

APPENDIX 3

INNOVATION AND TRADE IMPLEMENTATION PRACTICES

BACKGROUND

In 2011, APEC Leaders committed to implement a series of policies to promote effective, non-discriminatory, and market-driven innovation policy (“innovation and trade policies”) and to “develop capacity-building activities that will further assist economies” in this endeavor. Also in 2011, APEC Ministers instructed officials to share progress towards implementation of this commitment by the end of 2013.

As a first step to assist economies in fulfilling Leaders’ commitment in this area, APEC, led by Japan, is held a conference on the sidelines of CTI 2 in Singapore to increase economies awareness of how implementation of the policies agreed by Leaders will contribute to an open trade and investment environment that will in turn assist economies in generating and adopting new technologies and business models – increasing the efficiency and speed of innovation. While this conference was an extremely useful tool to further understanding of our work in this area, additional effort will be needed if all economies are going to be in a position at the end of 2013 to report positive results towards implementing the policies laid out in Annex A to the 2011 APEC Leaders’ Statement.

PROPOSAL

One of the challenges most often cited by APEC economies in implementing the innovation and trade policies is a lack of understanding of how to interpret them in a specific policymaking context. The policies were written at a high-level in order to take into account divergences in approaches to these issues across the region, but now as economies are taking steps to implement them, questions have arisen as to the specific meaning of the policies and some economies have asked for examples or best practices on how they have been implemented by other APEC members.

While discussion during CTI meetings or in specific conferences or workshops on this topic is a useful way to respond to these inquiries, additional work should be undertaken to provide economies with more concrete examples and practices on ways to implement the policies on innovation and trade. Therefore, we propose that APEC under the Committee on Trade and Investment produce implementation practices for the innovation and trade policies Leaders’ committed to implement in 2011. The purpose of this work would be to provide assistance to economies in evaluating and carrying out policies to maximize their innovation capacity, including through free and open trade and investment, by “unpacking” the high-level innovation and trade policies to make them more accessible and understandable to economies – which is necessary to facilitate their implementation. The main objective would not be to provide prescriptive or one-size fits all solutions. This approach is intended to take into consideration economies’ respective circumstances and provide them with positive approaches to laying down effective innovation policy.

BENEFITS TO APEC

This exercise will contribute to APEC’s goals in several significant ways, in addition to helping to fulfill Leaders’ and Ministers’ 2011 instructions:

- 1) It will make an important contribution to the Russian host-year priority theme of promoting innovation by providing APEC economies with a constructive roadmap for how they can advance non-discriminatory and market driven innovation policy;

- 2) One of the most often cited criticisms of APEC is that there is a lot of talk, but very little follow-up. APEC has reached agreement on a number of high-profile initiatives over the years, but then has done little to demonstrate implementation of these commitments. Producing implementation practices on the innovation and trade policies will demonstrate both to our senior representatives, as well as to outside stakeholders, that we were serious about implementing the commitments we made in 2011 in this area and we intend to get stuff done here; and
- 3) It will support APEC's agenda on next generation trade and investment by showing how committed we are to addressing the kinds of new challenges that are confronting APEC economies and businesses in trading in the region.

NEXT STEPS

As a next step, the United States, working in conjunction with other interested economies, the FoTC on next generation trade and investment issues, and relevant subfora, will produce draft implementation practices for discussion at CTI 1 in Indonesia.

ANNEX A TO 2011 APEC LEADERS DECLARATION

PROMOTING EFFECTIVE, NON-DISCRIMINATORY, AND MARKET-DRIVEN INNOVATION POLICY

Encouraging innovation – the process by which individuals and businesses generate and commercialize new ideas – is critical to the current and future prosperity of APEC economies. Our collective economic growth and competitiveness depend on all our peoples' and economies' capacity to innovate. Open and non-discriminatory trade and investment policies that foster competition, promote access to technology, and encourage the creation of innovations and capacity to innovate necessary for growth are critical aspects of any successful innovation strategy. Therefore, we as APEC Leaders agree to:

1. Develop and maintain an open economy that allows the flow of capital, people, ideas, goods, and services across borders in ways that ensure competition, enhance productivity, and foster growth across the Asia-Pacific region;
2. Enable the development and adoption of new and innovative business models by maintaining regulatory systems, including licensing regimes, that support competitive markets;
3. Maintain regulatory systems that are transparent and non-discriminatory, provide due process, and include opportunities for early and meaningful stakeholder engagement, consistent with the APEC Leaders' Transparency Standards;
4. Promote open investment, including by working to remove restrictions on foreign direct investment, consistent with the APEC Non-Binding Investment Principles and the APEC Investment Facilitation Action Plan;
5. Encourage the use and participation in the development of voluntary, market-led, and global standards that promote innovation, competition, and create global markets for products and services;
6. Ensure that technical regulations and requirements serve legitimate public policy objectives (e.g., health, security, safety, and environment), and do not serve to stifle innovation, limit access to technologies, reduce competition, or create unnecessary trade barriers;
7. Develop and implement technical regulations and requirements, taking into consideration the APEC-OECD Integrated Checklist on Regulatory Reform;
8. Provide effective protection and enforcement of intellectual property rights to create a climate in which innovators, including small and medium-sized businesses, are encouraged to invest in the research, development, and commercialization of leading-edge technologies and promote the dissemination of technologies and services throughout APEC economies;
9. Refrain from adopting or maintaining measures that make the location of the development or ownership of intellectual property a condition for eligibility for government procurement preferences, without prejudice to economies' positions in the WTO;

10. Ensure that the terms and conditions of transfer of technology, production processes, and other proprietary information are left to the agreement between individual enterprises, consistent with WTO rules;
11. Promote government procurement policies that are transparent, non-discriminatory, openly pro-competitive, and performance-based, consistent with the APEC Non-Binding Principles on Government Procurement;
12. Implement information and communication technology policies, including those related to data privacy and security, in such a way as to minimize the trade-distorting impact of and promote greater global alignment in those policies;
13. Effectively and efficiently manage spectrum so as to enable innovative use of this resource, avoiding undue limitations on applications and technologies that utilize spectrum, other than as necessary to mitigate harmful interference; and
14. Encourage cooperation and interaction among researchers and laboratories, including through joint research and development, in order to accelerate innovations that can be applied to address the common economic and other challenges APEC economies face.

We instruct officials to develop capacity-building activities that will further assist economies to promote effective, non-discriminatory, and market-driven innovation policy.