



**Asia-Pacific
Economic Cooperation**

2021/SOM3/SCE/015

Agenda Item: 3.2

Anti-Corruption and Transparency Experts' Working Group Terms of Reference 2022 - 2025

Purpose: Information
Submitted by: ACTWG Chair



**Third SOM Steering Committee on
Economic and Technical Cooperation
Meeting
27 August 2021**

ANTI-CORRUPTION AND TRANSPARENCY WORKING GROUP (ACTWG)

TERMS OF REFERENCE [2022-2025]

Preface

The Terms of Reference of the ACTWG are established in accordance with agreed APEC rules and principles.

Background

In Los Cabos in 2002 and Bangkok in 2003, APEC Leaders committed to implementing general and area-specific APEC Transparency Standards. In November 2004, APEC Leaders met in Santiago, Chile, and further acknowledged that corruption was a serious threat to the APEC Agenda and priorities of sustainable economic growth, good governance, market integrity and enhanced trade and investment. They also agreed that APEC could make a difference by working together to fight corruption, ensure transparency, cut the cost of corruption to their economies, and create a culture of integrity and shared prosperity.

Accordingly, Leaders endorsed the *Santiago Commitment to Fight Corruption and Ensure Transparency* and the *APEC Course of Action on Fighting Corruption and Ensuring Transparency*, including the APEC anti-corruption initiative *From Santiago to Seoul*.

At SOM III in Santiago, Chile, Senior Officials approved a recommendation by APEC Anti-Corruption Experts and agreed to establish an Anti-Corruption Experts' Task Force (ACT) to implement the *APEC Course of Action on Fighting Corruption and Ensuring Transparency*, which the Leaders endorsed. The ACT has since been working towards implementing the Leaders' mandate to cooperate across the Asia Pacific region to combat corruption effectively.

Given the cross-cutting nature of activities related to combating corruption and ensuring transparency, there was a need for a procedural structure to promote and coordinate these activities within APEC. Furthermore, the global nature of corruption, and the implementation of the punitive and preventive anti-corruption policies and practices consistent with the United Nations Convention against Corruption (UNCAC), required APEC's close coordination with other international activities where appropriate. The Task Force would provide the single point of contact to promote and facilitate such interaction. In undertaking the Leader's mandate on anti-corruption, in 2010, the Task Force recommended to Senior Officials that ACT needed to institutionalise its work programme by developing a long-term strategy and formalising its work as a Working Group.

Strategic Focus

The ACTWG's strategic focus is to:

- Coordinate and implement APEC's anti-corruption and transparency commitments – including the *Santiago Commitment to Fight Corruption and Ensure Transparency*, the *APEC Course of Action on Fighting Corruption and Ensuring Transparency*, the *APEC Transparency Standards*, the *APEC Conduct Principles for Public Officials*, the *APEC Code of Conduct for Business*, the *APEC Beijing Declaration on Fighting Corruption*, the *La Serena Roadmap for Women and Inclusive Growth* and the *APEC Putrajaya Vision 2040* as appropriate.
- Exchange information between anti-corruption experts on the implementation of domestic anti-corruption commitments and promotion of successful practices to fight corruption and enhance the transparency of public and private sectors.
- Promote cooperation between members in the fight against corruption, including

technical assistance, extraditions, mutual legal assistance, and judicial and law enforcement, especially asset forfeiture and recovery.

- Facilitate the implementation of the United Nations Convention against Corruption (UNCAC) member economies.

Objectives

The ACTWG's objectives are to:

1. Improve cooperation between members in such areas as denial of safe haven, asset recovery, mutual legal assistance, and joint or parallel investigations and prosecutions.
2. Develop training, targeted capacity building, and results-oriented technical assistance to fight corruption and ensure transparency.
3. Cooperate with other multilateral and regional intergovernmental institutions, and international organisations, to facilitate improvements in anti-corruption and transparency activities.
4. Engage in cross-fora collaboration in anti-corruption and transparency activities across APEC.
5. Increase the participation of the private sector and civil society in the development of anti-corruption policies, initiatives, or programmes within APEC economies.
6. Address new and emerging anti-corruption challenges for anti-corruption, such as technology, crises or emergencies, or changing environments.

