關內建立一個特別的委員會來監督，或採取成立（外部）監督、查核委員會的方式。其中極為重要者，乃確保在刑事案件調查或程序中免於受到不適當之干預，在某些國家，當反貪專責機關開始就特定案件進行調查時，並不需要知會上級有關機關，例如檢察長、檢察總長或法務部長。

另一方面，由於許多締約國仍要求在特別案件開始司法程序前須獲得允許，因此可能希望這種允許權限也能受到審核；在某些國家，並不允許指示調查人員、檢察官及法官駁回案件。

反貪專責機關可依據法律要求公布年度報告，包括有逮捕人犯的進行中

案件處理情形，並對立法機關提出報告，立法機關有權要求監督機關首長說明工作執行情形。

除反貪專責機關首長的任命外，締約國應考慮建立機關職員的適當僱用程序。此外，為建立專業獨立，締約國也可考慮建立免於因執行職務而受到民事訴訟威脅的豁免制度。

為聘用及留任具有反貪機關所須之專業人員，締約國應重視人員之薪資報酬；關於提供適當之訓練，締約國可考慮讓具有肅貪專長的調查員、檢察官、法官，在開始從事專責肅貪工作前，接受有關偵查技能的通盤性訓練，然而本公約並未規範特定的訓練方式，締約國可考慮其他締約國已實施之模式，例如：（1）由有經驗之調查人員提供訓練，並讓所有可能在反貪專責機關工作的人員（包括法官）接受訓練；（2）將查核人員、稅法專家及管理專家整合在訓練課程中；此外，締約國可考慮提供職業道德的課程；（3）可於內部或不同機關間進行人員的指派或調動。

要把訓練師資列為優先工作，各個專業領域所需的師資可能很少，且費用昂貴。對於開發中國家，可透過聯合國毒品及犯罪辦公室及其他單位提供技術協助。

締約國所採取的策略及審議，會決定反貪機關的預算，但締約國在進行特定案件及複雜案件的調查時，即使有預算不足因應之情形，還是應該確保獲得資源。一般而言，締約國應謹記在心的一件事，即是適當的經費不僅涉及機關的規模，更是計畫能否執行的關鍵。

4、 聯合國反貪腐公約締約國會議

依據本公約第 63 條，聯合國反貪腐公約締約國會議之舉辦，是為了強化能力及締約國間之合作，以達成本公約所設定之目標及本公約履行情形之審查。

專家會議及工作小組，包括：(1) 有關國際合作之政府間專家會議；(2) 聯合國反貪腐公約履行審查小組；(3) 有關預防之政府間專家會議；(4) 有關犯罪所得追償之政府間專家會議。

5、 聯合國反貪腐公約履行審查報告

為批准或加入本公約，締約國須承諾建立必要之防貪肅貪法律、機關及政策。本公約之締約國會議已超越任何其他的聯合國犯罪會議，並已建立本公約履行審查機制，該機制要求締約國須將本公約履行情形提交兩個國家審查。此審查機制已運行至第 3 年，已有 157 個國家積極參與本機制之運作，或者擔任審查國，或者擔任被審查國，從 2010 年開始的本公約的第 1 個 5 年審查期間，是就本公約有關刑罰化及執法與國際合作兩部分進行審查。

專家就本公約第 36 條履行情形提出之報告摘要：

- (1) 雖然幾乎所有接受審查的國家，都已成立一個或數個打擊貪腐之專責部門，但這些新成立的部門經常面臨共同的挑戰，包括執行上有限的能力、資源，及如何擇定優先執行順序。
- (2) 有兩項建議在許多案件中被提出，包括增加人力、資源以提高反貪機關的能力及訓練，以及增進反貪機關在地方上之能見度。
- (3) 就偵辦貪污案件時應如何提升機關之協調提出許多建議。
- (4) 有許多建議涉及如何強化反貪專責機關的獨立性，例如：(1) 在兩個案例中，針對公職人員涉入之貪污案件調查，要求事前得到政府或檢察部門的授權；(2) 反貪機關的人員任用引發許多關切；(3) 在其中一個國家，當反貪機關人員不受利益衝突迴避機制約束時，其獨立性引發諸多關切。
- (5) 關於反貪專責機關的表現也引發諸多關切，例如：(1) 選擇性辦案；(2)

就所檢舉之案件中，只有少數案件有進行調查、起訴；(3) 缺乏統計數據。

- (6) 當然，也有許多正面的實務案例，例如：(1) 反貪機關透過有效的調查、起訴，對貪污案件有很具體的影響；(2) 保證獨立性的制度性安排（如避免機構受到政治干預的措施）。

6、 其他闡明強化反貪機關的措施

最後，許多反貪機關為闡明其就獨立性所為之努力，已於 2012 年 11 月通過雅加達反貪機關原則，該原則提出國際各國的經驗，並提示聯合國反貪腐公約第 6 條及第 36 條之要求。

貳、心得與建議

一、本次印尼舉辦之 ACT 會議，特別著重反貪機關之功能發揮，並利用其中一天舉辦研討會，討論各國反貪機關面臨之挑戰為何及應採取如何之因應措施。

綜觀各國及國際組織代表發言、討論之內容，所關切之議題甚廣，包括：反貪機關是否具有獨立性，即反貪機關行使職權時，能否免於受到政治人物或其他人士之干預，反貪機關之首長任期是否受到保障等。另為使反貪機關有效行使職權，反貪機關必須有充足之人力、預算，否則雖形式上依據聯合國反貪腐公約之要求成立反貪機關，但如果人力、經費預算都捉襟見肘，當然不可能有良好的反貪成效。此外，有關貪污案件之調查、起訴也是打擊貪腐重要工作項目之一，各國反貪機關的組織架構不一，有的國家反貪機關本身即有調查人員、檢察官；有的國家反貪機關本身則無負責追訴貪污犯行之司法人員，但無論反貪機關本身有無調查人員、檢察官，反貪機關在處理貪污案件時，無可避免仍需與其他國內機關進行合作，因此反貪機關與其他機關間之合作、協調機制極為重要，也影響貪污案件偵辦之成效。最後，由於很多貪污案件已屬跨國性犯罪，因此各國反貪機關在進行貪污案件之處理時，常有必要與其他國家之反貪機關進行合作，因此各國反貪機關間之國際合作也是目

前面臨的重要課題。

我國法務部廉政署甫於 2011 年 7 月 20 日成立，為聯合國反貪腐公約第 6 條所稱之預防性反腐敗機關及第 36 條所稱之反貪專責機關，同時肩負反貪、防貪、肅貪之功能，並有設置廉政官及駐署檢察官可從事貪污案件之偵查，其制度之設計應屬完善。但 APEC 各經濟體所設立之反貪機關，過去多曾面臨之上開所提各種問題、挑戰，實可為我國廉政署未來發展之參考、借鏡。尤其在現今資金流通快速、人員跨境移動便利之情況下，各種犯罪，包括貪污案件在內，經常都成為跨國性之案件，廉政署自當利用各種機會，與其他國家之反貪機關加強交流、合作，不僅可藉此汲取他國之反貪經驗，更可在具體之肅貪案件上展開互助合作。

二、由 ACT 提出之 2013 年工作計劃及 2013 年 APEC 三個優先工作事項：(1) 實現茂物目標(*attaining the Bogor Goals*)，(2) 達成公平的永續成長(*achieving sustainable growth with equity*)，和 (3) 促進連結性(*promoting connectivity*)可知，反貪腐和確保透明化將是今(2013)年 ACT 工作的指導方針。去年在俄羅斯舉行的 APEC 領袖會議有關反貪腐之海參崴宣言，更重申落實遏制貪腐、加強透明化和問責制的承諾。故反貪腐、加強透明化及問責制為公私部門之重要課題。經由國際的信息交流及經驗分享，有助於精進各國間反貪腐之作為及策略，甚而為區域性整合及合作，亦有助於貪腐犯罪所得之查扣及回收，以剝奪不法犯罪所得，從而降低貪腐犯罪之誘因。

三、我國於 ACT 的反貪腐及查扣、回收犯罪所得之經驗分享，除可不自外於國際社會之外，亦盡到作為國際社會一份子的義務，將我國現有制度及努力方向，向與會各國代表介紹，除了可肯定我國作為一個 APEC 會員國在落實執行 APEC 領袖會議宣言或承諾的努力，提高我國能見度外，更希望透過國際交流，創造國際合作的機會，故每年的 APEC 相關會議，對作為地球村一份子的我國，是值得努力去學習、表現及爭取的。

四、貪腐問題阻礙經濟和社會發展，反貪腐議題的認識是有其必要的。ACT 著重加強公私夥伴關係，促進更多的透明化和企業誠信。因此，為確保一個乾淨和透明化的企業環境，必須執行打擊和起訴貪腐的承諾。而打擊貪腐自包括打擊洗錢、海外賄賂、剝奪犯罪所得等，此等亦是我國目前反貪、防貪、肅貪之重要課題，亦一步步加以落實中。而如何更精進反貪、防貪、肅貪、企業誠信及查扣、剝奪犯罪所得等之策進作為，罰其所當罰、懲其所當懲，也是我們一次次國際交流中需努力學習及面對的議題。



**Asia-Pacific
Economic Cooperation**

2013/SOM1/ACT/001

Agenda Item: 2

Draft Agenda

Purpose: Consideration
Submitted by: ACT Chair



**16th Anti-Corruption and Transparency
Experts' Working Group Meeting
Jakarta, Indonesia
26-27 January 2013**

DRAFT AGENDA
16th ACTWG Meeting
Jakarta, Indonesia.
26th-27th January 2013

DAY 1

01 - Opening Remarks (09:30-09:45 am)

- Welcome by ACT Chair (Indonesia)
- Introductions by ACT Delegations
- Administrative announcements for the meeting

02 - Adoption of Agenda (09:45-10:00 am)

- ACT member economies to adopt the agenda of the 16th ACT Meeting
- Endorsement of the 15th ACT Meeting Summary Record

03 – APEC Secretariat Report (10:00-10:30 am)

- Update on APEC Project Management Issues and on ACT Independent Assessment 2012 (APEC Secretariat).
- Presentation by the APEC Communications and Public Affairs Unit (CPAU) on the value of communications work to APEC and ACT, and APEC's 2013 operational plan for communications and outreach.

04 – Direction of ACT Work during 2013 (10:30 – 11:45 am)

- Indonesia 2013 Priorities
- Proposed 2013 ACT Work Program, Discussion I
- ACT 5-year Mid-term Work Strategy

[Coffee Break (11:45-12:00 am)]

05 – Reports on 2012 ACT Russia activities and achievements (12:00 am – 13:00 pm)

- Vice Chair (Russia) to report on ACT-OECD Workshop Fighting Foreign Bribery in APEC Economies (27 May, Kazan)
- ACT/ABAC Dialogue on Combating Corruption to Promote Economic Growth and Competitiveness. (28 May, Kazan).
- Vladivostok Declaration on Fighting Corruption
- Interim Reports on implementation of APEC Anti-Corruption commitments

[Lunch (13:00 – 2:45 pm)]

06 – Members’ opportunity to report on development on implementing the UN Convention against Corruption (UNCAC) and other Initiatives related to Anti-corruption and Transparency (2:45 a.m.-16:00 pm)

- U.S. Update on Implementation of UNCAC, the OECD Anti-Bribery Convention, and Other Initiatives relating to Anti-Corruption and Transparency.
- Anti-Corruption Initiatives in Malaysia.
- Indonesia anti-corruption activities in Implementing UNCAC.

07– Reports on Ongoing and Proposed Projects and ACT Initiatives and Related Synergies with Other Relevant International Fora (16:00 - 17:00 pm)

- APEC-ASEAN Pathfinder Project on Combating Corruption and Illicit Trade, June 2013, Siem Reap, Cambodia (United States)
- ACTWG Workshop “Strengthening Anti-Corruption Authorities in APEC Member Economies”, to be held on 28th January (Indonesia)
- Workshop on Effectively Combating Corruption and Illicit Trade through Tracking Cross-Border Financial Flows, International Asset Recovery and Anti-Money laundering Efforts: Its Impact on Poverty Reduction and Economic Growth, 10th and 11th July, 2012 in Phuket. (Thailand)
- Implementation of the APEC Code of Conduct for Business (Integrity and Transparency Principles for the Private Sector) (Philippines).

- Multi-year project, "Capacity-Building Workshops on 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 Growth". (Thailand and Chile)
- Concept Note: 2013 APEC International Conference for Promoting Open and Transparent Government Procurement (Chinese Taipei)

DAY 2

08 – Report from International Organizations on their Anti-Corruption activities and Synchronizing with ACT (09:30 – 10:30 pm)

- Transparency International (TI)

[Coffee Break (11:00-11:15 am)]

09 – Expected Outcomes and Deliverables for ACT in 2013 and Beyond (11:15 am – 12:30 pm)

- 2013 Work Program, Discussion II.
- Expected APEC ACT Outcomes and Deliverables in 2013 (Indonesia)
- 2012 AELM Commitment: Regular Reporting and Progress on Implementing APEC Commitments.
- ACT 5-year Mid-term Strategy: 2011- 2015 ACT Chairs and Vice Chairs.
- Strategic Planning Process for ACTWG (TATF)

10 – Any Other Issues (12:30 – 12:45 pm)

- Meetings Documentation and ACT Contact List (Circulate)
- Other Matters

11 – End of Meeting (12:45 pm)

[Lunch 13:00 – 2:30 pm]



**Asia-Pacific
Economic Cooperation**

2013/SOM1/ACT/002

Agenda Item: 2

Summary Record – 15th Anti-Corruption and Transparency Experts' Working Group Meeting

Purpose: Consideration
Submitted by: ACT Chair



**16th Anti-Corruption and Transparency
Experts' Working Group Meeting
Jakarta, Indonesia
26-27 January 2013**

Summary Record

APEC Anti-Corruption and Transparency Expert's Working Group Meeting
26th May, 2012. Kazan, Russia (SOM 2)

Executive Summary

The 15th meeting of the APEC Anti-Corruption and Transparency Expert's Working Group (ACTWG) was held in Kazan, Russia, on May 26th, followed by the Workshop on Fighting Foreign Bribery in APEC Economies organised by ACTWG and OECD on May 27th, and followed by the ABAC-ACT Public-Private Partnership and Dialogue: Anti-Corruption and Illicit Trade, on May 28th.

The plenary meeting was chaired by the ACT Chair, Mr. Timur Eyvazov, Deputy Director of the Department of Economic Cooperation, Ministry of Foreign Affairs of Russia.

The meetings were attended by 18 of the 21 APEC member economies (all except Canada, Mexico and New Zealand) as well as representatives from OECD, UNODC, and the World Bank.

Key outcomes of the plenary 15th ACTWG meeting include:

ACTWG members endorsed the 14th ACT Meeting Summary Record.

Discussion on the 'Vladivostok Declaration on Fighting Corruption' previously drafted by Russia and circulated for members comments. ACT Members supported the revised final text; however some delegates needed to come back to their capitals for confirmation. The document will be presented to Senior Officials, as well as to APEC Ministers, and -if possible- to the APEC Leaders.

