

APEC Principles for Cross-Border Trade in Services

In the spirit of APEC's underlying approach of open regionalism;

Recognizing the dependence of all APEC economies on the services sector as a driver of economic growth, employment, and competitiveness;

Emphasizing the importance of creating a policy and regulatory environment conducive to services trade;

Recognizing the range of policy issues that can have a direct impact on the openness and facilitation of services trade, and a significant influence on cross-border delivery of services;

Recognizing the right of APEC economies to regulate and introduce new regulations on the supply of services in order to meet policy objectives, and the particular need of developing economies to exercise this right

Mindful of the shared commitments of APEC economies to achieving greater regional economic integration and free and open trade in services in the APEC region;

Acknowledging diversity in the level of development of APEC economies, and mindful of the particular economic situation and specific needs of developing economy members;

Without prejudice to applicable bilateral, plurilateral, and multilateral agreements and other international instruments, or to APEC economies' positions with respect to discussions in other fora, including the WTO Doha Development Agenda;

APEC economies recognize the following non-binding principles:

A. PROMOTION OF OPEN SERVICES MARKETS

Most-Favored-Nation Treatment

1. APEC economies should accord or endeavor to accord to service suppliers of another APEC economy treatment no less favorable than that accorded, in like circumstances, to service suppliers of any other economy.

National Treatment

2. APEC economies should accord or endeavor to accord to service suppliers of other APEC economies treatment no less favorable than that accorded, in like circumstances, to their own service suppliers.

Local Presence

3. To the extent possible, APEC economies should not require service suppliers of other APEC economies to establish or maintain a representative office or other form of enterprise in their territory, or require service suppliers to be resident in their territory, as a condition of supplying a service.

Number of Service Suppliers

4. APEC economies should not place numerical limitations on the number of suppliers of any service that is permitted within their territories, whether in the form of numerical quotas, monopolies, or exclusive service suppliers.

Progressive Liberalization

5. APEC economies acknowledge that – due to domestic policy constraints – each economy may not be able to adhere to the principles in paragraphs 1-4 with respect to all sectors, subsectors, or areas of activity.
6. APEC economies should endeavor to:
 - (a) refrain from introducing new measures that would have the effect of making measures not consistent with the principles in paragraph 1-4 more restrictive as to the service suppliers of other APEC economies; and
 - (b) eliminate existing measures not consistent with the principles in paragraphs 1-4 or make those measures progressively less restrictive as to the service suppliers of other APEC economies.

B. REGULATORY PRINCIPLESRight to Regulate

7. APEC economies recognize the right of each APEC economy to regulate and to introduce new regulations on the supply of cross-border services to meet that APEC economy's policy objectives, including the protection of consumers, the protection of human, animal or plant life or health, the protection of public morals, the maintenance of public order, and to take measures for prudential reasons or to ensure the integrity and stability of the financial system.

Requirements and Procedures

8. In service sectors subject to regulation, APEC economies should provide for the fair and transparent development, adoption and application of regulations and regulatory procedures for trade in services.
9. APEC economies should endeavor to ensure that measures relating to licensing requirements and procedures, qualification requirements and procedures, and technical standards are consistent with Article VI of the WTO *General Agreement on Trade in Services*.
10. With respect to applications for a license or authorization:
 - (a) Where practicable, applications should be accepted in electronic format under the same conditions of authenticity as paper submissions; and
 - (b) Relevant authorities should initiate the processing of applications without undue delay.
11. Where relevant authorities do not accept submission of applications for a license, authorization, or determination of qualification, on an ongoing basis, they should establish reasonable periods during which applicants will be permitted to submit such applications.

Regulatory Cooperation

12. APEC economies should work cooperatively to address regulatory matters and enhance regulatory capacity in pursuit of effective, high-quality regulation that supports trade and economic development. Such work could include encouraging, where appropriate:
 - (a) relevant bodies in their territories to develop mutually acceptable standards and criteria for the licensing and certification of service providers, including, for example, through mutual recognition agreements and temporary licensing arrangements, and
 - (b) cooperation and sharing of information among competent authorities on enforcement and disciplinary matters.

C. PRINCIPLES TO ENHANCE TRANSPARENCY AND PREDICTABILITYPublication

13. Each APEC economy should ensure that its laws, regulations, procedures, and administrative rulings of general application respecting matters concerning cross-border trade in services are promptly published or otherwise made available in such a manner as to enable interested persons and other APEC economies to become acquainted with them.
14. To the extent possible, each APEC economy should:
 - (a) publish in advance any laws, procedures, and regulations or administrative rulings of general application that it proposes to adopt and the purpose of these measures;
 - (b) provide service suppliers a reasonable opportunity to comment on such proposed measures; and
 - (c) allow reasonable time between publication of final regulations relating to cross-border trade in services and their effective date.