Priorities

The ACTWG's guiding document is the Strategic Plan¹ developed every four years, or more frequently if members agree. In addition, and as per the SCE request, the ACTWG Chair must present a yearly workplan. The work plan is to be endorsed by members during the first meeting of the year. The work plan aims to advance the Strategic Plan and the ACTWG's Strategic Focus, Objectives and Priorities set for the period.

The ACTWG work plan may include a separate work plan for the Anti-Corruption Authorities and Law Enforcement Agencies Network (ACT-NET).

The members will endorse the work plan at the ACTWG SOM1 Plenary Meeting.

Members are also encouraged to propose projects or initiatives during the year. The ACTWG will submit project proposals on behalf of ACT-NET members.

Membership

The ACTWG will be open to representatives from APEC member economies' governmental organisations and/or agencies dealing with anti-corruption.

Leadership

A Chair will manage the ACTWG with support from the APEC Secretariat. Each year, the host APEC economy each year will become the Chair of the ACTWG for the duration of the host year. The Chair's Nomination will rely on the economy, and this title is not attached to the person that the economy will nominate.

¹ The current ACTWG Strategic Plan covers the period 2019-2022.

The announcement of the Chair designate will take place before the end of the calendar year to ensure the appropriate handover of the relevant information and the preparation of the draft workplan for the coming Chair's year.

Meeting arrangements

The ACTWG meets twice a year during SOM1 and SOM3.

Structure of the Group

The ACTWG members established a subsidiary network, the ACT-NET, in 2013. The ACT-NET develops its Terms of Reference, which is subject to ACTWG's, Steering Committee on Economic and Technical Cooperation's (SCE), and Senior Officials' endorsement.

The ACT-NET will report to the ACTWG and endorsement decisions of the ACT-NET will be subject to the ACTWG's approval.

Friends of the Chair

The ACTWG has established, and the SCE has confirmed, an informal group called the 'Friends of the Chair' ('FoTC') to provide assistance and support to the Chair at the working level. The role of the FoTC is advisory, not decision-making, and its main tasks are to:

- Provide input into the work of the ACTWG/ACT-NET.
- Deliver continuity for initiatives over host years.
- Ensure consistency of leadership across host years.

The FoTC will comprise of the Chair, the previous Chair, the next Chair and any other economies invited by the Chair. FoTCs automatically dissolve with the expiration of the term of the Chair, unless the incoming Chair requests that they continue.

The FoTC will meet at a frequency determined by the Chair. The Chair will determine the frequency at the beginning of each year. Meetings will be held on the margins of a SOM meeting or intersessionally (including the virtual format) on an as-needs basis.

Engagement with Other Stakeholders

The ACTWG will work with the following stakeholders in fulfilling its goals and objectives:

APEC Observers, representatives from the APEC Secretariat and other APEC sub-fora, and other interested organisations or parties, including civil society and the private sector may attend ACTWG meetings with the prior approval of ACTWG members.

Stakeholders may be invited to contribute to the work of the ACTWG as approved by ACTWG members.

Reporting Structure

The ACTWG reports progress on its work to the SOM SCE as required.

Fora Review

The SCE will conduct an assessment of its achievements against the stated objectives and outputs of the ACTWG, as scheduled by its members. Any fora review findings and recommendations from the assessment may be considered when the new Terms of Reference and Strategic Plans are developed.

The SCE review of ACTWG will include the activities of its sub-fora, the ACT-NET.

The Terms of Reference shall be reviewed, when necessary, upon the consensus of all member economies.

Quorum

A quorum for ACTWG meetings constitutes attendees from 14 economies. Decisions can be made if quorum and consensus are reached. If the quorum is not reached, the meeting may continue, but decisions must be put to the full membership for consideration.

Should the ACTWG fail to meet quorum for one plenary meeting, the ACTWG group must notify the SCE Chair. Should the ACTWG fail to meet quorum for two consecutive plenary meetings, it will be referred to Senior Officials to decide whether it should continue to exist.

Sunset Clause

The ACTWG's term is **1 January 2022 to 31 December 2025**. Prior to the expiration of this and any subsequent term, the mandate of ACTWG and the ACT-NET, as well as their respective Terms of Reference shall be reviewed by the members of the SCE. The SCE may put forward to Senior Officials for approval a recommendation to continue its mandate.

The ACTWG, and the ACTNET, must be explicitly renewed by Senior Officials in order to continue after the expiration of this Terms of Reference.