



## UNITED STATES EXPERIENCE



### TITLE OF THE EXPERIENCE: Business Ethics in Sectors of Export Interest to APEC Small and Medium-Sized Enterprises

**Country:** United States

**Institution:** International Trade Administration, U.S. Department of Commerce

**Type of Institution:** Public

**Other institutions involved:** APEC

**Webpage:** [www.apec.org](http://www.apec.org)

**Related Principle:** 3. Promote a **simpler, more stable and efficient institutional and regulatory framework** for business and investment, by increasing transparency in government, the rule of law, promoting competition in our markets, and ethical conduct in the interactions between the public and private sector

#### Context

The business ethics multi-year project was designed by staff in the Office of Market Access and Compliance in the International Trade Administration at the U.S. Department of Commerce to combat corruption in sectors where SMEs are the major stakeholders (medical devices, construction/engineering, and biopharmaceuticals). The goal is to eliminate the challenges and high costs associated with corruption **through clear and concise codes of ethics specific to the three industry sectors** to facilitate the movement of goods and services across borders throughout the APEC region.

Senior representatives from private sector industry associations, government agencies responsible for ethics enforcement (anti-corruption commissions and regulatory bodies), SME delegates from APEC economies, and global ethics experts from academia participated in the workshops over a two year period. In 2010 the United States was awarded APEC funding to launch the initiative. APEC funding was matched by private sector funding. Based on the enormous interest by APEC economies to continue this work, the United States was awarded APEC Multi-Year Funding to continue this work through 2014. APEC funding was again matched by private sector contributions, as well as in-kind contributions (venue space, audio visual support etc) by APEC developing economies, as required by APEC.

### Objectives

The objectives of the business ethics work stream is to create an open and transparent commercial environment, build ethics compliance capacity in small and medium-sized firms within APEC economies, geometrically expand the number of ethics compliance trainers through a train-the-trainer program, educate all relevant stakeholders (both public and private sector) on the benefits of ethics compliance to sustainable company and national economic growth, increase the number of new healthcare innovations that cross APEC borders to enhance patient healthcare, and ensure that infrastructure projects are built in a cost effective and safe manner.

### Relevance

According to World Bank statistics, US\$1 trillion dollars is lost to the private sector annually as a result of corruption. Small and medium-sized companies, who represent the majority of businesses in the APEC region, do not have the financial resources to spend 25% of their operating capital on bribe demands to gain contracts, licenses, permits, secure manufacturing inputs from customs, etc. Their scarce financial resources are needed for research and development, worker training, building out production capability, marketing, and increasing export capability to sell new innovations in foreign markets. Additionally, SMEs do not have the financial depth to hire ethics compliance lawyers to help them navigate a myriad of ethical rules and rules and regulations across 21 APEC countries. Clear and concise voluntary codes of ethics define the appropriate ethical relationships between the unique stakeholders in each sector, serve as a vehicle for self-regulation by each industry to reduce government enforcement and onerous regulation, foster innovation and competitiveness by ensuring that contract bids are awarded based on “best product for the best price”, and facilitate the movement of goods and services across borders so that consumers can benefit from new healthcare innovations and infrastructure that is based on the highest building and safety standards. Sector-based codes of ethics facilitate transparency, accountability, integrity, safety, and consumer confidence in companies that abide by an ethical code. Companies that embrace ethics compliance as a core competency and protect their greatest asset – their good name – have greater contracting opportunities in the global supply chain as sub-contractors and suppliers. They are also well positioned to bid on large national contracts around the world where procurement rules and regulations require the highest level of transparency and accountability.

Codes of ethics also build public sector trust in governments, as citizens have greater confidence that the government – working hand-in-glove with the private sector – is trying to eliminate the culture of corruption that undermines economic and social systems in many countries.

### Implementation

The work launched with an educational workshop on the margins of the 2011 SME Ministerial in Gifu, Japan, to educate SME members on the benefits of ethics compliance and to garner support of the work by APEC SME Ministers. Drafting workshops were then held in Malaysia (medical devices), Mexico (biopharmaceuticals) and Vietnam (construction/engineering) to establish sets of ethical principles for each sector. In April 2012 a code writing workshop for the medical device sector was held in Brunei using the KL Principles For Voluntary Codes of Business Ethics in the Medical Device Sector as the foundation text. Mentors from APEC economies with existing high level codes were paired with APEC developing economies to support and assist their industry associations in drafting a full code of ethics with a view towards harmonizing the codes across all 21 APEC economies. Note: The codes will reflect any national laws or regulations unique to each APEC economy but will largely harmonize the APEC region. In July 2012 a code writing workshop was held in Chinese Taipei for the biopharmaceutical sector to forge greater alignment of existing codes and help APEC economies without codes develop a strategic plan for drafting a code. The Mexico City Principles For Voluntary Codes of Ethics in the Biopharmaceutical Sector was used as the foundation text. Note: A code writing workshop will not take

place for the construction sector as The Hanoi Principles for Voluntary Codes of Ethics in the Construction and Engineering Sector are robust and adequate for the millions of SMEs involved in the construction sector in the APEC region. In July 2013 a week long train-the-trainer workshop will be held in Malaysia at Malaysia's Anti-Corruption Academy for all three sectors. This training will geometrically expand the number of ethics trainers in the APEC region through extensive ethics compliance training. Each APEC economy will send six novice practitioners to Malaysia for intensive ethics training. They will be given the knowledge and tools to conduct ethics compliance training in their home economy in local business associations. Experienced ethics compliance trainers and practitioners will provide training and ongoing support to the new trainers. This will be followed by a workshop in Indonesia to build awareness for, and support among, healthcare professionals, regulators, and anti-corruption authorities for voluntary codes of ethics in the medical device and biopharmaceutical sectors. A similar workshop will be held in the spring of 2014 for the construction and engineering sector.

