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Singapore | 2 Oct 2014

FTAAP and APEC: Wrong Goal, Wrong Institution

*By Malcolm Cook**

EXECUTIVE SUMMARY

- APEC has proven itself an ineffective inter-state body through which trade liberalisation negotiations can be conducted.
- The decade-long campaign by the APEC Business Advisory Council for APEC to pursue a Free Trade Area of the Asia Pacific (FTAAP) underestimates this institutional reality at the cost of the Council, and APEC itself.
- APEC's founding principles and membership and Southeast Asian states' commitment to ASEAN centrality each and in combination preclude APEC from serving more than a secondary, supporting FTAAP role.
- APEC should move beyond its founding trade liberalisation "Bogor Goals" that underlie the Council's FTAAP push and focus primarily on its trade facilitation agenda and the coordination gains possible from this agenda.

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INTRODUCTION: FTAAP'S LINEAGE

The repeated call by the APEC Business Advisory Council (ABAC)¹ since 2004 for an APEC-wide free trade area is the latest campaign in a half-century old regional trade liberalisation project that was central to APEC's foundation in 1989. In 1966, Japanese economist Kiyoshi Kojima was credited with promoting the first Pacific Free Trade Agreement idea that spurred the formation of an epistemic community united by this idea and led by Kojima and John Crawford of the Australian National University.² This intellectual grouping was institutionalised in 1968 through the Pacific Trade and Development Conference Series (PAFTAD).³ In 1967, the business lobby group the Pacific Basin Economic Council was established in the same spirit of regional trade liberalisation.

The PAFTAD community of mostly trade economists then gained some government support. This led to the formation of the Pacific Economic Cooperation Council (PECC) in 1980 that brought together members of business, government and academic economists from participating Asia-Pacific countries (11 members in 1980 and 26 today) to promote regional trade liberalisation and economic integration. PAFTAD and the Pacific Basin Economic Council are PECC's only two institutional members.

APEC, with the Japanese and Australian governments as the key protagonists behind its formation 1989 and elevation to a leaders-level forum in 1993, is the inter-governmental offspring of this bottom-up project. PECC is the only official non-government APEC observer, and it was membership in PECC that helped determine APEC's original membership of twelve. Today, only Russia and Papua New Guinea are members of APEC and not PECC, while only Colombia, Ecuador and Mongolia are national members

¹ "ABAC was created by APEC Leaders in 1995 to be the primary voice of business in APEC. Each economy has three members who are appointed by their respective Leaders. They meet four times a year in preparation for the presentation of their recommendations to the Leaders in a dialogue that is a key event in the annual Leaders Meeting." http://www.apec.org/Press/News-Releases/2014/0508_fta.aspx

² Epistemic communities are "professional networks with authoritative and policy-relevant expertise" bound by a common policy project. Mai'a K. Davis Cross, "Rethinking Epistemic Communities Twenty Years Later", *Review of International Studies* Vol. 39, Issue 1, 2013, p. 137.

³ The 37th PAFTAD conference will be held in Singapore in 2015.

of PECC but not APEC.

In 1994, APEC leaders, at the second annual Leaders' Meeting, committed APEC to Kojima's project by announcing the 'Bogor Goals' of free and open trade and investment for developed economy members by 2010, and for developing economy members by 2020.⁴ APEC leaders then tried to advance towards the Bogor Goals in 1997 in Vancouver when they endorsed the plan to come up with a common list of sectors in which they could agree to establish free and open trade. This was called the Early Voluntary Sectoral Liberalization (EVSL) program. This EVSL experiment of APEC acting as a "negotiated reciprocity" forum of trade negotiation quickly failed. In 1998, APEC Leaders realised reality and shifted the problem to the World Trade Organization.⁵