Updating on Interim Reports on implementation of APEC Anti-Corruption commitments submitted intersessionally. Shortly after the meeting the final consolidated document compiling fifteen reports was circulated electronically in pdf format. The document will be presented to Senior Officials and Leaders, and will be uploaded on the ACT webpage.

Members reported on their economies' progress to implement the UNCAC, the OECD Anti-Bribery Convention, and other Initiatives relating to Anti-Corruption and Transparency.

Members received reports from International Organizations UNODC, The World Bank, and OECD on their Anti-Corruption activities and Synchronizing with APEC ACTWG.

The next ACTWG plenary meeting will be held in Jakarta, Indonesia in January or February 2013 (tbc).

Workshop on Fighting Foreign Bribery in APEC Economies

On 27, May 2012 ACT members attended the 'Workshop on Fighting Foreign Bribery in APEC Economies' jointly organised by APEC-Anti-Corruption and Transparency Working Group (ACTWG) and the Organisation of Economic Co-operation and Development (OECD), hosted by the Russian Federation. Experts from member economies, special guests of governmental agencies and representatives of OECD Anti-Corruption Division and of World Bank StAR Initiative, shared relevant information and leaded open discussions on several relevant subjects related to the fight against foreign bribery.

The main themes of the workshop were:

1. International Framework to Fight Foreign Bribery,
2. National Experiences in the Fight against Foreign Bribery
3. The Battle on the Front Line: Challenges for Law Enforcement
4. Preventing and Detecting Foreign Bribery

ABAC-ACT Public-Private Partnership and Dialogue: Anti-Corruption and Illicit Trade

On May 28, 2012 in Kazan, Russia ACT members attended the ABAC-ACT Public-Private Partnership and Dialogue: Anti-Corruption and Illicit Trade.

The two Panels were:

1. Public – Private Cooperation to Combat Corruption, and
2. Public – Private Cooperation efforts to combat illicit trade.

Summary Record
APEC Anti-Corruption and Transparency Expert's Working Group Meeting
26th May, 2012. Kazan, Russia (SOM 2)

Opening Remarks

The ACT Chair Mr. Timur Eyvazov welcomed all the participants of the meeting in Kazan. The ACT Chair acknowledged the excellent work done by ACT members during the last meeting in Moscow, where members approved the 2012 ACT Work plan, and reported on initiatives and progress on anticorruption and transparency commitments. Mr Eyvazov also thanked ACT members for their support to the proposed ACT-OECD Workshop on Fighting Foreign Bribery in APEC Economies, and the ABAC-ACT Public-Private Partnership and Dialogue. Mr. Timur Eyvazov also expressed his appreciation for the members' work on the 'Vladivostok Declaration on Fighting Corruption', of which draft was circulated intersessionally. The ACT Chair also recalled on the work plan presentation made by the independent assessor on ACT work, which will be completed by end of September 2012, as well as the presentation made by OECD representative on OECD Anti-Bribery Convention, and the presentation made by Russian representative on Russian priorities for APEC 2012.

Agenda Item 2- Adoption of the Agenda

ACT members adopted the agenda of the 15th ACT Meeting.

ACT members approved the Summary Record of the 14th ACT meeting held in Moscow in February 2nd-3rd 2012.

Agenda Item 3 – APEC Secretariat Report

The APEC Secretariat provided an update on Project Management prepared by the APEC Project Management Unite for SOM2 & related meetings, May-June 2012. APEC Secretariat also outlined some Key Developments of APEC since SOM1 meetings.

Agenda Item 4 – Progress and Implementation of ACT Work Plan 2012 - Outcomes and Deliverables for ACT 2012

ACT vice Chair Mr David Luna (USA) highlighted that ACT is truly engaged to take advantage on the opportunities and resources by continue developing excellent capacity buildings exercises in APEC e.g. the proposed Chile and Thailand Multi-year project.

Mr Luna shared with members his view on the ACT progress regarding financial disclosure and combating illicit trade, recalling USA report on APEC Principles for Financial/Asset Disclosure by Public Officials shared to ACT members in SOM1 in Moscow. The report mentioned how ACT members might work in implementing those areas which are part of the 5 years ACT mid-term strategy, and also what it has being done in terms of projects in the last couple of years. ACT is making innovative initiatives, and the assets disclosure work is one of them. He highlighted how the ACT work on disclosure principles can be reflective in important high level fora like the G-20 this year. Illicit Trade is another important area where ACT has been advancing, and will be further discussed during the ACT –ABAC Dialogue on 28th May, integrated with Anti-Corruption area. The overall ACT work on combating corruption has clear linkages with the work of other international organizations, such as UN-CSD, WTO, OECD, and the World Bank, as well as the private sector. ACT may lend its expertise to other APEC group such the Sustainable Development.

- 'Vladivostok Declaration on Fighting Corruption'

ACT Chair invited the distinguish ACT members to discuss on the Declaration on Fighting Corruption' (Doc 009), which draft was circulated for ACT members' comments and contributions two months prior the meeting. Some economies have sent their comments intersessionally (USA, Hong Kong China, Japan and Canada). Australia, Brunei-Darussalam, Chile, Korea supported the document, though Australia would send some wording electronically during the session.

China supported the declaration in principle, but still had a different opinion on several points. China proposed to add a couple of sentences consistent with its domestic legislation on the page 2 and asked to make changes in text, basically on the UNCAC provision. China also proposed to delete the

sentence of OECD Anti-Bribery Convention, since China is not part of the OECD. China would send the additions in writing and would need to come back to the capital for confirmation. Hong Kong China in principle supported the declaration, but needed more time for the particular wording. Indonesia supported the declaration and proposed to add two wordings in the first and second page on globalization and illicit networks. Japan explained briefly the reason of adding the proposed sentence related to OECD Anti-Bribery Convention.

Malaysia and Papua New Guinea supported the declaration and China's idea. Peru also supported the declaration but needed more time for checking and having home's official decision. The Philippines agreed with the declaration, and supported the proposal of USA on open governance, as well as the proposal of China and agreed to delete the proposed sentence related to OECD. Singapore supported in principle the declaration, but shared the concern rose by China on OECD Convention. Singapore also needed more time to go back home for final approval. Russia supported the Declaration on Fighting Corruption and welcomed that the document reflected all ACT work and activities and priorities of this year specially the sentence on Public-Private Partnership. Chinese Taipei fully supported the declaration and agreed with Chinese proposal, particularly with the one of OECD Convention and on the UNCAC, as Chinese Taipei is not member of them. Nevertheless it stated that its policy is to implement both conventions. Thailand accepted China ideas, but would confirm by the following day. USA supports the statements and thanks the colleagues for proposals. USA supported Chinese suggestions regarding the request to member economies to ratify the OECD Anti-Bribery convention and welcomed the work of ACT in particularly to this subject as well as the chance to work together with the ACT Chair and China to draft this important part of the document. Viet Nam supported the declaration, as well as the China proposal on OCED Convention. Viet Nam also supported Indonesia's idea of adding more wording on globalization and cooperation against illicit networks. Chile pointed out that the ACT meeting was a good chance to discuss the new proposals on the draft which was previously circulated to ACT members. Chile also encouraged the colleagues who would come back home for more inputs to do it hopefully within the current ACT meetings so that the Vladivostok Declaration could be ready before the upcoming CSOM meeting in September, since there would not be other chance during the rest of the year.

- ACT-OECD Workshop Fighting Foreign Bribery in APEC Economies

The ACT Chair Mr Timur Eyvazov gave the group an update on the ACT-OECD Workshop Fighting Foreign Bribery in APEC Economies that would be held the next day, on 27 May. Explained that idea of this workshop was APEC economies to share their experiences on the matter learn from each other and exchange information on those experiences. He invited the Head of Anti-Corruption Division, Directorate for Financial and Enterprise Affairs of OECD, Mr Patrick Moulette to share some words on this workshop, as he played a major role in organizing the event.

Mr Patrick Moulette expressed OECD was very interested in the workshop for interaction and exchange of views and experiences within the context of APEC. He believes APEC to be very relevant in the world's economy, a dynamic forum in the region and in the matter of business extension outside borders which faces the problem of foreign bribery, which is a very important global issue. He welcomed and looked forward to participate in the APEC-OECD discussion of fighting foreign bribery, pointing out that APEC, OECD, UNO and the World Bank are all part of this anti-corruption framework.

- ACT/ABAC Dialogue on Combating Corruption to Promote Economic Growth and Competitiveness.

The ACT Chair Mr Timur Eyvazov shared some words of introduction on the upcoming gave the group on ACT/ABAC Dialogue on Combating Corruption to Promote Economic Growth and Competitiveness that would be held on 28th May. He highlighted the importance of that dialogue and then Public-Private Partnership, outlining the two main issues, the first more focused on corruption and the second on the issue of illicit trade. The dialogue was organized and would be conducted by the ACT Vice Chair, Mr David Luna.

- 2011 AELM Commitment: Regular Reporting and Progress on Implementing APEC Commitments on ACT Reporting Template.

Mr Timur Eyvazov reminded on the ACT group's agreement reached during the last ACT meeting in Moscow to submit the economies' Interim Reports on implementation of APEC Anti-Corruption commitments. The document would be presented to Senior Officials during CSOM. Although some economies would need more time to submit the interim report, Russia would print and circulate a single compiled document with the received reports. As per Chile's suggestion, the final consolidated document was circulated electronically in pdf format. Shortly after the meeting the final document was circulated compiling fifteen reports from: Brunei Darussalam; Chile; China; Hong Kong China; Korea; Indonesia; Japan; Malaysia; New Zealand; Russia; Singapore; Chinese Taipei; Thailand; USA; Viet Nam.

Agenda Item 05: UN Convention against Corruption (UNCAC)

The ACT Chair Mr Timur Eyvazov invited ACT members to report on development on implementing the UN Convention Against Corruption (UNCAC) and other initiatives related to anti-corruption and transparency.

Philippines briefed on the status of its implementation of UNCAC, focusing on the assessment process. Philippines pointed out its fully compliance of a significant number of articles of the Convention.

Malaysia updated on governments progresses in order to comply UNCAC, highlighting that most of its articles have been embedded into domestic legislation. He also updated on Malaysian Anti-Corruption Commission MACC initiatives and the 6th IAACA Annual Conference and General Meeting to be held in Malaysia in 2012 (meeting doc Nr 004 'Anti-Corruption Initiatives in Malaysia').

Thailand also briefed on recent developments on the implementation of UNCAC, mentioning activities and efforts made by the Office of the National Anti-Corruption Commission of Thailand NACC, including the upcoming 'Workshop on Effectively Combating Corruption and Illicit Trade through Tracking Cross-Border Financial Flows, International Asset Recovery and Anti-Money laundering Efforts', to be held in Phuket in 11-12 July (meeting doc Nr 005), as well as other workshops and collaboration at bilateral and regional level within Mekong region and ASEAN.

Peru shared updates on the measures adopted by the Peruvian government in order to implement UNCAC, including the visit of experts from Bolivia and Ecuador who assessed Peruvian progress of implementation of chapters 3 and 4 of the Convention. Peru also updated on government initiatives like the Conflict of Interests' Declaration Law, the 'Observatory of Corruption' for prevention of corruption in the public sector, and the Action Plan on Open Government Partnership.

Russia shared with ACT members its view on the impact of corruption in economy, democratic institutions and the public system, stressing that fighting against corruption is a high priority for the current government. Russia highlighted the vigorous steps towards fighting corruption in recent years made by a number of government agencies, such as the Ministry of Justice, Public Prosecutors, Ministry of Interior, Federal Security, etc. The government has further improved the anticorruption legal framework, acknowledging UNCAC and OECD Anti-Bribery Convention as important international instruments, and stated it's willing to collaborate with all APEC partners both bilaterally and multilaterally in fighting corruption.

Chinese Taipei updated on its progress in enforcing UNCAC since its last report shared in the previous ACT meeting in Moscow. Chinese Taipei stressed that in the last months has adopted a number of measures. In the frame of its own Code of Conduct in Public Sector established in 2008 -aligned with UNCAC requirements-, Chinese Taipei created a new public anti-corruption scheme involving all ministries, departments and agencies in order to establish their own 'Honorable and Proper Performance of Public Functions'. It mentioned further measures in preventing and punishing bribery from companies participating in governmental procurements, as well as a public campaign for enhancing transparency in the sector of water resource administration.

Korea briefed on its regular implementation of UNCAC, internally ratified in 2008. Anti-corruption and Civil Rights Commission of Korea has submitted implementation reports on prevention of corruption areas in two occasions to UNODC. In June this year Korea will be reviewed on implementations of Chapter 3 and 4 of the Convention. Korea recently participated in IACA training initiatives, after its ratification in 2011. Korean government has also presented a legal initiative in the area of preventing

conflicts of interest of public officials.

Papua New Guinea gave a general review on its progress in implementation of UNCAC, of which is member since 2007. Following this, the government drafted the National Anti-corruption Strategy in 2009 approved by the National Parliament in 2011. The National Strategy fully complies with UNCAC and focuses in fighting against corruption and improving level of good governance, strengthening systems and processes. The government also proposed to the Parliament the creation of Anticorruption Commission and other legal initiatives. This year PNG will have the peer review on implementations of Chapter 3 and 4 of the UNCAC.

Indonesia shared its report with the ACT members (meeting doc Nr 013), 'Indonesia Progress on UNCAC Implementation'. Indonesia will set out National Strategies on Corruption Prevention and Enforcement as the national platform to fight against corruption, and also that is in the process to draft the amendments of Anti-Corruption Law, Mutual Legal Assistance law and Extradition Law.

Brunei Darussalam shortly reported on its progress in implementation of UNCAC, of which is member since ratification in 2008. This year Brunei Darussalam was reviewed in the implementation of Chapter 3 and 4 of the Convention by peer members. Brunei Darussalam is working on its anticorruption act in compliance with UNCAC.

Australia updated on the process of peer review of implementation of UNCAC, which is currently undergoing, acknowledging the valuable insights of the review team on developments in Australia's National Anticorruption Plan. Australian Parliament recently presented a discussion paper on Code of Conduct, and soon it will consider establishing a Parliamentary Integrity Commission. Australia also updated on its initiative of Public and Private Sector Consultations on Facilitations Payments. In 2011, the Home Affairs Ministry launched a public consultation paper to seek interested stakeholder views on possible changes to Australia's anti-foreign bribery laws. The consultation period ended in February 2012. Regarding OECD Convention, Australia's anti-foreign bribery regime is being reviewed by the Working Group on Bribery, to be completed later during the year.

Viet Nam reported on its progress in anticorruption focusing on improvements of its legal anticorruption framework and the implementation of UNCAC, ratified by Viet Nam in 2009 (Meeting doc Nr 008). Viet Nam ratified the Government UNCAC implementation Plan, and concordantly in 2010 adopted its National Strategy against Corruption 2010-2020. Both documents are now Viet Nam's priorities for the improvement of legal framework on anticorruption for this period of time. In 2011 the National Assembly of Viet Nam issued the Law on Citizens Complaints, and the Law on Citizens Denunciations, both to be in act later this year. Now the government is drafting the relevant decrees for their implementation. The National Assembly is currently discussing the draft Law on Anti-money laundry, hopefully to be adopted in 2012, and in 2013 it will review amendments of a number of important laws on anticorruption. During this year Viet Nam has finalized the reviewing of Five-year Implementation of the Law on Anti-corruption, issued in 2005. Viet Nam also conducted the evaluation of the first step of its 3 steps-divided National Strategy against Corruption.

