

Developing a Set of Non-Binding Principles for Domestic Regulation of the Services Sector

(Proposal by Korea)

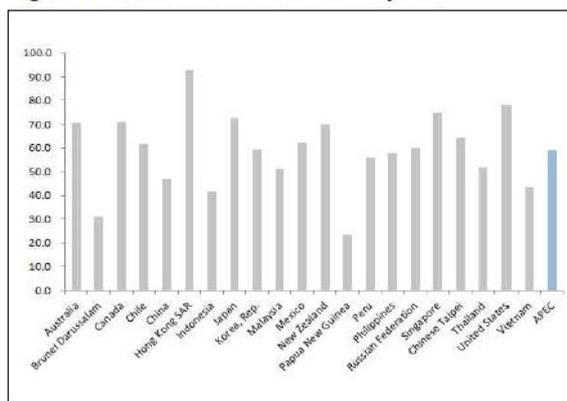
I . Introduction

1. The services sector is playing an increasingly important role in the Asia-Pacific region. It is not only a large part of the economy but also a key provider of jobs. On average, the services sector comprises about 60% of GDP in APEC member economies. In 2013, services value added represented over three quarters of the economic activity in Hong Kong, China and the United States and over two thirds in Australia, Japan, and Singapore (See figure 1). In addition, in many economies, the majority of the employed are now in services. To put it simply, the services sector is the dominant employer in the region. Its share in employment increased from 49% in 1990 to 62% in 2013.

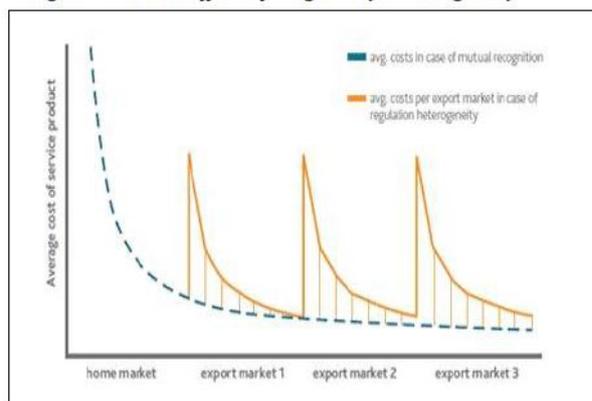
2. Recognizing the significant role of the services sector, each APEC member economy has individually embarked on ambitious programmes to promote the competitiveness of their services sector through such measures as regulatory reform and/or increased market access for foreign services providers. Moreover, APEC collectively endorsed the APEC Principles for Cross-Border Trade in Services in 2009, which encouraged the application of most-favoured-nation (MFN) treatment and national treatment (NT). It is also recalled that APEC Leaders adopted the APEC Services Cooperation Framework (ASCF) and instructed Officials to develop a strategic and long-term APEC Services Competitiveness Roadmap, with a view to advancing regional cooperation in the services sector.

3. Given the diverse nature and characteristics of services, however, competitiveness of the services sector is largely affected by the effectiveness of domestic regulations. In fact, in some cases, domestic regulatory measures, including arbitrary or opaque administration of rules and regulations on services trade and investment, may become an obstacle to service suppliers both domestic and foreign in providing services. Such domestic regulatory measures can impair the services sector even when they are nondiscriminatory or do not contain any obvious quantitative restrictions. Therefore, domestic regulatory reform of the services sector should be the foremost priority to boost competitiveness and increase investment and, ultimately, employment.

4. Moreover, since these domestic regulations vary from economy to economy in terms of substance and procedure even when they have similar policy objectives, they are likely to increase costs and lead to market segmentation, limiting the integration of the regional services markets. Figure 2 shows that the differences in regulations among economies, namely regulatory heterogeneity, results in high entry costs for foreign services suppliers. In this regard, efforts to promote discussions on regulatory cooperation could be encouraged.