#### **Distribution of tasks**

The United States secured partner economies on all projects and worked closely with the private sector to recruit key industry associations and relevant ministry officials from each APEC economy. SME delegates, academics, healthcare regulators, members of the APEC Business Advisory Council, NGOs focusing on governance and transparency, and representatives from relevant APEC Working Groups (Life Science Innovation Forum and Health Working Group) were invited to participate. Gender was also a key consideration in each project to ensure that women participants were represented in each workshop. Pre-workshop surveys were conducted and submitted by each participant to the core implementation team that helped inform the drafting workshop discussion and deliberation. Each APEC economy had a voice in the drafting process and each set of principles was endorsed through full consensus at the conclusion of each workshop. The three sets of principles were circulated via the SME Working Group for a final review by APEC economies and then forwarded to SME Ministers for endorsement. All three sets of ethics principles were endorsed by both Foreign and Trade Ministers at the APEC Leaders' Meeting in Honolulu, Hawaii in November 2011. Ministers instructed the SME Working Group to continue the business ethics work to make the ethics principles functional and operational for SMEs through capacity building workshops.

The three sets of principles, a status report that contains web links to the projects through July 2012, and a sample document of the Biopharmaceutical code writing workshop held in July 2012 (with participants) is attached.

#### **Achievements and results**

Three sets of ethics principles were established for the medical device, biopharmaceutical and construction/engineering sectors. These ethics principles are now being cross-walked into full textual codes of ethics by the associations in all 21 APEC economies. The APEC economies with existing high level codes are updating their code to bring the entire APEC region in closer harmonization so that SMEs can move technology across borders in the efficient and cost effective method. By June 2013 all APEC economies should have a national code in place so they can send representatives to the train-the-trainer workshop in Malaysia so that their newly trained ethics compliance trainers can return home and train association members on their own national code. Based on the first benchmarking survey conducted in July 2012, the vast majority of medical device companies are well on their way to establishing a national code. The first benchmarking for the biopharmaceutical sector is October 2012, however preliminary reports submitted by the mentors indicates the biopharmaceutical sector is on the same trajectory. Note: The construction industry will utilize the Hanoi Principles rather than establish codes that are not applicable to the millions of small and medium-sized companies that work in the construction-engineering space.

**Unexpected achievements**

APEC governments were HIGHLY supportive of ethics work and there were so many requests from local associations to participate in the code writing workshops that there was not enough APEC funding available to accommodate their airfare/per diem expenses. Further, a great number of industry association members paid their own expenses to participate.

**Experience and Sustainable Results**

The drafting workshops have been replicated three times with success. The APEC model will be replicated in India (construction and engineering sector) in September 2012. The model can be used for any sector and builds on public-private partnerships. The train-the-trainer will ensure sustainability in individual APEC economies by 1) giving the novice trainers the knowledge and skill sets to implement ethics compliance in their own country, 2) teach them vehicles to raise funds to build up their ethics compliance programs, requires that novice trainers recruit and train additional staff at home, and teaches them the most affordable means to implement a compliance program. Ethics compliance can be accomplished on just US\$1 dollar per day. The experienced ethics practitioners have agreed to mentor their counterparts from each APEC economy until their first training program is completed. The Stakeholder Awareness portion of the work stream will make government agencies, regulatory bodies, and professionals (physicians, procurement decision-makers, etc) aware of the compliance efforts by and encourage their support and focus on public sector enforcement.

**Capacity to replicate and potential for exchange**

See in annex.

**Human, operational and institutional capacities**

The US Department of Commerce has full capability to share this information/experience/model with RIAC. In fact, the US government has already submitted a proposal to the RIAC Steering committee and will be launching a workshop in Cali, Colombia in October 2012 at the ACF – beginning with the medical device sector.

**Modalities to replicate the exchange**

Information sharing, workshops, and/or a video conference would be most suitable for expanding the initial knowledge on this project. However, the workshop in Cali will be an educational workshop to inform ACF countries on 1) how this model and work benefits sustainable company and national economic development, 2) how it helps move new live-saving technology across borders, 3) is in the best interest of patient healthcare, and 4) saves national governments money so that scarce government dollars can be used for other social needs.

**Good practices and concrete lessons**

The model is a quintessential public-private partnership that brings together relevant government agencies (health ministries, public works ministries, anti-corruption commissions, or those mandated with the responsibility of procurement or health and safety regulations) with a wide array of private sector representatives. The model addresses the unique relationships between the stakeholders in each industry, brings patient healthcare and safe infrastructure to the forefront of discussions, builds a culture of integrity in each industry sector, allows small and medium-sized innovations who represent the majority of stakeholders to enter the marketplace where they market and sell their products in an open and fair commercial environment.

#### **Experiences and subjects to learn from other RIAC members**

The initiative results in a wealth of information on the ethics challenges companies face in countries and allows each public or private workshop participant to have an equal voice in the process. Private sector development varies across countries. The initiative incorporates all the unique challenges that countries face and allows for the cross-pollination of ideas and solutions.

#### **Key persons involved in the design, implementation, and evaluation**

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