China briefed on its progress on implementation of UNCAC, ratified in 2005, and in act since 2006. In order to fulfill international obligations China established an inter-departmental coordination, including 25 government departments in charge of coordinate the UNCAC implementation, especially to ensure the compatibility of China internal legislation with the UNCAC requirements. In 2006 China enacted the Anti-money laundry law. In 2007 it was established the National Bureau of Corruption Prevention NBCP, for international cooperation and technical assistance under UNCAC framework. Since 2008 NBCP has annually held the international Corruption Prevention Workshop, becoming an effective platform for agencies of as many as 35 countries to exchange experiences and discuss about best practices in fighting corruption. In 2011 China amended the Criminal Law setting the bribery of foreign public officials as a crime. In 2014 China will reviewed on its implementation of UNCAC and it is confident that the progresses made by the government will be appreciated.

The USA reported on three developments. The US' UNCAC implementation review was completed last year, and its full self-assessment, as well as the executive summary of its report, is available on UNODC website. The US government passed last month (April 2012) the STOCK Act (Stop Trading on Congressional Knowledge Act). This new law, which is very much aligned with APEC Principles on Financial Disclosure, establishes new requirements preventing Executive Branch and Congressional

Members officials and employees from trading on material non-public information they obtain based on their position or responsibilities. The US also reported on an initiative that it has been supporting, along with Interpol and StAR, called the 'Global Asset Recovery Focal Points Initiative.' This initiative consists of a network of investigators and prosecutors that fosters relationships, promotes better understanding of respective legal frameworks, and facilitates informal cooperation, helping practitioners work together to pursue asset recovery cases. This network also provides participants and economies the opportunity to informally consult on cases. The conference currently gathers its 104 members twice a year to discuss developments on legal frameworks and new practical tools. The US encourages all economies to consider participating in the next conference as observers (will hold on 16-18/7/2012).

Hong-Kong China informed that UNCAC requirements (which came into force at the same time with China) have been fully implemented by the existent legislation and administrative measures of HKC. With regard to denying safe haven to officials and individuals guilty of public corruption, HKC is fully committed to the implementation of the FATF Recommendations. HKC has signed bilateral and multilateral agreements to provide assistance and cooperation in a number of areas covered by the UNCAC. Aligned with Leader's declarations HKC is committed to keeping up the momentum in enforcing the anti-corruption law, preventing corruption, enhancing transparency and promoting effective control and good governance in both the public and private sectors. HKC will also continue to provide capacity building training for public and private sector. HKC will continue to build upon existing networks for regional and international cooperation, and will continue to share its experiences and initiatives with other APEC member economies (See doc: Hong Kong China ACT Interim Report Hong Kong China 2012).

Representatives of the Ministry of Economic Development of the Russian Federation updated ACT members on developments regarding the initiative of Lobbying used as a Tool for Combating Corruption and Ensuring Transparency (Meeting doc Nr 012), under the Nation Plan of Combating Corruption of the Russian Federation. In order to promote different Public-Private Partnership forms the document proposes ACTWG to consider exploring this issue, that may include -among other actions- to discuss and share best practices on activities of the lobbying institutions within APEC economies; to develop recommendations to draft the universal Code of Ethics for lobbyists and to promote the Transparency and Integrity Standards for lobbyist groups; as well as to cooperate in this matter with other international stakeholders, like OECD, UNODC and WTO.

Chile would be glad to receive updates from Russia on this initiative. Indonesia highlighted the importance of this issue and expressed that it will welcome any workshop regarding lobbying and how to fight corruption and transparency, as well as how it can apply in the international dialogue. Australia commented on the Australian Lobbyists Code of Conduct established three years ago and it will be glad to share with ACT members the experiences gathered until now. Peru commented on the Lobby Law of Peru issued in 2004. China expressed also a high interest in Russian proposal, and that it is looking forward to share best practices and regulating lobbying activities. It pointed out that lobbying is now a big concern in China in its efforts of fighting corruption. ACT Chair suggested considering a future ACT workshop on this subject with the participation of interested APEC economies, since some of them have developed regulatory systems regarding lobbying that can be shared among economies which do not have it yet.

Agenda Item 06 – Reports on Ongoing and Proposed Projects and ACT Initiatives and Related Synergies with Other Relevant International Fora

Thailand updated ACT members on the 'Workshop on Effectively Combating Corruption and Illicit Trade through Tracking Cross-Border Financial Flows, International Asset Recovery and Anti-Money laundering Efforts: Its Impact on Poverty Reduction and Economic Growth', to be held on 10th-11th July, 2012 in Phuket. Thailand gave details on the workshop's schedule organized by NACC (Meeting doc Nr 005). Formal invitation letters to ACT members were recently sent out. Thailand thanked the co-sponsors economies: USA, Australia and Hong Kong China. ACT Chair encouraged all members to participate in this event. Russia strongly supported this event.

The Philippines updated members on the seminar/workshop 'Implementation of the APEC Code of Conduct for Business (Integrity and Transparency Principles for the Private Sector)' to be held on 20-21 September 2012 in Manila (Meeting doc Nr 006). The Philippines updated on the number of speakers and participants confirmed so far, and gave details on the seminar's schedule. Chile -which is

in contact with the Construction Chamber for this event- thanked the invitation and will answer it soon. Australia highlighted the Philippines' work on Code of Conduct for Business. Russia fully supported the initiative of the Philippines considering it as very timely, especially regarding Russian chairmanship of upcoming APEC's Leaders meeting in Vladivostok.

Thailand updated ACT members on the Chile-Thailand proposal of the Multi-year project, "Capacity-Building Workshops on 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 Growth". The Concept Note of this project just received approval in principle by APEC BMC session 2.

Thailand and Chile thanked all the co-sponsoring economies which expressed their support at the Concept level and asked the same unanimous support for the next step as Project Proposal. Chile encouraged all members to participate in this big event which will be carried out in three phases throughout the 3 ½ years of its implementation. The first part will be a workshop to be held in Chile, secondly a workshop in Thailand, and finally the issuing of an Anti-corruption Prosecutor's handbook compiling best practices. A guideline will be sent out to ACT members for gathering data on each economy's corruption prosecution system. Members will be required to present the data in the workshop. The first workshop will have the purpose of presenting the corruption prosecution systems and the second one will have the purpose of carry on the capacity building activity. Finally a soft and hard copy of the handbook will be distributed to ACT members. Chile encouraged all ACT members to participate in the project and asked for their cooperation and help to make this project a success.

USA fully supported this valuable initiative of Chile and Thailand, highlighting that it certainly follows some of the Leader's priorities. Russia also fully supported the project, pointing out on its good response to ACT medium term work plan, as well as APEC Leader's commitment to promote capacity buildings initiatives on financial investigations, international assets recovery and anti-money laundry tools.

Viet Nam joined the other economies in their views, and briefed on its cooperation efforts with international anticorruption forum, the ADB/OECD Anti-Corruption Initiative for Asia Pacific Region, established in 1999. Today the initiative gathers annually experts from 29 countries of the Asia-Pacific region who have committed to action against corruption: they have jointly developed the Anti-Corruption Action Plan for Asia and the Pacific and work together towards its implementation. Viet Nam is an active member since 2004 and it will be the host of the upcoming 17th Initiative Steering Group Meeting, to be held in Hanoi on 22nd October, followed by a regional seminar on 23-24 October 2012. The invitations to the meeting and the seminar will be sent to ACT members in August. Viet Nam also briefed on the Initiative Strategy and Work Plan 2012-2014, under the ADB/OECD Anti-Corruption Initiative for Asia Pacific Region. The 15th Steering Group meeting in Kuala Lumpur in 2010 adopted the policy document Initiative's "Strategic Principles and Future Activities", which guides its operation in the future. The Initiative is a regional forum for supporting national and multilateral efforts to address and reduce corruption in Asia and the Pacific, primarily through the effective implementation of UN Convention against Corruption (UNCAC).

Agenda Item 07 – Report from International Organizations on their Anti-Corruption activities and Synchronizing with ACT

Mr Oliver Stolpe, representative of the United Nations Office on Drugs and Crime (UNODC) and The World Bank, expressed his appreciation for APEC economies that focus on implementation of UNCAC, particularly glad to hear all the reporting to the ACT meeting, and all their efforts to effectively implement all the UNCAC provisions in a holistic way. He also appreciated hearing the useful economies experiences regarding the review mechanism, as well as their approach and special preparations towards the upcoming reviews. He also expressed high appreciation of the focus for the upcoming Workshop on Fighting Foreign Bribery in APEC Economies organized jointly with ACTWG and OECD. He admitted the fact that this subject has been a big challenge regarding the review mechanism, because some economies have not yet criminalized the bribery of foreign public officials and/or put in place provisions for the legal liability of private companies for bribery acts. He also appreciated the USA and PNG transparent approach regarding the idea of making public countries reviews, as well as Australia's experience in the review mechanism not just to fulfill an obligation but in using its participation to start a broad national dialogue, and eventually incorporate the lessons into the

Anti-corruption National Strategy.

Mr Patrick Moulette, Head of the Anti-Corruption Division of the Directorate for Financial and Enterprise Affairs of the Organization for Economic Cooperation and Development (OECD) highlighted the most recent developments on their work on anti-bribery. He expressed satisfaction of the fact that this year Russian became the 39 state party to the Anti-bribery Convention, after improving its domestic legislation. He reminded that basically most of the work is monitoring the countries implementation of the Convention, carrying on reviews in different phases. In 2010 it started the third round of monitoring reviews (Round 3 or Phase 3). Today 15 countries reviews have been conducted including five APEC economies: Canada, Japan, Korea, Mexico and USA.

Last year OECD and StAR published the study 'Report on Identification and Quantification of the Proceeds of Bribery' which is very helpful for the practitioners. This year another study will be completed on Mutual Legal Assistance on Prosecution of Bribery, which dissemination will be highly encouraged among all the practitioners. The OECD Working Group of Bribery is also engaged in building partnership to combat bribery with other countries, for instance the key partners from G20 with non-members countries like China and Indonesia. OECD also supports regional initiatives such as the Anti-Corruption Initiative for Asia Pacific Region, previously reported by Viet nam. Mr Moulette finally commented on a new OECD initiative known as 'CleanGovBiz' Initiative (see OECD website) which supports governments, business and civil society in their efforts to build integrity and fight corruption across the board. This product brings together all the OECD resources, guidelines and instruments in the field of fighting corruption and bribery, and also promoting business integrity, public integrity and governance. Apart from the compilation of instruments there is a practical aspect out of this called the 'Integrity Scan', which works as a preliminary diagnostic of the country to help it where to start an anticorruption framework in collaboration with any of OECD bodies.

Agenda Item 08– Expected Outcomes and Deliverables for ACT in 2012 and Beyond

Members reviewed the text of the '**Vladivostok Declaration on Fighting Corruption**' on the screen, introducing amendments and proposals to different paragraphs to reach consensus on the text. Eventually all the members supported the clean text; however Brunei Darussalam, China, Hong Kong China, Peru, Singapore and Viet Nam expressed that they would need to consult with their capitals to officially confirm the final text. USA supported the final text, but looked forward to discuss with China and Indonesia on some few words of the declaration. As suggested by the ACT Chair, ACT members would send their confirmations and comments to the ACT Chair and the APEC Secretariat within two weeks (June 10th), after which the text will be considered approved -at the expert level- and then submitted to Senior Officials. ACT Chair required ACT members to show the in principle-approved text to their respective Senior Officials by the upcoming SOM2.

Indonesia reported on its ACT priorities for 2013. It will be focused on two main issues, one concerning each domestic economy and the other on international cooperation and the connections between the two. The first issue will be 'Strengthening Anti-Corruption Bodies or other Law Enforcement Authorities', and the second will be 'Promoting International Cooperation Networks amongst APEC member economies'. Indonesia also expect to prepare for 2013 a one-day workshop on "Challenge and Strategy of strengthening anti-corruption bodies and other enforcement agencies in combating corruption in modern world" back to back with SOM 1 (tbc). Indonesia also would be prepared to conduct an international conference on "Strengthening International Cooperation: The Good must Associate" back to back with SOM 3 (tbc); as well as to establish an 'Inter-ACT' (International Anti-Corruption Taskforce) as part of ACTWG to discuss and cooperate for any international cooperation issues related with transnational crimes issues and legal assistance.

Next Meeting and final remarks

The ACT Chair thanked all ACT members for their active participation and the Secretariat for its support. The next ACTWG plenary meeting will be held in Jakarta, Indonesia in January or February 2013 (tbc).



**Asia-Pacific
Economic Cooperation**

2013/SOM1/ACT/009

Agenda Item: 3

APEC Secretariat Report on Key Developments – January 2013

Purpose: Information
Submitted by: APEC Secretariat



**16th Anti-Corruption and Transparency
Experts' Working Group Meeting
Jakarta, Indonesia
26-27 January 2013**

APEC Secretariat Report on Key Developments – January 2013

(a) APEC 2013 Priorities

In 2013, APEC's theme is "*Resilient Asia-Pacific, Engine of Global Growth*." The priority areas include:

- 1) Attaining the Bogor Goals;
- 2) Sustainable growth with equity; and
- 3) Promoting connectivity.

(b) Key Outcomes of Ministerial, Senior Officials and Committee Meetings

The **APEC Economic Leaders Meeting**, **APEC Ministerial Meeting**, the **APEC CEO Summit**, and the **Concluding Senior Officials' Meeting** were held in Vladivostok, Russia from 2 to 8 September 2012.

The APEC Economic Leaders' Meeting issued the [Vladivostok declaration - Integrate to Grow, Innovate to Prosper](#) which included five annexes:

- [Annex A - Towards Innovative Growth](#)
- [Annex B - Strengthening APEC Energy Security](#)
- [Annex C - APEC List of Environmental Goods](#)
- [Annex D - Promoting Cross-Border Education Cooperation](#)
- [Annex E - Fighting Corruption and Ensuring Transparency](#)

The 2012 APEC Ministerial Meeting was held in Vladivostok Russia on 5-6 September 2012. Through a focus on the 2012 APEC priorities the meeting worked to step closer to achieving the Bogor Goals, regional integration and delivering balance, inclusive, sustainable, innovative and secure growth. A [joint statement](#) from the meeting summarises work undertaken during the year and includes five annexes.

The APEC CEO Summit was convened on 7-8 September 2012 in Vladivostok, Russia under the theme of "**Addressing Challenges, Expanding Possibilities**". The Summit brought together Leaders of APEC economies and regional and global business community leaders for a discussion on a wide range of issues including regional economic integration; supply chain connectivity; food, energy and water security; education; technology; human resource development; and the role of women in the economies. Full information of the Summit can be found on its official website at: <http://apec2012ceosummit.ru/en/about/>

The Concluding Senior Officials Meeting held on 2-3 September focussed on the 2012 APEC priorities:

- Trade and investment liberalization, regional economic integration: including the development of a list of environmental goods and next generation trade and investment issues including small and medium enterprise participation in global supply chains and promoting market driven innovation.
- Establishing reliable supply chains: officials reviewed the continuing work being undertaken within APEC to address chokepoints and work to develop more technologically advanced supply chains.
- Intensive cooperation to foster innovative growth: officials endorsed the creation of the Policy Partnership on Science, Technology and Innovation in order to bring business more fully into APEC's work on innovation. Other work included consideration of better use of nanotechnology for energy efficiency, better mobility of students, researches and providers in the region and considering progress on the Growth Strategy from Yokohama and the market-driven innovation policy from Honolulu.
- Strengthening food security: officials reviewed the work throughout the year noting the establishment of the Policy Partnership on Food Security to better coordinate efforts between

government and business.