Figure 1: Service Value Added as % of GDP

Source: World Development Indicators (2013 or latest available year)

Figure 2: Costs Effect of Regulatory Heterogeneity

Source: De Bruijn et al. (2008)

II. Development of a Set of Non-Binding Principles for Domestic Regulation

5. As domestic regulations have a profound effect on the services sector, APEC member economies are faced with the major challenge of designing rules that can prevent the protectionist use of domestic regulations, and at the same time, do not deprive regulators of the freedom they need to pursue legitimate policy objectives. In this regard, we recall that APEC Leaders agreed to support member economies' efforts to strengthen the services sector through an enhanced regulatory environment in 2015 and APEC Ministers also instructed the Economic Committee "to consider developing a joint work program with GoS, which may include producing a set of recommendations for domestic regulation of the services sectors" at the Structural Reform Ministerial Meeting held in Cebu, the Philippines.

6. Recognizing the importance of services and regulatory cooperation, Korea would like to propose that APEC Members consider developing a set of non-binding good practice principles for domestic regulation of the services sector. The purpose of this proposal is to generate momentum for establishing a set of common general principles that would serve as a guideline or benchmark for member economies to refer to when they conduct domestic measures for services sector reform. We believe that the principles will lay a solid foundation for boosting the competitiveness of service sectors in the region. Thus, the principles can be one of key elements of the APEC Service Competitiveness Roadmap. Korea hopes that the following factors will be taken into consideration when developing the principles:

- **Voluntary adoption:** We would prefer the principles to be non-binding as per standard APEC practice. Emphasis should also be given to enhancing economies' understanding and appreciation of non-binding principles through capacity building activities, given the difficulties in implementing disciplines on domestic regulation, particularly difficulties relating to the level of development.
- **Collaboration among APEC sub-fora:** The significance of the services sector reforms and liberalization as well as facilitation and cooperation is widely recognized across APEC sub-fora. In this context, cross-fora collaboration on services that draws on the expertise of each forum such as the Economic Committee (EC) and the Group on Services (GoS) is much needed to develop the principles at a whole-of-region level.
- **Building on existing instruments:** APEC can build on existing instruments, such as the

APEC–OECD Integrated Checklist on Regulatory Reform, the APEC Principles for Cross-Border Trade in Services and relevant provisions on domestic regulations in the WTO General Agreement on Trade in Services (GATS) to establish common principles for domestic regulation of the services sector.

7. The envisaged principles for domestic regulation of the services sector¹ will serve as a good practice guideline, providing APEC Members with in-depth guidance on all aspects related to domestic regulation of the services sectors so as to ensure that domestic procedures in member economies respond to common regulatory objectives without impairing multilateral and regional trade and investment in services. In addition, they can create more efficient markets and an attractive environment for both domestic and foreign participants.

III. Key Activities and Timeline

8. Korea tabled this proposal at the EC1 in 2016, and subsequently at the SOM FotC on Connectivity as well as CTI in May. At the SOM2, Korea shared its proposal on developing a set of non-binding good practice principles on domestic regulations in services sector. There was support from a number of APEC economies on this proposal and a shared recognition that developing such principles needs to be one of the essential elements of the APEC Services Competitiveness Roadmap, given the importance of good regulatory/institutional environment in enhancing the competitiveness of the services sector in the region. That is the reason for the development of such non-binding principles to be included in the APEC-wide action plan in the proposed Roadmap. Once the proposal is approved by the Committee on Trade and Investment (CTI) this year brainstorming workshops/seminars will be held to identify the elements that need to be contained in the principles — experts from the WTO, OECD and World Bank will participate in the meetings at the margin of CTI1 2017.

9. CTI will start discussions next year to develop and draft the principles, in close collaboration with the EC and the GoS, based on the outcomes of the proposed workshops/seminars. During the process of drafting the principles, key findings from the APEC Economy Policy Report 2016: Case Studies on Services and Structural Reform can be drawn upon. APEC economies will complete the development of the principles by the end of CTI3 or CSOM in 2017 to submit the final text to the AMM and AELM for endorsement.
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¹ The APEC Good Practice Principles on Domestic Regulations should be without prejudice to APEC economies' positions in WTO negotiations.