ABAC's call in 2004 for an FTAAP was framed as a new way to achieve APEC's Bogor Goals and to help reduce the nefarious "noodle bowl" problem caused by the explosion of bilateral and minilateral preferential trade deals involving APEC member economies since the formation of APEC itself. All of these entangled agreements were negotiated outside of APEC with little or no reference to the organisation. The fact that the ABAC Chair, a decade on from the Council's call for an FTAAP, is still urging that, "given these developments and the approaching 2020 deadline for achieving the Bogor Goals, ABAC now sees the need for APEC to provide more "top-down" direction in the FTAAP process," shows how difficult getting full APEC member support for FTAAP has been.⁶ Over this decade, official support for FTAAP has been punted further and further into the unpredictable future with FTAAP now seen as a final step towards Kojima's dream after the successful completion of one or both FTAAP 'pathway' agreements, the US-led Trans-Pacific Partnership (TPP) and the ASEAN-led Regional Comprehensive Partnership (RCEP). The ongoing TPP and RCEP negotiations are independent of APEC. APEC leaders have yet to contemplate in concrete terms how APEC may be used to deliver an FTAAP and what type of negotiation modality will be needed to bring

⁴ http://www.apec.org/Meeting-Papers/Leaders-Declarations/1994/1994_aelm.aspx

⁵ Tatsushi Ogita, "On Principles of APEC", *IDE-APEC Study Center Working Paper Series 00/01 - No. 4* (Tokyo: Institute of Developing Economies, March 2001), p. 1.

⁶ ABAC 2014 chair, Ning Gaoning, cited in http://www.apec.org/Press/News-Releases/2014/0508_fta.aspx

any eventual RCEP and TPP agreements together and/or to expand either or both to APEC member economies who are not travelling on either FTAAP pathway.

APEC'S FOUR UNSUITABILITIES

Using APEC as a key instrument to promote an FTAAP in the current context will lack credibility and will instead further fracture APEC's membership and undermine the useful roles it has been playing.⁷

The lessons learnt from the EVSL failure and the reasons behind ABAC's inability to get APEC to commit itself beyond general prognostications at Leaders' Meetings in favour of an APEC FTAAP, endorse the continued validity of this warning. There are four reasons why APEC as an organisation should limit itself to playing a secondary 'incubating' role for the FTAAP project, and one less ambitious than that set out by the APEC Leaders at the 2010 Leaders' Meeting in Yokohama.⁸

It is wrenching for any organisation to water down a founding mission (the 1994 Bogor Goals) and the recommendations of a key advisory group set up by the organisation precisely to provide ideas on how to achieve this mission (ABAC). Yet, four APEC-based factors, each born out of the foundation of APEC itself, strongly suggest that APEC has never been a suitable organisation to achieve the Bogor Goals' aspiration nor its current FTAAP manifestation. Changing goals to fit institutional realities is a much safer and sounder path than trying to change institutional realities to fit these goals. APEC's EVSL failure is testament to this axiom.

Open regionalism

APEC was established exactly to steer members away from the third and fourth-best

⁷ Vinod K. Aggarwal, "The Political Economy of a Free Trade Area of the Asia-Pacific: A U.S. Perspective", in *An APEC Trade Agenda? The Political Economy of a Free Trade Area of the Asia-Pacific*, edited by Charles E. Morrison and Eduardo Pedrosa (Singapore: Institute of Southeast Asian Studies, 2007), p. 39.

⁸ http://www.apec.org/Press/News-Releases/2010/1114_leaders.aspx

trade liberalisation options of minilateral preferential trade deals and narrower bilateral ones.⁹ Instead a founding principle at the core of APEC's trade and investment liberalisation pillar is the commitment to 'open regionalism'. Open regionalism, a political economic oxymoron, goes beyond WTO requirements and calls upon states to open up further all liberalisation agreed amongst themselves to all trading partners globally on a Most Favoured Nation basis. This intellectually pure commitment is not politically viable and is one of the main reasons why negotiated trade liberalisation in the Asia-Pacific has occurred outside of APEC and through the less optimal means of bilateral and minilateral preferential deals.

As APEC is a lightly institutionalised consensus-based organisation it is unlikely that the institution will embrace 'closed' regionalism as a means of playing a more central role in any eventual FTAAP negotiations. This is particularly the case when many APEC member economies have yet to fully embrace even the third and fourth-best approaches to trade liberalisation. These members could well support a continued commitment to open regionalism to deflect pressure on them to liberalise. A good example of the perennial problem that the pursuit of the perfect and pure often works against the good and feasible.