The APEC **Committee on Trade and Investment (CTI)** aligned its work program in 2012 to three of the four APEC 2012 Priorities, namely: (i) trade and investment liberalization, regional economic integration; (ii) establishing reliable supply chains; and (iii) intensive cooperation to foster innovative growth as well as the APEC 2011 priority of “expanding regulatory cooperation and advancing regulatory coherence”. An overview of the CTI’s work and achievements in 2012 can be found in the 2012 CTI Annual Report to Ministers. Some of the key achievements include:

- Agreement on the indicators to be included in the “dashboard” that would complement the Bogor Goals Progress Reports with easy-to-understand figures to summarise advances in areas critical to promoting greater regional economic integration. These reports and the dashboard for the 21 APEC economies are available on the APEC website.
- Development of an APEC list of Environmental Goods that directly and positively contribute to APEC’s green growth and sustainable development objectives on which applied tariff rates will be reduced by the end of 2015 to five per cent. The list was adopted by APEC Leaders and attached as Annex C to their declaration in 2012.
- Endorsement of a model FTA chapter on transparency. The model chapter will be included in the set of APEC Model Measures for RTAs/FTAs developed between 2005-2008 as a reference for member economies seeking to negotiate RTAs/FTAs and to assist in promoting consistency in RTA/FTAs across the region.
- Agreement that discussions on “Local Content Requirements” and “Promoting and Facilitating Trade of Renewable and Clean Energy Products Through Dialogue” could be further conducted under the CTI’s overall work program on trade and investment, while the discussion on “Creation and Dissemination of Creative Content in the Digital Environment” could be undertaken by the Intellectual Property Rights Experts Group (IPEG).
- The identification of “self-regulation in advertising” as the emerging regulatory issue to be worked on in 2012 under the APEC Regulatory Cooperation Advancement Mechanism on Trade Related Standards and Technical Regulations (ARCAM). The 2nd ARCAM Dialogue on the topic of “Advertising Standards – Principles and Practice” was held in Hanoi on 7-8 November 2012. The Dialogue brought together APEC economies to share information, policies and best practice principles regarding advertising standards. The CTI will be expected to review the outcomes and recommendations from the Dialogue in 2013.
- Commencement of the APEC Supply-Chain Connectivity Framework Self-Assessment Survey to facilitate the interim assessment to be undertaken in 2013 on APEC economies’ progress towards the ten per cent targeted improvement in supply-chain performance by 2015, in terms of reducing the time, cost and uncertainty of moving goods and services throughout the region.

The Committee also continued with implementation of the Action Plan Framework for REI Capacity Building Needs Initiative through workshops/training courses conducted in the areas of rules of origin (ROO), FTA implementation; and on environment and sanitary and phytosanitary measures (SPS); the next generation trade and issues that were addressed by Leaders in 2011; and the action plans endorsed in 2010 to address the eight chokepoints under the Supply-Chain Connectivity (SC) Framework.

The CTI will next meet in Jakarta, Indonesia from 3-4 February 2013 to discuss and agree on the Committee’s priorities and work program for 2013. A Workshop on Green Public Procurement in the Asia-Pacific Region: Challenges and Opportunities for Green Growth and Trade will be held on 31 January to 1 February.

The **Economic Committee (EC)** met on 30-31 May in Kazan. The EC discussed the APEC New Strategy on Structural Reform (ANSSR) and agreed to conduct a mid-term assessment on ANSSR implementation in 2013. The EC also discussed the progress in Ease of Doing Business (EODB) Action Plan and the updates on Good Regulatory Practices (GRP). The EC considered the work plans of the Competition Policy and Law Group (CPLG) and its five FotCs including: competition policy, regulatory reform, corporate law and governance, public sector governance and ease of doing business.

The 2012 APEC Economic Policy Report (AEPR) on EODB was published in October 2012. The 2012

AEPR stated that APEC's 21 member economies improved the ease of doing business in the Asia-Pacific region by 8.2 per cent between 2009 and 2011, exceeding their five per cent target for the period.

The EC2 held a policy discussion on issues surrounding International Financial Reporting Standards (IFRS).

The next EC meeting will be held on 1–2 February in Jakarta, Indonesia. It will be preceded by the APEC Macro ANSSR Workshop (organised by the United States) on 30-31 January 2013.

The **SOM Steering Committee on ECOTECH (SCE)** met in Kazan, Russia on 31 May 2012 on the margins of the SOM2 meetings. During this meeting the SCE endorsed a new Framework to Discuss Cross-Cutting Issues to encourage fora to work together on issues that cut across the expertise of the various working groups and suggest ways in which this cooperation can take place. The SCE also endorsed the creation of a Steering Council for Travel Facilitation Initiative. SCE agreed to transform the Industrial Science and Technology Working Group into a Policy Partnership on Innovation to include the active participation of business and academia in order to build innovation policies on a market driven basis. The SCE also endorsed revised Terms of Reference for the Ocean and Fisheries Working Group (OFWG), agreed to extend the Mining Task Force mandate for an additional three years (2012-2014), and endorsed the 2012 Annual Work Plans of the Experts Group on Illegal Logging and Associated Trade, OFWG and the Emergency Preparedness Working Group.

The next SCE meeting will be held in the margins of SOM1 in Jakarta on 5 February 2013. The annual SCE-COW (Committee of the Whole) Meeting, which includes the Chairs and Lead Shepherds of SCE sub-fora will meet on 4 February.

The **Budget and Management Committee (BMC)** held its second meeting in Kazan, Russia, on 30 May 2012. The meeting endorsed and recommended the 2013 Administrative Account budget and Members' contributions for SOM's approval. BMC also noted the latest staffing developments in the Secretariat and received an update on APEC TATF Progress and Work Plans.

In 2012, the Secretariat received a contribution of JPY 87,480,000 (equivalent to US\$1,045,786) from Japan and US\$392,000 from the United States of America (US) (pursuant to an award in 2009) to the APEC Support Fund Sub-Fund for Energy Efficiency and Low-Carbon Measures; US\$1,000,000 from Russia to the Human Security Sub-Fund and another US\$1,000,000 from Russia to the Science and Technology Development Sub-Fund. The Secretariat also received contributions of US\$1,022,222 from Japan and US\$82,228 from the US (pursuant to an award in 2009) to the Trade and Investment Liberalisation and Facilitation Fund.

The **APEC Business Advisory Council (ABAC)** held the 4th meeting in Vladivostok on 2 -8 September 2012, the Council highlighted some key achievements of its working groups over the course of the year, including:

- The creation of the Policy Partnership on Food Security (PPFS) and the Policy Partnership on Innovation (PPSTI)
- Agreement to amend the APEC Non-Binding Investment Principles
- Funding for a region-wide Skills Mapping Study (ABAC-APEC Joint Project)
- Detailed deliberation on ABAC papers on Investing for Growth and Regulatory Coherence
- First-ever joint meeting of the [Group on Services](#) and the [Market Access Group](#) to consider "Embedded and Embodied Services", arising directly from ABAC's "Understanding Services" Report, endorsed by Leaders in Honolulu last November.

The Council also endorsed several key decisions and documents:

- A Letter to the Russian SOM Chair and the Indonesian Senior Official (incoming SOM Chair) recommending a joint ABAC-APEC project on Global Data Standard Project in support of the APEC Supply Chain Connectivity Action Plan
- An ABAC Joint Statement on TPP urging its completion in 2013
- Agreement to highlight the PPFS in all possible dialogues with Leaders

Indonesia took over Russia as Chair of ABAC in 2013 and outlined the ABAC 2013 theme: ***Partnership, Resilience and Bridges to Growth***.

The next ABAC meeting will be held on 1-4 April 2013 in Singapore

More information on ABAC can be found at:

<http://www.apec.org/Groups/Other-Groups/APEC-Business-Advisory-Council.aspx>

(c) Developments within the Secretariat and Policy Support Unit (PSU)

Key Staff Movements and Appointments

There have been a number of staff movements in the Secretariat since May 2012. The new Executive Director, Dr Alan Bollard commenced in January 2013. At the Corporate Unit, Mr Mejar Singh Gill (Singapore) succeeded Mr Richard Grosse (Singapore) as Director (Administration) in October 2012. Ms Rebecca Firasvara took over as Accountant in November 2012, the post having been vacated by Ms Jasmine Lee in September. Among the Program Directors, Mr Michael Vonk (Canada) and Mr Alan Deniega (Philippines) both left the Secretariat. Mr Roman Babushkin the Russian Host Economy Representative returned to Moscow in August 2012. At the Policy Support Unit, Ms Aveline Low succeeded Ms Belinda Chng as Policy Advisor; a new researcher Mr Collin Jay Gerst was recruited, and Dr Philip Chang, a Senior Analyst, left in November 2012 and the post is expected to be filled early in 2013.

Projects

Three project approval sessions were conducted in 2012. The selection of projects was undertaken in line with the ranking and prioritization system for APEC projects which was introduced in 2010. A breakdown of the numbers of Concept Notes received and projects approved is as follows:

A total of **215 (standard) Concept Notes** were submitted for funding in 2012. A breakdown is as follows:

- Session 1 - 32 Concept Notes;
- Session 2 - 79 Concept Notes; and
- Session 3 - 104 Concept Notes.

Out of the 215 Concept Notes submitted for APEC funding (based on available funding for 2012), a total of **103 (standard) projects** were approved by BMC. A breakdown by session is as follows:

- Session 1 – 23 approved;
- Session 2 – 28 approved; and
- Session 3 – 52 approved.

The total value of standard projects funded in 2012 is US\$11.5 million.

Multi-year Project (MYP) pilot

The pilot phase of the Multi-year projects (MYP) is nearing completion with the final MYP pilot project session scheduled for Session 1 2013. A total of nine projects have been approved to date under the pilot phase. The first batch of four projects was approved in Session 3, 2011; two projects were approved in Session 2, 2012 and three in Session 3, 2012.

An independent mid-term review of the pilot phase will be undertaken in July/August 2013. The future directions of MYPs will be determined by BMC following the outcomes of the review.

APEC Project Guidebook

The 8th Edition of the APEC Project Guidebook incorporating policy and operational changes approved by BMC in 2010 and 2011, were approved by BMC in April 2012. Main changes to the guidebook included policy changes relating to APEC project related procurement issues.

Long – term evaluations of APEC projects

Following formal approval by BMC members to undertake long term evaluations of APEC projects, the Secretariat sought BMC approval to establish a Small Working Group on Evaluations under the purview of BMC in May 2012 to progress this work. Two independent consultants with skills and expertise in project monitoring and evaluation were selected to undertake this exercise on behalf of the Secretariat. The first output of the consultancy which is a draft paper on the proposed evaluation

methodology will be discussed at BMC 1, 2013.

Policy Support Unit

APEC Ministers approved the extension of the PSU mandate for an additional seven years from 2014 to 2020 at their September 2012 meeting.

PSU is currently undertaking several projects to support the work of various APEC fora. Ongoing projects include:

- Supply-Chain Connectivity Framework Action Plan (SCFAP) - Interim Assessment for 2013: Supporting CTI in evaluating APEC's supply-chain performance in terms of time, cost and uncertainty.
- Global Supply Chain Operation in the APEC Region - Case Study of the Electrical and Electronics (E&E) Industry: Assisting CTI in identifying areas for improving supply chain operation in the E&E industry.
- SME's Participation in Global Production Chains: Supporting CTI in reviewing previous studies on SME's participation in global production chains to identify areas where APEC can add value.
- Ease of Doing Business - Interim Assessment 2009-2012: Working with EC in assessing whether APEC is on track to achieve the 25 per cent improvement target in specific priority areas.
- APEC Economic Trends Analysis report(s): Two reports were presented to EC in 2012. The next report would be published in March 2013.
- PSU Policy Brief series: Three briefs covering relevant policy issues for APEC members were published in 2012. Briefs will be published on a needs basis.
- StatsAPEC: Updated twice a year, APEC's statistics portal was last updated in December 2012. The next update is expected in May 2013.

PSU has continued to collaborate with the World Trade Organization (WTO) and the Organization for Economic Co-operation and Development (OECD) to produce a report for AMM in September 2012 on key trends and developments relating to trade and investment measures in the APEC region. A new report is expected to be delivered for the next MRT meeting in April 2013. In the course of its work, PSU has also built up linkages with other international organizations.

All of the PSU's projects and PSU work program (which is updated monthly) are available on its website (www.apec.org/About-Us/Policy-Support-Unit/PSU-Research-Focus.aspx).

Communications and Public Affairs

The Communications and Public Affairs Unit (CPAU) continues to carry out its operational plan by implementing Phase 3 (Sustain) of the SOM FotC on Communications' Branding Strategy.

APEC Secretariat Executive Director Ambassador Muhamed Noor conducted outreach in several economies, including Russia, Malaysia, Thailand and Singapore and delivered 16 speeches to key stakeholders since May 2012, including at the Pacific Economic Cooperation Council (PECC) Conference 2012; the 2012 Temasek Foundation Centre for Trade and Negotiations (TFCTN) Executive Programme; and the 2012 UN Special Programme for the Economies of Central Asia (SPECA) Economic Forum.

Since May 2012, CPAU has published over 60 news releases and media advisories, garnering coverage in media outlets in all 21 APEC member economies, as well as in global, regional and industry-specific publications. CPAU provided extensive photographic and video documentation of the meetings as well as updates via Facebook and Twitter.

To draw attention to APEC's 2012 initiatives, 4 op-eds were produced on topics ranging from emergency preparedness to progress towards the Bogor Goals. This includes op-eds published in the Bangkok Post (Thailand) as part of a new monthly content-sharing arrangement launched in the second half of 2012. Op-eds also appeared in dailies such as the New Straits Times (Malaysia) and Business Times (Singapore).

To further promote APEC's key messages, CPAU facilitated interviews, backgrounders and content development with a wide range of news wire services, dailies, magazines, industry publications, radio stations and television news channels. Examples include Dow Jones, The Australian, GQ (China), Oil and Gas Year, Capital Radio (Singapore) and CNBC.

During Leaders' Week, Ambassador Noor was interviewed by AFP, Expert (a Russian business weekly), Channel News Asia and CCTV. A separate studio interview was also conducted with PSU Director Denis Hew by Channel News Asia. CPAU coordinated directly with media outlets ranging from Bloomberg and The Wall Street Journal to The New Zealand Herald and Yomiuri Shimbun.

The APEC Bulletin was published in October and December which included contributions from Chairs of the APEC Committee on Trade and Investment and the APEC Emergency Preparedness Working Group. The APEC Bulletin also highlighted outcomes of the APEC Russia 2012 year, transparency in trade, innovative growth and food security and included a farewell message from Ambassador Noor.

Since May 2012, the APEC Secretariat has received delegations from Arcadia University (United States); Sonoma State University (United States); Colegio de Estudios Superiores de Administracion (Columbia); and researchers from the Jeju Peace Institute (Korea).

CPAU soft-launched a 4-minute video, "*APEC, Imagine the Possibilities*," during Leaders' Week in Vladivostok. The video is intended for use as an outreach tool by member economies and the APEC Secretariat. A 30-second version for television has also been produced and is available for distribution.

CPAU added a section on how to animate the APEC logo in video format to the APEC Logo Guidelines in end-2012. A low resolution version of the animated APEC logo video template is available on the APEC Secretariat's ACS site. A high resolution version can be found at the Online Media Center.

CPAU released the cloud-based APEC Satellite Web Blog tool for APEC fora which includes an easy-to-use content management system. With support from CPAU, the APEC Business Mobility Group launched the new ABTC website using this tool after it was approved by BMG in June 2012.

People continue to access the APEC website (<http://www.apec.org>) and its mobile version (<http://m.apec.org>). The APEC website saw 1,246,132 page views and 365,836 unique visitors from 1 May 2012 to 31 Dec 2012. The mobile site served 30,759 page views and 13,042 unique visitors in the same period in 2012. In comparison, for the same period in 2011, the APEC website had 1,320,073 page views and 349,405 unique visitors, while the mobile site had 2,722 page views and 606 unique visitors. This translates to an 8 percent increase in unique visitors to the APEC website and mobile site in 2012 over the previous year. There have also been 155 total user installs of the APEC Glossary App for Android phones since the app was released in November 2011.

The Publications Database saw, on average, 4,839 visitors per month and 12,343 page views per month between May to December 2012. Though visitor traffic remained similar to the same period in 2011, each user viewed more pages on the database resulting in an increase in page views over the same period.

From the time it was launched in March 2011 until 31 December 2012, APEC's official Facebook page has grown to over 3,913 "likes" and its Twitter feed (@followAPEC) has attracted around 1,345 followers.

CPAU amended the APEC website guidelines, which now includes guidance for satellite website hosting and the APEC Satellite Web Blog tool for APEC fora. CPAU developed APEC social media guidelines for fora.

APEC Technical Assistance and Training Facility

The APEC Technical Assistance and Training Facility (APEC TATF) works closely with the APEC Secretariat to implement a range of activities designed to strengthen the APEC Secretariat as a customer-driven institution. Since early March 2012, APEC TATF's accomplishments include:

- Completed upgrade of the APEC Secretariat's Project Database (PDB). APEC Secretariat now in midst of populating documents to the upgraded PDB.
- Reviewed recommendations to migrate some IT systems to cloud computing. Working with the APEC IT Unit to facilitate the procurement of Microsoft 365 cloud for the APEC Secretariat's email system which will increase reliability of emails particularly when staff is on travel.

- Conducted an initial needs assessment of a possible business intelligence system to connect the APEC Secretariat's IT, project management and finance infrastructure.
- Implemented a 2-day training workshop in coordination with the APEC PMU in Papua New Guinea on Improving Project Quality, which provided an opportunity to a wide PNG constituency to better understand the APEC project proposal system.
- Worked with the APEC PMU and the BMC small working group to examine APECs monitoring and evaluation framework. Supported development of a scope of work and identification of expert consultants.
- Continued to work with SCE sub-fora in their efforts to develop medium-term strategic plans to ensure that their goals and future work are in line with APEC's overall objectives.



**Asia-Pacific
Economic Cooperation**

2013/SOM1/ACT/016rev2

Agenda Item: 4

Proposed Work Plan for 2013 - Anti-Corruption and Transparency Experts' Working Group

Purpose: Consideration
Submitted by: ACT Chair



**16th Anti-Corruption and Transparency
Experts' Working Group Meeting
Jakarta, Indonesia
26-27 January 2013**

Proposed Work Plan for 2013
Fora: Anti-Corruption and Transparency (ACT) Working Group

1. Proposed Work Plan for 2013 in Response to Leaders/Ministers/SOM/SCE Priorities and Decisions, and to ABAC recommendations.

Following previous Chairs priorities and commitments, ACT wish to continue to promote and strengthen the implementation of existing APEC commitments, UNCAC and other related international standards and commitments. The APEC ACT Santiago Commitment to Fight Corruption and Ensure Transparency and the APEC Course of Action on Fighting Corruption and Ensuring Transparency will be the guidelines for the work of the ACT this year. Furthermore, ACT will commit to implement the Vladivostok Declaration on Fighting Corruption adopted by APEC Leaders last year in Russia. This declaration is a valuable contribution to the entire anti-corruption efforts in the APEC economies. It also reaffirms the commitment of APEC Leaders in strengthening the effort to curb corruption, enhance transparency and accountability in all APEC regions.

In 2013, APEC will strive to achieve three priorities: (1) attaining the Bogor Goals, (2) achieving sustainable growth with equity and (3) promoting connectivity. Accordingly, the 2013 ACT work plan will be developed to achieve these priorities.

2. Identify cross cutting issue and explain how they will be coordinated across fora

Corruption in its various forms is believed to be one of the global problems which impede the economic growth and sustainable development. Consequently, it poses serious threats to APEC in achieving its core objectives. Therefore, as the responsibility to curb corruption requires support from all APEC sub-fora, ACT as the leader of anti-corruption initiative within APEC urges other sub-fora to work together in reducing the negative impact of corruption in the Asia Pacific region.

Attaining the Bogor Goals

The APEC founders created Bogor goals in 1994 in response to the growing need for greater collaboration and effective regional economic system amongst Asia Pacific economies. Since then, APEC Leaders have called for APEC members to achieve free and open trade and investment to improve economic sustainability, stability and prosperity in the Asia Pacific region. On the other hand, the problem of corruption continues to hamper the economic and social development. Bribes and drawn out negotiations increase the cost of doing business and create business uncertainty. In this sense, it becomes increasingly evident that corruption undermines the most fundamental principles of good governance, diminishing accountability and transparency.

The role of APEC has been instrumental to the economic development of the Asia Pacific region. Furthermore, the APEC record of achievement to improve the synergy across sub-fora and other international and regional organizations in order to support the Bogor goals has always been strong. Therefore, the ACT must continue the effort to attain the Bogor goals by enhancing collaboration and cooperation with other APEC sub-fora, regional and international organizations and at the same time integrating ACT activities with the APECs main goals. Building on the 2012 ACT work plan on the implementation of APEC commitments, the ACT will seek the possibility to raise the awareness of other sub-fora on anti-corruption issues, so that all APEC sub-fora can align their activities with ACT work and contribute more to the fight against corruption.

Achieving Sustainable Growth with Equity

The second priority of APEC this year is to achieve sustainable growth with equity. ACT will develop its work plan to achieve this priority by creating good governance and corruption eradication as part of the 8 action plan set by APEC leaders. Since the endorsement of Santiago Commitment in 2004, APEC leaders agreed to make the fight against corruption as an important priority. This commitment was a prelude to a giant leap for APEC economies toward serious efforts to counter corruption and implement the UNCAC Convention.

The cost of corruption is detrimental and it will be borne mostly by the societies. Corruption also brings an adverse impact to the economic and social development. It reduces the effectiveness of investment,

while creating additional cost for business. As such, APEC needs effective measures not just to tackle this serious problem but also to prevent this criminal conduct.

To attain this goal, it is necessary to ensure the existence of anti-corruption authorities and other enforcement bodies who responsible to fight against this practice. ACT needs strong and effective measures to combat corruption and to ensure transparency and good governance within APEC. In accordance to the UNCAC, it is crucial to confine our attention to the effort to strengthen and support anti-corruption authorities and other enforcement bodies in carrying their missions and duties. Accordingly, ACT will organize a workshop on Challenge and Strategy to Strengthen Anti-Corruption Authorities. ACT invites all member economies and other relevant organizations to be actively involved in this workshop to discuss and share their best practices and strategies in combating corruption.

Following the Medium Term Work Plan and chapter IV of the UNCAC, ACT will strive to combat money laundering and illicit trade by intensifying cooperation amongst APEC economies and other APEC sub-fora. It is also crucial to establish a regional network of anti-corruption authorities for effective cooperation and synergy.

ACT will continue to work on the initiatives and strategies started by previous Chair, Russia, in 2012. Last year, Russia organized a workshop on fighting foreign bribery with OECD in Kazan. To support this ongoing work, ACT should enforce the implementation of the APEC Course of Action on Fighting Corruption and Ensuring Transparency, APEC Code of Conduct for Business and the Conduct Principles for Public Officials to ensure the continuous effort to combat bribery and commitment to promote integrity, transparency and good governance within Asia Pacific region.

Corrupt practices like bribery involves supply and demand side, active and passive actors. ACT will also concentrate to enhance public private partnerships to foster more transparency and integrity in the business sector. Hence, it is crucial to prevent and punish this practice from both sides to ensure a clean and transparent business environment. ACT members should continue to encourage all member economies to implement APEC leaders' commitments to fight and prosecute corruption.

3. Anticipated Activities and/or Proposed Work Plan with outside organizations in response to Leaders' and Ministers' calls for greater engagement with:

A) Business Sector; and

B) Other Organizations/Stakeholders, including the IFIs and other International Organizations

- To host workshop on Challenge and Strategy of Strengthening Anti-Corruption Authorities to Combat Corruption in a Modern World (SOM 1)
- To host workshop on Maintaining Integrity through Gift Rules and Facilitation Payment Regulation in partnership with the private sector (SOM 3)
- To promote and foster collective efforts in the fight against corruption with other international organizations including the Organization for Economic Cooperation and Development (OECD), United Nations Office on Drugs and Crime (UNODC), Transparency International, the World Bank and International Anti-Corruption Academy (IACA).

4. Expected Outcomes/Deliverables for 2013.

The expected outcomes for 2013 are:

- APEC-ASEAN Pathfinder Project on Combating Corruption and Illicit Trade, June 2013 (Siem Reap, Cambodia)
- Workshop on "Challenge and Strategy of Strengthening Anti-Corruption Authorities in Combating Corruption in a Modern World" (Jakarta, Indonesia - SOM 1)
- Workshop on Maintaining Integrity through Gift Rules and Facilitation Payment Regulation (Medan, Indonesia - SOM 3)
- To develop ACTWG strategic planning
- To develop Law Enforcement Authority network under the ACTWG

- Thailand- Chile workshop, "Capacity-Building Workshops on 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 Growth". (First workshop to be held in June 11-13, 2013 in Santiago of Chile)

20th APEC ECONOMIC LEADERS' Declaration
Vladivostok, Russia
FIGHTING CORRUPTION AND ENSURING TRANSPARENCY

We, the APEC Leaders, renew our commitment to fight corruption and to enhance transparency and accountability in our economies.

We recognize the direct link between vigorously fighting corruption and achieving progress in economic and social development. Corruption facilitates and is fueled by illicit trade as criminal entrepreneurs and illicit networks traffic, costing APEC economies jobs and vital tax revenue, corroding the integrity of legitimate supply chains, endangering the welfare, health and safety of our families and communities, and harming the economic interests of our businesses and markets. Corruption threatens our common goals of securing open markets, economic prosperity, and the rule of law.

Corruption can deter foreign and domestic investment, hamper and distort market competition, threaten consumer safety, and raise the cost of public services and infrastructure projects. It not only stifles economic growth and sustainable development but also fuels insecurity and instability by compromising public trust. Corruption of public officials undermines legal and judicial systems as well as public trust in government. The negative effect of corruption is felt by the poor in the most direct and disproportionate way.

We re-affirm the Santiago Commitment to Fight Corruption and Ensure Transparency and the APEC Course of Action on Fighting Corruption and Ensuring Transparency, which guide the APEC's work in this important area. In this regard we commend the efforts undertaken by the APEC Anti-Corruption and Transparency Experts' Working Group (ACTWG) to implement the measures outlined in these guidelines, including through the development of tools such as the APEC Principles for Financial/Asset Disclosure by Public Officials.

We underscore our commitment to investigate and prosecute corruption offences in accordance with domestic law and to prevent corrupt holders of public office from accessing the proceeds of their criminal activities in our financial systems.

We emphasize the importance of effective preventive anticorruption measures. Corruption thrives in non-transparent environments. Transparency and public integrity are effective principles for preventing corruption and promoting good governance and sound management of public resources.

We remain committed to the goals of the APEC High Level Policy Dialogue on Open Governance and Economic Growth. And we believe that economies and stakeholder communities – including representatives from business, academia, and non-governmental and labor organizations – can work to enhance public trust by committing to transparent, fair, and accountable governance. Open governance, technology, and innovation can help shed light on corruption and empower communities to monitor and voice their perspectives on government policies and the use of resources.

We are committed to increase public sector transparency and integrity in our economies and to reduce administrative burdens where appropriate and in accordance with domestic legal systems. We will work to enforce rigorously our anti-bribery laws and encourage strengthening procedures and controls to conduct enhanced due diligence on accounts of individuals who are, or have been, entrusted with prominent public functions including through enhanced financial and asset disclosure consistent with domestic legislation and administrative guidelines.

We will also work to facilitate recovery of the proceeds of corruption consistent with domestic legislation. We will continue, in compliance with our respective international commitments and domestic legislation, to investigate and prosecute corrupt public officials and those who bribe them, including by vigorously enforcing our domestic bribery laws and our laws criminalizing the bribery of foreign public officials, ensuring that measures against both supply and demand of corruption are effectively implemented in accordance with domestic legislation. We urge APEC economies that do not criminalize foreign bribery to adopt such legislation.

We will continue to work with all stakeholders on international and domestic financial markets to deny safe haven to assets illicitly acquired by individuals engaged in corruption and prevent corrupt officials and those who corrupt them from being able to travel abroad with impunity by denying entry and safe haven in our jurisdictions. In this framework, we reiterate our commitment to take concrete steps to ensure that financial markets are protected from criminal abuse, including bribery and corruption. We will fight vigorously against money laundering, including by investigating and prosecuting money laundering offences and by implementing the revised recommendations of the Financial Action Task Force (FATF) consistent with domestic legislation.

We will work together and with international and regional development institutions to aggressively combat fraud, corruption, and the misuse of public resources. We will also support the efforts of respective member economies to build capacity to combat corruption by strengthening anti-corruption bodies, the rule of law, fiscal transparency and accountability; by reforming public procurement systems; by developing and promoting mechanisms that support effective return of recovered assets; and by encouraging the implementation of high standard codes of ethics.

We recognize the unparalleled value of the UNCAC as a universal mechanism against corruption and call upon the economies that have not yet ratified the UNCAC to do so at the earliest date possible. We encourage the APEC member economies, where appropriate, to take all necessary measures to fully implement the UNCAC's provisions, consistent with the fundamental principles of their legal systems.

We note that while globalization and technological innovation have been a positive force for development and prosperity, illicit networks and counterfeiters have taken advantage of our increasingly interconnected world to expand their illicit enterprises and undermine the safety of our regulatory processes. We are committed to strengthening anti-corruption and/or other law enforcement agencies and enforcement efforts, as well as to expediting economy-to-economy cooperation in order to respond to emerging challenges.