Concerted unilateral action

If open regionalism is an example of an idealistic, politically naive founding principle that has undercut APEC, 'concerted unilateral action' is an equally limiting principle but one born out of political reality. Many East Asian member economies of APEC, rich and poor, are sensitive about any supra-national impingements on their sovereignty and face politically powerful vested interests against liberalisation in key sectors. In respect of this East Asian reality, APEC adopted the 'concerted unilateral action' principle that allows each member economy to pursue (or not) agreements reached in APEC in the way they see as most suitable for their national circumstances. APEC has no sanctioning capability

⁹ Peter D. Drysdale and Andrew Elek, "Towards APEC's Liberalization Goals of 2010 and 2020", in *APEC: Cooperation from Diversity*, edited by Ippei Yamazawa and Akira Hirata (Tokyo, Institute for Developing Economies, 1996), p. 120. Unilateral liberalisation is seen as the first-best option in liberal trade economies and multilateral negotiated liberalization, as with the WTO, the second-best.

and all decisions are non-binding. Non-founding members of APEC have also embraced this 'flexible' approach. Sheng Bin reaffirms this by contending that, "APEC, from a Chinese point of view, is a consultative and consensual decision-making entity, and it is neither a venue, like the WTO, for trade negotiation and bargaining, nor an obligatory agreement like the European approach".¹⁰

For hesitant APEC members, the emphasis has always been on the unilateral part and not the concerted part of this founding principle. APEC has found it difficult to get less concerted and active members even to provide information to APEC after agreement has been reached on information sharing. Concerted unilateral action is likely to be a significant barrier to APEC playing anything more than a secondary supporting role in any FTAAP negotiations as it provides more hesitant members protection and, by itself, rules out APEC serving as a credible negotiation platform.

Misplaced membership

APEC's present membership of 21 economies is both too large and too small at the same time for APEC to play a leading role in the formation of an FTAAP on the back of a TPP and/or a RCEP agreement. All institutions face tension between the number of participants on one hand and organisational effectiveness on the other. Too few members and the effects of any agreement may be too limited; too many members and the difficulties of reaching a serious agreement may become insurmountable. APEC favoured expansion for its first eight years at the end of which it had reached 21 members from four continents spanning from the most populated economy (China) to one of the least (Brunei) and from the most advanced and open economies to one of the poorest and most isolated (Papua New Guinea). Since 1997, APEC has understood the reality of membership size and diversity and has repeatedly rejected any push to expand membership. Yes, as noted by Robert Scollay, four members of the RCEP process (India, Cambodia, Laos and Myanmar) are not APEC members while four APEC member

¹⁰ Sheng Bin, "The Political Economy of a Free Trade Area of the Asia-Pacific: A Chinese Perspective", in *An APEC Trade Agenda? The Political Economy of a Free Trade Area of the Asia-Pacific*, edited by Charles E. Morrison and Eduardo Pedrosa (Singapore: Institute of Southeast Asian Studies, 2007), p. 88.

economies are on neither the RCEP or TPP pathways to FTAAP (Russia, Taiwan, Hong Kong and Papua New Guinea). And only 7 of APEC's 21 members are involved in both pathways.¹¹

For very different reasons, Russian and Taiwanese membership in APEC could weigh against APEC playing a key role in any eventual FTAAP negotiations. For Taiwan, its unique inter-state status enthusiastically enforced by China has proven a significant dissuasion against states engaging Taiwan in trade negotiations despite it being an open and advanced economy and a WTO member. ASEAN has yet to consider an FTA with Taiwan, hence ruling Taiwan out of the RCEP process and Taiwan, despite its own increasingly vocal campaign for inclusion, has not been invited to join the TPP talks. In both cases, sensitivities towards China is the main factor for Taiwan's exclusion. It would be much more difficult for APEC to exclude an existing member from an APEC-based FTAAP.