We welcome the recent contributions of the APEC Business Advisory Council (ABAC)

and the ACT in these important areas and in fighting corruption and illicit trade. We encourage additional efforts to ensure the safety of medicines. We remain committed to combat illicit trade; attack the financial underpinnings of transnational criminal organizations and illicit networks; strip criminal entrepreneurs and corrupt officials of their illicit wealth; and sever their access to the global financial system.

We recognize the important role of business and public-private partnerships in promoting the elaboration of codes of conduct in the private sector and measures to fight corruption, especially measures that support the promotion of ethical business practices in interactions between government, business and other stakeholders. We welcome efforts by our SME Ministers, industries and academics to promote voluntary, industry-specific APEC principles that aid in this effort.



**Asia-Pacific
Economic Cooperation**

2013/SOM1/ACT/011

Agenda Item: 6

Anti-Corruption Initiatives in Malaysia

Purpose: Information
Submitted by: Malaysia



**16th Anti-Corruption and Transparency
Experts' Working Group Meeting
Jakarta, Indonesia
26-27 January 2013**

ANTI-CORRUPTION INITIATIVES IN MALAYSIA

1.0 INTRODUCTION

As Malaysia is on its journey to become a fully-developed and high income nation by 2020, fighting against corruption is high on our agenda. To this end, key national development initiatives, namely the Economic Transformation Programme (ETP) and the Government Transformation Programme (GTP) are in place to drive the country forward. The GTP aspires to achieve fundamental building blocks for the success of economic transformation, and addressing corruption is one of the seven National Key Result Areas (NKRAs) under the GTP. We believe that corruption must be fully eliminated to reduce cost of doing business, and remove inefficiencies in the system that will severely limit our economic transformation and growth, thus ambition of becoming a fully developed nation. Understanding the grave implications of corruption on the social and economic development of the country, the Fighting Corruption NKRA sets practical targets and initiatives, with a view to stem out corruption, and mitigate public perception about its occurrence.

2.0. UNITED NATIONS CONVENTION AGAINST CORRUPTION (UNCAC)

2.1. Malaysia On Review

Malaysia in the year 2012 took draw and was duly chosen to be reviewed in the year 2012/13 mainly giving addresses to the implementation of Chapter III Criminalization and Law Enforcement and IV on international cooperation of UNCAC. The MACC as Malaysia's focal point has already submitted a duly completed questionnaires to the UNCAC Secretariat in preparation of the review process. The review will be carried out through a country's visit and Malaysia will be reviewed by the Philippines and Kenya from the 3rd – 8th February, 2013.

2.2. Article 45 of the UNCAC

In 2008, Malaysia embarked on a plan of action to consider setting up a regime on the international transfer of prisoners through specific legislation adhering to Article 45 of the UNCAC, "*States Parties may consider entering into bilateral or multilateral agreements or arrangements on the transfer to their territory of persons sentenced to imprisonment or other forms of deprivation of liberty for offences established in accordance with this Convention in order that they may complete their sentences there.*" The Ministry of Home Affairs of Malaysia, which is the ministry in charge of matters relating to the The International Transfer of Prisoners has called for inter-agency meetings to discuss the regime and the bill in order to allow Malaysia to identify how the regime would function and how it could be successfully implemented. The bill has tabled to Parliament in the month of December 2012 and awaiting to be implementation.

3.0 INTERNATIONAL ASSOCIATION OF ANTI-CORRUPTION AUTHORITIES (IAACA)

Malaysia too recently hosted the 6th International Association of Anti-Corruption Authorities (IAACA) Annual Conference and General Meeting 2012 on 4-7th October 2012. During the conference, Malaysia through MACC signed two Memorandum of Understanding (MoU) of which one of the MoUs strike out as the implementation of one the IACA's Master in Anti-Corruption Studies (MACS) syllabus in particular. The Government of Malaysia has also pledged a contribution of RM1 million, amounting to 250,000 EURO in support of IACA's general budget which reflects Malaysia continuous commitment to eradicate corruption both locally and internationally.

4.0 INTERNATIONAL ANTI-CORRUPTION ACADEMY (IACA)

YBhg. Dato' Sri Abu Kassim bin Mohamed, Chief Commissioner of MACC was elected as a member of the Board of Governors to the International Anti-Corruption Academy (IACA) for a six-year term during IACA 1st Assembly of Parties in Vienna, Austria from 29-30 November 2012. He was also to complement to the same, was also being appointed as the Vice President of the Board of Governors during the same session.

5.0 INTERNATIONAL COOPERATION

By agreeing on mechanisms to fight corruption, the international community is opening the doors for increased multilateral and bilateral cooperation on important but traditionally local fronts. This, in turn, encourages the sharing of best practices, builds trust and relationships between cooperating countries, and ultimately increases the effectiveness of bilateral and multilateral efforts and development assistance programs as well as the signing of Memorandum of Understanding (MoU). With this regard, two (2) MoUs were signed in the year 2012. Among the objectives ruled out within the contents were to provide professional training courses, exchanging of expertise and developing human resources, to exchange information and professional materials on the work of preventing and combating corruption and to exchange experiences in respect of detecting corrupt acts as well as methods and means of people who commit corrupt acts. The MoU's signed are with National Anti-Corruption Commission of Thailand and International Anti-Corruption Academy, Vienna.



**Asia-Pacific
Economic Cooperation**

2013/SOM1/ACT/015

Agenda Item: 6

Indonesia Progress on UNCAC Implementation

Purpose: Information
Submitted by: Indonesia



**16th Anti-Corruption and Transparency
Experts' Working Group Meeting
Jakarta, Indonesia
26-27 January 2013**

INDONESIA PROGRESS ON UNCAC IMPLEMENTATION
Anti-Corruption and Transparency Working Group
SOM 1, APEC INDONESIA
January, 26 2013

Good afternoon distinguished member economies,

Indonesia believes that the implementation of the UN Convention Against Corruption (UNCAC) provision is very crucial for anti-corruption efforts; hence, Indonesia has taken several concerted domestic efforts to fulfil its commitment to UNCAC.

First, in compliance with article 16 Chapter III of UNCAC, Indonesia is currently drafting the amendment of Anti-Corruption Law which includes the criminalisation of Foreign Bribery. The draft will regulate both the active and passive bribery, and also incorporates new provision on Corporate Liability. This new provision will support the law enforcement agency to investigate and prosecute corporation involved in bribery scheme.

In order to support the effort to strengthen the Anti-Corruption Agency as well as to comply with article 36 Chapter III of UNCAC, Indonesia hosted a workshop on Principles for Anti-Corruption Agencies in 2012. Leaders of Anti-Corruption Agencies and representative of regional networks as participants of the workshop reviewed and discussed their experiences, challenges, and key requirements to ensure the independence and effectiveness of Anti-Corruption Agencies. A key result was the adoption of Jakarta Statement on Principles for Anti Corruption Agencies which recommends principles to ensure the independence and effectiveness of Anti-Corruption Agencies. Furthermore, to strengthen international cooperation in combating corruption in compliance with Chapter IV of UNCAC, Indonesia has signed Bilateral Agreement on Mutual Legal Assistance and Extradition with several countries, and improve multilateral collaboration by actively involved in Regional and International Networks.

To fulfil the obligations to prevent corruption as stated in Chapter II of the convention, KPK initiated a pilot project called the Electoral Integrity program during the election of DKI Jakarta Governor. This program comprises of the candidates wealth report verification, integrity pact signing as part of candidates' commitment for a clean government, and also dissemination good governance information to candidates. This program is expected to reduce corruption and bribery in the public sector.

On 29 November 2012, to encourage the gratuity report, Indonesia launched the e-gratuity

module to replace conventional gratuity dissemination program. E-gratuity module consists of the legal basis, rules, FAQ, the procedure to report a gratuity, and interactive gratuity simulation. This module serves as the tools to disseminate the information on concept of gratuity and reporting procedures.

Beside the efforts to prevent corruption, KPK also give a serious attention to develop anticorruption education especially for children. As the first step, KPK launched Integrity Buds Program, including publishing story book which contains of anti-corruption moral message and conducted a workshop for parents and teachers to implement anti-corruption values through children daily activities, such as poems and story-telling. Another strategy to educate people is anticorruption campaign through social media. KPK in collaboration with donor institutions launched a movie called “Kita vs Korupsi” (Us vs Corruption) on January 2012. Since its launch, this film has been watched by more than 50,000 viewers in Indonesia.

Furthermore, KPK Indonesia also encourages more than 200 anti-corruption communities to support the anti-corruption movement and become the agent of change through a program called the Anti-corruption Youth Camp in 2012.

Ladies and gentlemen,

We believed, as deemed by the UNCAC, international cooperation is needed as corruption is no longer domestic issue, but it goes beyond borders. Therefore, it becomes ever more crucial to strengthen cooperation and collaboration not only to prevent corruption but also to criminalize the corrupt act. Indonesia will continue to develop anti-corruption tools and measures both in prosecution and prevention to comply with the UNCAC Convention.

We are looking forward to more extensive exchanges and more enriched cooperation with all member economies. We also wish the work of the ACT Working Group can contribute more to the establishment of clean and effective governance and the fight against corruption in the Asia Pacific region.

Thank you.



**Asia-Pacific
Economic Cooperation**

2013/SOM1/ACT/019

Agenda Item: 6

Viet Nam - Some Recent Progresses in Anti-Corruption

Purpose: Information
Submitted by: Viet Nam



**16th Anti-Corruption and Transparency
Experts' Working Group Meeting
Jakarta, Indonesia
26-27 January 2013**

VIETNAM'S SOME RECENT PROGRESSES IN ANTI-CORRUPTION

1. High-level political commitment to the comprehensive anti-corruption work

- Political determination of Vietnam in the fight against corruption continues to be confirmed by the review of five-year implementation of the Anti-Corruption Law.

- The Communist Party of Vietnam's Central Committee had concluded about continuing to promote the prevention of corruption and establishing of the Central Steering Committee on Anti-Corruption led by the General Secretary of the Communist Party leader.

- On 23 November 2012, the National Assembly adopted the Law amending and supplementing a number of articles of the Law on Anti-Corruption 2012, the amended new law will take effect from 01 January 2013. The Government of Vietnam also issued the Action Plan on implementation of anti-corruption and wastefulness Period 2012-2016 on 06 December 12.06.2012. These important legal documents are strong foundation or increasingly strong anti-corruption efforts of Vietnam in the stage of 2012 to 2016.

2. To promote the role and responsibility of the society in the fight against corruption:

Vietnamese Government continues to direct and implement measures to promote the role and responsibilities of the society in the fight against corruption, to create favorable conditions for people, social-political organizations, businesses, associations, press agencies to join the fight against corruption.

The mass media continue to promote the propagation and dissemination of policies and laws on anti-corruption. The Government Inspectorate of Vietnam actively implement the Vietnam Anti-Corruption Initiative Program 2011 and launch this Program for 2013; Vietnam Chamber of Commerce and Industry organized the forum for policy dialogue between the authorities and the business community for the purpose of developing a healthy, transparent and corruption-free business environment.

The supervision role of social organizations are improved in such cases as monitoring the implementation of the laws on corruption and wastefulness prevention, monitoring of operational funds, use of funds, public property management ... The press and media agencies reflect and contribute to the detection of many negative cases, corruption cases of public concern. Through monitoring activities of the society, the role and responsibilities of the state agency for the prevention of corruption are also enhanced.

3. Advance quality of officials in the clean and strong:

- Vietnamese Party and State are actively implementing Resolution 4 of the Party's Central Committee on building the Communist Party, which emphasizes on maintaining quality content, ethics, corrupt-free way of life of the Party's members.

- Since 2013, the National Assembly has adopted and implemented the mechanism of voting of trust for the positions elected or approved by the National Assembly, People's Councils including key leadership positions at central level.

4. Strengthen prevention measures:

- Vietnam is moving forward in promoting administration procedures, openness and transparency in the activities of agencies.

- The review and issuances of legal documents on norms and mechanism are enhanced in many fields.

- The declaration of assets is done regularly and essentially complete.

- Method of payment will be renovated with a scheme to promote non-cash payment in Vietnam in 2011-2015.

- Many agencies, organizations and businesses has developed and launched the implementation of Code of ethics.

- The governments at different levels, the industries and sectors continue to push up the job position rotations for officials and public servants. In many cases, the heads of agencies and organizations have been handled for the occurrence of corruption.

5. International Cooperation and the implementation of the UN Convention against Corruption:

Vietnam continued to fully implement international agreements on anti-corruption, strengthened and extended bilateral and multilateral cooperation participated in international forums on anti-corruption; successfully hosted the 17th Steering Group Meeting and 11th Regional Seminar of the ADB/OECD Anti-corruption Initiative for the Asia-Pacific.

Vietnam is also an active and responsible State party of the UN Convention against Corruption. With the support of the EU and UNDP, we have achieved remarkable results in the implementation of the Convention.

The Convention was ratified by Viet Nam on 30 June 2009 and officially took effect from the date of 18 September 2009. Vietnam has developed the Convention implementation Plan including 53 activities of laws and Convention dissemination, internalized the content of the Convention to meet the requirements of the Convention. Vietnam's Convention implementation Plan identifies roadmap for the

implementation of the Convention in three phases: Phase 1: From the issuance of the Plan to the end of 2011; Phase 2: From 2012 to 2016; Phase 3: From 2016 to 2020.

After more than 03 years of implementation, the basic content of the above-mentioned plan have been implemented synchronously. The first phase of the Convention implementation Plan has achieved the following main results:

a) The anti-corruption legislation and Convention disseminating activities were deployed widely in a variety of ways, with many different objects in the society;

b) The building of institutions and policies on anti-corruption to meet the requirements of the Convention has been carried out step by step in accordance with the context of Vietnam. A number of important legal documents have been developed/amended such as Inspection Law 2010; Law on Complaints 2011; Law on Denunciation 2011; Circular on system evaluation and measuring criteria on corruption, etc.

c) The coordination and enhancement of the effectiveness of law enforcement on anti-corruption was focused and gradually improved. The regulations on coordination between agencies and organizations on anti-corruption has been promulgated and implemented.

Vietnam is the country selected in the review first cycle which focusing on Chapter III (Criminalization and law enforcement) and Chapter IV (International Cooperation), consisting of 35 articles, 180 specific questions, including 145 questions about the level of compliance, 35 questions on technical assistance needs.

Results of the review shows that Vietnam has enacted, been in compliance with and fully implemented 102/145 requirements in Chapter III and Chapter IV of the Convention; has enacted, been in compliance with and partly implemented 29/145 requirements of the Convention; has yet issued and fully implemented 14 requirements of the Convention (mainly related to the contents that Vietnam has stated or reserved upon ratification of the Convention).

In general, Vietnam has relatively responded to all the requirements of the Convention within the content of the first assessment cycle. However, Vietnam has also identified a specific content is not suitable and the difficulties and challenges in fully and more comprehensively meeting the requirements of the Convention, especially complete requirements in the field of criminal law, criminal procedure and mutual legal assistance.

Evaluation results of the group of international experts (including experts from the Italy, Lebanon, with the support of the Secretariat of the Conference of the States Parties to the Convention) also made comments basically similar to the self-assessment of Vietnam.

Vietnam was one of the first countries to complete the assessment in the second year of the

first review cycle, which is highly appreciated by the Secretariat of the Conference of the States Parties to the Convention and the international community.

6. Orientation in the coming time

In the near future, to implement the newly amended Anti-Corruption Law, Vietnam will focus on the following activities:

- Develop and promulgate Master plan to implement of the newly amended including details of building the legal documents under the Law; review and amend the relevant laws, dissemination thoroughly in whole country.

- Issuance of documents detailing and guiding the implementation of the provisions of the new Law: Decree of the Government detailing a number of articles of the Law on Anti-corruption; Decree of the Government on transparency of assets and income; Decree of Government on accountability of officials and public servants, heads of agencies, organizations and units in the implementation of tasks, civil service and the implementation of the provisions on disclosure and transparency in the activities of the agencies, organizations and units.

- Promote the propagation and dissemination of the new Law and the relevant documents

- Implement training, professional training on a number of amendments in the Law.

- Coordinate with machinery construction and personnel development in accordance with the spirit of the new Law.

- Continue to effectively implement the second phase of the Convention implementation Plan and actively prepare for the second review cycle on the implementation of the Convention/.



**Asia-Pacific
Economic Cooperation**

2013/SOM1/ACT/030

Agenda Item: 6

Chinese Taipei's Progress on Implementation of the UNCAC

Purpose: Information
Submitted by: Chinese Taipei



**16th Anti-Corruption and Transparency
Experts' Working Group Meeting
Jakarta, Indonesia
26-27 January 2013**

Chinese Taipei's Progress on Implementation of the UNCAC

Mr. Chairman, distinguished members of the ACT Working Group, Chinese Taipei is very pleased to have this opportunity to present its recent progress on implementation of the UNCAC.

First of all, it is recalled that Article 8 of the UNCAC emphasizes the importance of enhancing transparency on public administration, in particular publishing information which may include periodic reports on the risks of corruption. Chinese Taipei is aware that many corruptions originally arise from illegal or improper contacts, in particular personal contacts made between civil servants and private sectors. It is not unusual that some private sectors do not follow legal procedures to do business with the government. Instead, they like to have personal contact with civil servants who are in charge of their cases. Given the fact that these personal contacts often give rise to potential corruptions, Chinese Taipei in September 2012 published a regulation ordering civil servants shall disclose and report any illegally or improperly personal contacts within 3 days after such contacts are made. If the civil servants concerned fail to do so, they may be subject to a range of administrative sanctions. Chinese Taipei believes this measure will discourage private sectors from making personal contacts with civil servants, and therefore reduce the possibilities of corruptions.

Secondly, there is a strong link between fighting corruption and improving governance and transparency. In this regard, Mr. Chairman, Chinese Taipei recognizes that government procurement holds a special importance in the current era of economic globalization. Without an impartial and transparent government procurement system, the benefits that multinational corporations can obtain through economic globalization might be reduced to a greater extent. On the other hand, it is understood that an opaque and unjust government procurement environment easily leads to corruption in public sectors. Chinese Taipei is of the view that only a sound government procurement system can reduce corruption risks, stimulate transnational business activities and promote economic growth. For this reason, the Agency Against Corruption and other competent authorities of Chinese Taipei last year conducted many administrative and judicial investigations on different areas of government procurement. Through these investigations, the competent authorities found a number of kinds of unfair procurement or even corruption involved. As a result of these checks and investigations, Chinese Taipei hopes that the impartial and transparent government procurement system can be therefore established.

Finally, Chinese Taipei also recalls that Article 3 of the UNCAC puts stress on the freezing, seizure, confiscation and return of the proceeds of corruption. In line with this provision, Chinese Taipei adopted a medium-term campaign, which started from 2009 and ended in 2012. Specifically, according to this campaign, all levels of Prosecutors Offices shall establish their own special teams to deal with the issue regarding the asset recovery. Every prosecutor was also instructed to actively take actions to seize and confiscate the proceeds of corruption. Furthermore, in order to integrate resources available from a variety of departments, Chinese Taipei also created a cross-department collaboration mechanism to facilitate the asset recovery. By means of these measures, the amount of the asset recovery increased year by year. Mr. Chairman, Chinese Taipei understands that one of the main topics of the ACT in this year is "Promoting International Cooperation Networks amongst Member Economies". It is beyond doubt that the asset recovery is a cross-border issue nowadays. To this end, Chinese Taipei will continue promoting cooperation with other economies on this issue. Thank you very much.



**Asia-Pacific
Economic Cooperation**

2013/SOM1/ACT/WKSP/001

Draft Agenda

Submitted by: Indonesia



**Workshop on Challenge and Strategy of
Strengthening Anti-Corruption Authorities
to Combat Corruption in a Modern World
Jakarta, Indonesia
28 February 2013**

Workshop on Challenge and Strategy to Strengthen Anti-Corruption Authorities to Combat Corruption in a Modern World

Organised by
Anti-Corruption and Transparency Working Group (ACT)
Asia-Pacific Economic Cooperation (APEC)

Hosted by
Corruption Eradication Commission (KPK)
The Republic of Indonesia

Jakarta, Indonesia
28th January 2013

Workshop Overview:

A serious disease needs strong medication. So does corruption. Nowadays, corruption has become a widely spread and severe disease. Thus, it needs powerful means and measures to cure and prevent further symptoms. The practice of corruption is practice against the law, humanity, governance and democracy. Therefore, the existence of anti-corruption body or authority that is able fully exercise its powers and mandates to curb and prevent corrupt practices in their country could be regarded as one of weapon to curb and prevent corrupt practices.

The urgency for the establishment of the anti-corruption body or authority was exclaimed by the international community through the UNCAC Convention. This Convention introduces comprehensive set of standards, measures and rules for every state parties to strengthen their legal and regulatory regimes to fight corruption. In accordance with article 6 and 36 of the Convention, each state parties shall ensure the existence of a body or bodies that specialize to prevent and combat corruption. The bodies should be granted with necessary independence and adequate resources to be able to operate effectively and free from any undue influence.

At the latest APEC Economic Leaders' Week, held in Vladivostok, Russia, in September 2012, APEC Ministers renewed their "commitment to fight corruption and to enhance transparency and accountability in APEC economies". They also underscored their "commitment to investigate and prosecute corruption offences in accordance with domestic law and to prevent corrupt holders of public office from accessing the proceeds of their criminal activities in our financial systems". Moreover, APEC Ministers reiterated their will to "support the efforts of respective member economies to build capacity to combat corruption by strengthening anti-corruption bodies".

As the Chair of APEC ACT 2013, Indonesia is pleased to host this workshop to discuss this issue with all ACT member economies and invited international organisations. We invite ACT members to share their experiences, best practices, challenges and strategies to remain independent and work effectively in combating corruption. We believe that it would be a great opportunity to hear other ACT member's experience in carrying out its duties. Furthermore, with their particular insight, along with their experience, the workshop participants will have the chance to exchange information and suggest ways to strengthen cooperation amongst ACT members.

DRAFT AGENDA
28th January 2013

9:00-9:30	Arrival of participants
09:30 – 10:15 Opening Session	<p>Welcoming remarks: Mr. Adnan Pandu Praja, Commissioner, Corruption Eradication Commission (KPK), Indonesia</p> <p>Keynote Address : Mr. Kuntoro Mangkusubroto, Head of Presidential Delivery Unit for Development Monitoring and Oversight (UKP4) (tbc)</p>
10:15-10:30	Coffee Break
10:30 – 12:15 First Session	<p>Anti-Corruption Authorities (ACAs) Independence: Case Studies & Lessons Learned Chair: Ms. Rebecca Li, Director of Investigation, ICAC, Hongkong (tbc)</p> <p>Discussants:</p> <ul style="list-style-type: none"> • "Malaysia's MACC experience", MACC, Malaysia (15 min) • "Brunei Darussalam's ACB experience", ACB, Brunei Darussalam (15 min) • "Philippine's experience", Office of the Ombudsman, Philippine (15 min) • "Indonesia's experience", Mr. Bambang Widjojanto, Commissioner, KPK, Indonesia <p>Q&A/ Discussion: 15 min</p>
12:15 – 1:30	Lunch (to be hosted by KPK)
1:30 – 3:00 Second Session	<p>Effectiveness of Anti-Corruption Authorities: Challenges and Best Practices ACT member economies are expected to share challenges in terms of their effectiveness and suggest best practices to tackle those challenges. Each presenter will be requested to present at least one challenge and one best practice from their country.</p> <p>Chair: Erry Riyana Hardjapamekas, Former Commissioner of KPK (tbc)</p> <p>Discussants:</p> <ul style="list-style-type: none"> • United States of America (15 min) • Attorney-General's Department (AGD), Australia (15 min) • Ministry of Supervision, People's Republic of China (15 min)(tbc) • Russia <p>Q&A/ Discussion: 15 min</p>
3:00 – 3:15	Coffee Break
3:15 – 5:00 Third Session	<p>Strengthening Anti-Corruption Authorities: An International Experience In this session, each discussant is expected to share their experience and views on how best to strengthen Anti-Corruption Authorities.</p> <p>Chair: Mr. Giri Supradiono, Corruption Eradication Commission of Republic of Indonesia (KPK)</p> <p>Discussants:</p> <ul style="list-style-type: none"> • Mr. Shervin Majlessi, UNODC (15 min) • Mr. James Brumby, World Bank (15 min) • Samuel De Jaegere, Anti-Corruption Specialist, UNDP Asia-Pacific Regional Centre (15 min) <p>Q&A: 30 min</p>
5:00	Wrap up and closing



**Asia-Pacific
Economic Cooperation**

2013/SOM1/ACT/WKSP/010

Session 2

Strengthening Anti-Corruption Authorities and Integrity Systems

Submitted by: Australia



**Workshop on Challenge and Strategy of
Strengthening Anti-Corruption Authorities
to Combat Corruption in a Modern World
Jakarta, Indonesia
28 February 2013**

Strengthening Anti-Corruption Authorities & Integrity Systems
APEC Anti-Corruption Working Group Workshop
Jakarta, January 2013

Introduction

Mr Chair, distinguished APEC delegates, I would like to thank the Government of Indonesia and KPK for hosting this very important workshop on strengthening anti-corruption agencies.

KPK has of course proven itself as a highly effective, courageous and resilient anti-corruption agency. Australia enjoys a productive relationship with KPK, including a Memorandum of Understanding to promote cooperation.

I am sure we will continue to learn much from KPK's experience, and from the other regional anti-corruption authorities here today.

I will explain Australia's approach to strengthening anti-corruption and integrity agencies in three steps:

- First, I will give examples of the kind of corruption that Australia has encountered at the national level in recent years
- Second, I will describe how those examples of corruption harm Australia's interests.
- Finally, I will use a case study of recent corruption in the Australian Customs and Border Protection Service to illustrate new measures to strengthen the Australian Commission for Law Enforcement Integrity - our national law enforcement anti-corruption agency.

I should add that the vast majority of Australia's law enforcement officers are good, honest and hardworking people.

But we can't be naïve. Because of the sort of work they do, the powers they have and the information they receive, they can be targeted by organised criminals.

Recent examples of corruption in Australia

During the last decade, Australia experienced a number of corruption cases at the national level that received significant media attention in Australia, and in the APEC region.

1. Back in 2005, the Australian Wheat Board, an Australian Government entity, was found to have arranged bribes of hundreds of millions of dollars to the regime of Saddam Hussein to gain lucrative wheat contracts.
This action also contravened the requirements of the UN Oil-for-food program.
2. The Australian Federal Police investigated allegations that subsidiary companies of the Reserve Bank of Australia — Securrency International and Note Printing Australia — bribed foreign government officials to gain bank note printing contracts.
In July 2011, with assistance from some regional economies here today, the Australian Federal Police charged Securrency International, Note Printing Australia, and eight individuals, with foreign bribery offences.
3. Since December last year (2012) ten people have been arrested in relation to importation of illicit drugs into Australia.
This included officials of the Australian Customs and Border Protection Service, who were charged with offences including corruption, receiving bribes, drug importation, and possessing prohibited weapons.
This is an ongoing operation and further arrests are possible.
This case illustrates the strong incentives transnational criminals have to corrupt law enforcement officials, and the need for new powers for our law enforcement anti-corruption agency, the Australian Commission for Law Enforcement Integrity.

Corruption harms Australia's interests in three important ways

1. **Australia's international reputation** — Corruption has the potential to undermine Australia's reputation for high standards of governance, robust law and justice institutions, and transparent and fair markets.

However, even one corruption or bribery matter can damage Australia's international standing. For example, the [*Inquiry into the Australian Wheat Board in relation to the UN Oil-for-Food Programme*](#) (the Cole Inquiry, 2006) found that the adverse consequences of the Wheat Board's bribery of Iraqi officials were "immense."

Trade with Iraq worth more than A\$500 million per annum was forfeited, and AWB cast a shadow over Australia's reputation in international trade.

Transparency International attributed this scandal to Australia temporarily losing its place in 2007 as one of the ten least corrupt countries in the world.

2. **National and global security** — The Australian Government identified serious and organised crime as a national security priority in the [*Commonwealth Organised Crime Strategic Framework*](#). The framework identifies corruption as a major challenge in addressing organised crime.

Criminal networks actively seek out individuals within law enforcement and other public sector entities to corruptly undertake and conceal illicit activities, and to launder the proceeds of crime.

Similarly, the Australian Crime Commission's 2011 report, [*Organised Crime in Australia*](#), analysed the international convergence of corruption, political instability and violent extremism.

This convergence provides an enabling environment for moving and exchanging drugs, arms, people, stolen or pirated goods and for funding criminal and extremist activities.

The report found that states with high levels of corruption feature prominently among failed, failing and rogue states.

Such states provide a base for both transnational organised crime and terrorist groups.

These different types of harm require an ongoing effort to strengthen our anti-corruption and integrity agencies to ensure they respond effectively to new and emerging threats.

New measures to strengthen the Australian Commission for Law Enforcement Integrity

The corruption detected in the Australian Customs and Border Protection Service was the result of a two year investigation by the Australian Federal Police, Customs itself, and the Australian Commission for Law Enforcement Integrity (ACLEI).

ACLEI has the powers of a standing Royal Commission including the power to compel people to provide documents, hold coercive hearings, tap phones, execute search warrants and undertake physical as well as electronic surveillance.

In addition to these strong powers, the Australian Government introduced a major package of reforms to crackdown on organised crime and corruption.

These new powers include:

1. **Integrity Testing** - In November 2012 the Federal Parliament passed legislation to enable targeted integrity tests on law enforcement officers suspected of corruption.

These covert operations are designed to test if someone is corrupt.

It can involve offering a bribe, leaving money at the scene of a crime or putting false information on a database to see if it is passed on.

It is a psychological weapon - designed to put fear into the mind of the corrupt.

The next time they take a bribe from a criminal, that criminal could be an undercover police officer.