Russia was the last member of APEC to join the WTO in 2012 and is the most laggard trade liberaliser among the major regional and global powers. It is highly unlikely that Russia, with its present political persuasion, will be keen on entering an FTAAP or participating in 'incubating' one. Reaffirming this reserve on Russia's trade liberalisation credentials, Moscow effectively pressured Kiev and Brussels to delay the Ukrainian market opening to Europe in order to assuage Russian worries about competitive spill over into the protected Russian market.¹²

Independence from ASEAN

When APEC was formed it was the only ministerial-level inter-state institution in the Asia-Pacific and its East Asian sub-region. This was still the case in 1993 when APEC was elevated to the level of leaders. Yet today, ASEAN-based bodies from the leaders-level East Asia Summit to the ASEAN+3 finance ministers dominate the Asia-Pacific regional

¹¹ Robert Scollay, *APEC's Regional Integration Agenda and the Evolution of Economic Integration in the Asia-Pacific Region* (Seoul: Korea Institute for International Economic Policy, 2012), pp. 33-35.

¹² Laurence Peter, "Can EU-Ukraine Trade Pact Survive Russian Pressure?" *BBC News*, 18 September 2014. <http://www.bbc.com/news/blogs-eu-29203428>

architectural skyline with APEC now the most glaring exception. Southeast Asian states' deepening commitment to ASEAN centrality, defined externally as ASEAN being and remaining as the "driving force" behind wider East Asian and Asia-Pacific regionalism, explains this change to the regional institutional skyline. Voices within ASEAN circles already express concern that the TPP process may divide ASEAN member-states (4 are involved and 6 not in the TPP process) and undermine ASEAN centrality.¹³

The fact that the three newest ASEAN members (Cambodia, Laos and Myanmar) are not APEC members and APEC is not ASEAN-based could well raise ASEAN concerns over any FTAAP process not based in ASEAN and any role beyond a secondary, supporting one played by APEC in any FTAAP process. Supporters of ASEAN centrality have long been questioning of APEC and its unique place in the Asia-Pacific regional architecture, with these questions at times morphing into feelings of competitive threat.¹⁴ Now that ASEAN centrality is well-established and accepted by ASEAN and non-ASEAN states and APEC is weaker, how ASEAN stakeholders view APEC and any FTAAP process could be another limitation.

REALISING REALITY

The time for APEC to play a leading trade liberalisation role has gone as shown by the fact that both the RCEP and TPP processes are taking place outside APEC. Given the uncertain future of FTAAP and APEC's proven unsuitability as a trade liberalisation body, APEC leaders should limit themselves to giving APEC a secondary, supporting role if FTAAP ever starts to take shape, and encourage negotiations to take place outside APEC.

APEC's founding principles of open regionalism and concerted unilateral action are most suitable for APEC's trade facilitation pillar, the highest and strongest of APEC's three

¹³ Sanchita Basu Das, "RCEP and TPP: Comparisons and Concerns", *ISEAS Perspectives No. 02-2013* (Singapore: Institute of Southeast Asian Studies, 7 January 2013), p. 4.

¹⁴ John Ravenhill, *APEC and the Construction of Pacific Rim Regionalism* (New York: Cambridge University Press, 2001), p. 101.

pillars.¹⁵ Trade facilitation, particularly on issues like standard-setting, involves states in “coordination games” where all will benefit from mutual recognition rather than competitive trade negotiation ones where states trade off commitments to each other and enforcement mechanisms are paramount to credibility.¹⁶ In cooperative bargaining situations that feature frequently in trade facilitation but not in trade liberalisation, APEC’s principles of open regionalism and concerted unilateral action are much more suitable.¹⁷ Changing goals to fit institutional realities is a much safer and sounder path than trying to change institutional realities to fit these goals. Trade facilitation and not FTAAP should be APEC’s and ABAC’s primary focus. Success breeds success and failure breeds failure.

¹⁵ Malcolm Cook and Allan Gyngell, *How to Save APEC* (Sydney: Lowy Institute for International Policy, October 2005), p 9.

¹⁶ James Fearon, “Bargaining, Enforcement and International Cooperation”, *International Organization* Vol 52, Issue 2, 1998.

¹⁷ Ippei Yamazawa and Robert Scollay, “Towards an Assessment of APEC’s Trade Liberalization and Facilitation”, in *APEC as an Institution: Multilateral Governance in the Asia Pacific*, edited by Richard E. Feinberg (Singapore: Institute of Southeast Asian Studies, 2003), p. 127.

ISEAS Perspective is
published electronically by
the Institute of Southeast Asian
Studies, Singapore.

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