2. ***Drug and Alcohol Testing*** - In April 2012 the Government announced that the Customs and Border Protection Service would have the same integrity powers as the Australian Federal Police and the Australian Crime Commission including the power for the CEO to authorise random drug and alcohol testing on all staff. This legislation was passed in November last year.
3. ***The power to terminate officers for Serious Misconduct*** - the CEO of Customs now has the same powers as the Australian Federal Police Commissioner to make a declaration terminating the employment of an officer for serious misconduct.
4. ***Mandatory requirements to report serious misconduct*** – the Government has introduced mandatory reporting requirements, whereby Customs officers are required to report any misconduct or corruption activity.
5. ***Expansion of the corruption watchdog*** - the Government has given the Australian Commission for Law Enforcement Integrity new powers to oversee additional agencies with law enforcement functions.

In addition to overseeing the Australian Federal Police, the Australian Crime Commission and the Australian Customs and Border Protection Service, ACLEI also oversees Biosecurity staff from the Department of Agriculture, Fisheries and Forestry, and the financial intelligence unit AUSTRAC.

6. ***Doubling of funding to oversee Customs and Border Protection*** - the funding for ACLEI to oversee the Australian Customs and Border Protection Service has been doubled.
7. ***Joint Taskforce to assess vulnerabilities in the international airstream*** – the Government has announced the establishment of a joint law enforcement taskforce to undertake an assessment of the vulnerabilities around the international air stream. This work is underway and will be finalised this year.

The Minister for Justice has advised that this is just the start. There is more to come.

The Government is working on major structural and cultural reforms to the Customs and Border Protection Service and will announce them this year.

In addition to these efforts, the Australian Government is developing Australia's first National Anti-Corruption Plan.

A key objective of the plan is to strengthen Australia's existing governance arrangements by developing a Commonwealth policy on anti-corruption.

The plan brings all relevant Commonwealth agencies together under a cohesive framework and strengthens the government's capacity to identify and address corruption risks.

Thank you for the opportunity to share these developments in strengthening Australia's anti-corruption and integrity agencies.



**Asia-Pacific
Economic Cooperation**

2013/SOM1/ACT/WKSP/012

Session 3

Strengthening Anti-Corruption Authorities Under the United Nations Convention Against Corruption

Submitted by: UNODC



**Workshop on Challenge and Strategy of
Strengthening Anti-Corruption Authorities
to Combat Corruption in a Modern World
Jakarta, Indonesia
28 February 2013**

Session: Strengthening Anti-Corruption Authorities: An International Experience
“Strengthening anti-corruption authorities under the United Nations Convention against Corruption”

Shervin MAJLESSI
Regional Anti-Corruption Adviser
United Nations Office on Drugs and Crime (UNODC)
Regional Centre for East Asia and the Pacific

Summary

My presentation will focus on provisions of the United Nations Convention against Corruption (UNCAC) focusing on strengthening anticorruption agencies, elaborating on the text of the convention, relevant resolutions of the Conferences of the States Parties to the UNCAC, as well as lessons emerging from Implementation Review Mechanism of UNCAC. I will also make reference to lessons learned by OECD Working Group on Bribery (based on material provided by OECD).

Below are excerpts of material which are used in the presentation:

Relevant provisions of UNCAC

Article 6. Preventive anti-corruption body or bodies

1. Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent corruption by such means as:
 - (a) Implementing the policies referred to in article 5 of this Convention and, where appropriate, overseeing and coordinating the implementation of those policies;
 - (b) Increasing and disseminating knowledge about the prevention of corruption.
2. Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.
3. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures for the prevention of corruption.

Article 36. Specialized authorities

Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies or persons specialized in combating corruption

through law enforcement. Such body or bodies or persons shall be granted the necessary independence, in accordance with the fundamental principles of the legal system of the State Party, to be able to carry out their functions effectively and without any undue influence. Such persons or staff of such body or bodies should have the appropriate training and resources to carry out their tasks.

An interpretive note states that the body or bodies referred to in article 6 may be the same as those referred to in article 36, which deals with law enforcement anti-corruption functions (see8 A/58/422/Add.1, paragraphs 11 and 39).

- Article 6: Preventive Anti-Corruption Body or Bodies
 - This article requires States Parties to ensure the existence of a body or bodies with the responsibility to implement effective anti-corruption policies and to increase and disseminate knowledge about the prevention of corruption
- Article 36: Specialized law enforcement authorities
 - States Parties are required to ensure the existence of a body or persons specialized in combatting corruption through law enforcement

While the Convention leaves many of the decisions as to what type of arrangements or body to establish (whether it is one body or several, whether it combines the roles of prevention and of investigation, where this body or persons are to be located within national structures etc), there are a number of core requirements:

- Firstly, there must be some type of body that is responsible for prevention and for combatting corruption
- Secondly, this body or bodies must have “necessary independence” to be able to carry out their functions “without any due influence” from governments, politicians, or anyone else within the country
 - Defining what this means in practice is not easy and this is why it is so important that we have so many experts gathered here today to discuss this issue and to advance our understanding of what conditions and practices must exist to grant anti-corruption bodies this necessary independence
- Lastly, the bodies must also be given the resources, staff and training they need to be able to perform the important tasks they are given

Excerpts from UNODC’s *Technical Guide to the United Nations Convention against Corruption* (2009)

On article 6:

II.4. Independence and accountability

Legislative framework should ensure operational independence of the body or bodies so that

they may determine its or their own work agenda and how it or they perform their mandated functions. In addressing independence, consideration would need to be given to the following issues:

Rules and procedures governing the appointment, tenure and dismissal of the Director and other designated senior personnel; the composition of the body and/or any supervisory board; suitable financial resources and remuneration for staff; an appropriate budget; suitable recruitment, appointment/election, evaluation and promotion procedures; periodic reporting obligations to another public body, such as the legislature; formal paths to allow cooperation and exchange of information with other agencies; arrangements to determine the involvement of civil society and the media. The body and its staff should be protected from civil litigation for actions performed within their mandate as long as those actions have been carried out under the authority of the agency and in good faith (although this protection should not inhibit proper judicial review, as noted below).

The means to secure independence and accountability should be enshrined in law rather than executive decrees (which can easily create such a body but also abolish it). Establishment by law or, as experience shows, constitutional guarantees of independence enhance the likelihood that the body or bodies will have sufficient powers to promote effective policies and ensure implementation, as well as conveying a sense of stability. The body or bodies should have the authority to follow up on whether and how its recommendations have been implemented and they should be able to develop and retain staff that have the necessary expertise against corruption. It or they should be designated as the focal point and resource known by, and available to, public officials and the public, and finally they should be able to issue periodic public reports on their work.

Independence should not be perceived as contradictory to accountability. Anti-corruption bodies should operate within an established governance system that includes appropriate and functioning checks and balances and in which nobody and nothing is above the law. Independence needs to be balanced by mechanisms to ensure the transparency and accountability of the body or bodies, such as through reporting to or being the subject of review by competent institutions, such as parliamentary committees, or by being subject to reporting to parliament, annual external audit and where relevant to the courts through judicial review.

Such processes need to respect what are often confidentiality requirements because of the sensitivity of anti-corruption work. These agencies will often be in a position to hold a person's freedom, resources and reputation at risk and they should have an affirmative obligation to protect information until an appropriate finding can be made.

Part of the independence of the body or bodies, and also a means to ensure public visibility, should be the right to determine how it or they conduct their work. In particular, the body or bodies should be entitled to determine the public nature of their work, through public hearings,

which can be an important tool in exposing evidence of corruption and educating the community about corruption.

At the same time, private hearings can be used to maintain the integrity of the inquiry, protect the identity of a witness or informant, receive information that may be used for further criminal and disciplinary charges, avoid interference with other proceedings, and avoid unnecessary harm to individual reputations.

The body or bodies, however, should have a general policy of publishing its findings and reports to emphasize its role in upholding public integrity.

II.5. Resources

It is important that the body or bodies be funded appropriately and adequately. One method for doing this is direct submission of the body's annual business plan, with full budgetary details, to the appropriate budgetary committee of the Legislature for approval. Where possible, the funding for the body should be agreed on a multi-year basis. This will minimize the potential for the legislature to use its budgetary approval power to limit the body's independence or to exercise improper influence in relation to specific corruption cases. An alternate method would be that the body receives an overall grant and be free from legislative influence over individual items in its budget. How it spends its funds is the responsibility of the body or bodies but each year the body or bodies should submit accounts and be subject to the appropriate external audit arrangements for public bodies of an equivalent nature.

Although there are many other arrangements to ensure appropriate resources, the focus should be on maintaining the independence of the anticorruption body or bodies. (pp. 11-12)

On Article 36:

II.3. Independence and resources

To ensure that specialized authorities are effective, irrespective of their institutional shape, States Parties may take into account a number of crucial aspects, including the legal and procedural framework to ensure independence, reporting arrangements, and resourcing.

The independence of specialized authorities should be governed by legislation, whereby the recruitment, appointment, disciplinary and removal criteria for the senior management are clearly established (one possible model to follow may be the terms governing the judiciary). States Parties may want to consider fixed-term appointments to avoid dependency on the executive for reappointment.

The legislation should also address the responsibility of the head of a specialized authority for the recruitment of staff and the operational performance of the authority's functions.

A further safeguard may be a reliable internal and/or external review system in order to avoid any undue influence. Therefore, States Parties may wish to draw inspiration from the

experience of some States which rely on a specialist committee of the legislature for such oversight. Others have established (external) supervision or inspection commissions.

Of particular importance are the provisions which safeguard against undue influence the operational decisions in a criminal investigation or criminal proceeding. In some States, specialized authorities do not have to inform superior authorities such as the Director of Public Prosecutions, the Attorney General or the Ministry of Justice when starting investigations in a specific case.

On the other hand, many States Parties still require approval for initiating court proceedings in a specific case and may wish to consider whether such power should be subject to independent verification. In some States, investigating officers, prosecutors and investigative judges cannot be instructed to dismiss a case.

Specialized authorities could be required by law to publish annual reports, including summaries of ongoing cases where arrests have taken place, and submit the report to the Legislature, which should have the formal power to call the head of the supervisory authority to account for the work and performance of the authority.

Besides the appointment of the head of the specialized authority, States Parties should consider establishing appropriate procedures for the employment of the staff. In addition, States Parties may consider flanking professional independence by an appropriate functional immunity against civil litigation in order to avoid intimidation.

States Parties may also wish to pay attention to the remuneration system applicable to specialized authorities to ensure recruitment and retention of the best available expertise. With regard to appropriate training, States Parties may consider that investigators, prosecutors and judges specialized in combating corruption need to be well grounded in general investigative skills before they start to specialize on investigating corruption offences. While the Convention does not stipulate any specific measure, States Parties may wish to take note of some models which have been implemented in several States Parties:

- Training provided by experienced and seasoned investigators who are still involved in operational measures. Training should be available to all those likely to be involved in the work of the authority, including judges.
- Integrating auditors, tax law specialists and management experts into training programmes. Moreover, States Parties may consider providing for lectures concerning professional ethics.
- Secondment or exchange of staff on a domestic or cross-jurisdictional basis.

Obtaining the services of specialists who could provide adequate training should be a priority. It is recognized that expertise in the numerous specialized areas where training would be required may be rare and, thus, quite costly. For developing countries, technical assistance

may be available through UNODC and other providers.

The strategy and review undertaken by the State Party will determine the budget necessary for the specialized authority. States Parties should, however, ensure availability of resources for ad hoc cases and for complex inquiries over and above the stated budget. In general, States Parties may bear in mind that appropriate funding is not only a question of size, but also a question of planning. (pp.116-117)

Conference of the States Parties to UNCAC

Pursuant to article 63 of the Convention, the Conference of the States Parties to the United Nations Convention against Corruption was established to improve the capacity of and cooperation between States parties to achieve the objectives set forth in the Convention and to promote and review its implementation.

Expert meetings and working groups:

- Open-ended Intergovernmental Expert Meeting on International Cooperation
- Implementation Review Group of the United Nations Convention against Corruption
- Open-ended Intergovernmental Working Group on Prevention
- Open-ended Intergovernmental Working Group on Asset Recovery

Resolution 3/2 - Preventive measures

“8. Calls upon States parties that have not done so to ensure the existence of anti-corruption bodies in accordance with article 6 of the Convention, strengthen the capacity and independence of those bodies in dealing with the prevention of corruption and take steps, in accordance with the fundamental principles of their legal systems, to safeguard those bodies from undue influence;”

Resolution 3/3 - Asset recovery

“*Also acknowledging* the vital importance of ensuring the independence and effectiveness of authorities charged with investigating and prosecuting corruption offences and recovering the proceeds of such crimes, including by establishing the necessary legal framework and allocating the necessary resources,”

Resolution 4/4 - International cooperation in asset recovery

“*Acknowledging* the vital importance of ensuring the independence and effectiveness of authorities charged with investigating and prosecuting corruption crimes and of recovering the proceeds of such crimes by several means, such as establishing the necessary legal framework and allocating the necessary resources,”

Reports of the Implementation Review of UNCAC

In ratifying or acceding to the Convention, States Parties have committed to establish the legislation,

institutions and policies needed to prevent and combat the corruption. The Conference of States Parties has gone further than any other UN crime convention and has established an Implementation Review Mechanism which requires States to submit to the review of their implementation of the Convention by two peer countries. The Review Mechanism is currently in the 3rd year of its operation and 157 countries are actively participating in the mechanism, either as reviewing States or as States under review themselves. During the first 5-year cycle of UNCAC review which started in 2010 two chapters on criminalization and law enforcement (Chapter III) and on international cooperation (chapter IV) are under review.

Excerpts from the thematic report on UNCAC Implementation Review reports in regarding article 36:

- While almost all of the States reviewed thus far had established one or more bodies or specialized departments to combat corruption through law enforcement, often these were newly created and faced common challenges related to limited capacity and resources for implementation as well as competing priorities.
- 2 Recommendations were made in a number of cases to increase the staffing and the resources for capacity-building and training of the agencies and to improve the presence of these authorities in regions and provinces
- Many were also recommended to improve inter-agency coordination on corruption cases
- There were also a number of recommendations in relation to strengthening the independence of the specialized agency
 - In two cases, corruption investigations against public officials required the prior authorization of the government or prosecutor's office.
 - There were concerns over the appointment of officials in the agencies
 - In another state, there were concerns that staff members of the agency were not independent as they were not subject to any conflict of interest regime
- There were also some concerns expressed relating to the performance of the specialized authorities
 - Selectiveness in deciding which cases to pursue
 - Low number of investigations and prosecutions in relation to the number of complaints filed
 - Lack of statistical data
- There were, of course, also some great examples of good practices
 - Both in terms of the concrete impact of the agency on corruption through its effective investigations and prosecutions

- Institutional arrangements to guarantee independence (e.g. measures to keep institutions from political interference)

Lessons learned on Independence of Investigations and Prosecutions in Foreign Bribery Cases from Review by the OECD Working Group on Bribery

[Based on information provided by the Secretariat of the OECD Working Group on Bribery]

Other initiatives to elaborate on strengthening anti-corruption authorities

Finally, efforts undertaken by a number of anti-corruption authorities to elaborate on strengthening and independence of anti-corruption authorities which led to adoption of Jakarta Principles for Anti-Corruption Agencies in November 2012 drew on international experiences and shed further light on requirements of articles 6 and 36 of UNCAC.