Regulatory Procedures

15. Where an APEC economy requires authorization for the supply of a service, the economy's competent authority should:
 - (a) make publicly available the requirements, including any documentation required, for completing applications for such authorization; and
 - (b) within a reasonable time after the submission of an application considered complete under its laws and regulations, inform the applicant of the decision concerning the application.
16. On the request of an applicant, an APEC economy's regulatory authority should inform the applicant of the status of its application.
17. On the request of an unsuccessful applicant, an APEC economy's regulatory authority that has denied an application should, to the extent practicable, inform the applicant of the reasons for denial of the application. Applicants should be given the opportunity to resubmit or amend their application for further review, or file an appeal if an application is denied.

Provision of Information

18. On request of an APEC economy, another APEC economy should promptly provide information and respond to questions pertaining to existing or proposed measures that affect cross-border trade in services.

19. Each APEC economy should establish or maintain appropriate mechanisms for responding to inquiries from interested persons regarding its regulations relating to cross-border trade in services.

D. PRINCIPLES TO FACILITATE SERVICES DELIVERED ELECTRONICALLY

Consumer Protection for Electronic Transactions

20. APEC economies should adopt and maintain transparent and effective mechanisms to protect consumers from fraudulent and deceptive commercial practices when they engage in cross-border services trade through electronic channels.
21. APEC economies should seek to enhance consumer protection by encouraging cooperation among their respective national consumer protection agencies.

Enabling of Cross-Border Information Flows

22. APEC economies should endeavor to facilitate information flows in accordance with economies' respective laws and regulations.

Copyright Protection for Works Distributed Over the Internet

23. APEC economies should continue their cooperative efforts under the APEC Anti-Counterfeiting and Piracy Initiative.

E. PRINCIPLES TO FACILITATE SERVICES DELIVERED THROUGH THE PRESENCE OF NATURAL PERSONS

Business Mobility

24. Each APEC economy should, subject to its laws and policies, enhance the mobility of business people¹ by implementing transparent, streamlined temporary entry procedures, and immigration and related border systems, while recognizing the need to ensure the safe and secure movement of people.
25. Each APEC economy should make available information on requirements and procedures for applying to gain entry, temporary stay, and permission to work in that economy, as well as requirements and procedures for applications relating to changes or renewals of entry status.

Recognition

26. For the purposes of fulfillment of their standards and criteria for licensing and authorization of natural persons, APEC economies may recognize the education or experience obtained, requirements met, or licenses or certifications granted in another APEC economy. Such recognition may be based upon an agreement or arrangement with the economy concerned or may be accorded autonomously.
27. An APEC economy that is a party to an agreement or arrangement of the type referred to in paragraph 28, should afford adequate opportunity for other interested APEC economies to negotiate their accession to such an agreement or arrangement or to negotiate comparable ones with it. Where an APEC economy accords such recognition autonomously, it should afford adequate opportunity for other APEC economies to demonstrate that education, experience, licenses, or certifications obtained or requirements met in the other APEC economy's territory should be recognized.

¹ Business people may include categories of natural persons such as intra-corporate transferees, business visitors, contractual services suppliers, independent professionals, and other possible categories.

28. APEC economies should not accord recognition of the kind described in paragraph 28 in a manner which would constitute a means of discrimination between APEC economies in the application of its standards or criteria for the authorization, licensing or certification of services suppliers, or a disguised restriction on trade in services.

F. SCOPE OF APPLICATION

29. For purposes of these Principles, Cross-border Trade in Services means services supplied:
- (a) from the territory of one APEC economy into the territory of another APEC economy
 - (b) in the territory of one APEC economy to the service consumer of another APEC economy; or
 - (c) by a natural person of an APEC economy in the territory of another APEC economy.
30. These Principles are intended to apply to measures taken by central, regional and local governments of APEC economies.
31. These Principles are not intended to apply to air transport services; services supplied in the exercise of governmental authority; government procurement; subsidies; or financial services,² except for cross-border trade in:
- (a) insurance of risks relating to maritime shipping, commercial aviation, and goods in international transit; and
 - (b) reinsurance.
32. APEC economies recognize that relevant exceptions of the General Agreement on Trade in Services (GATS) would apply to these Principles, including Articles III*bis*, XIV, and XIV*bis* of the GATS (including their footnotes); paragraphs 2 and 4 of the GATS Annex on Movement of Natural Persons; paragraphs 1, 2, and 4 of the GATS Annex on Air Transport Services; and paragraphs 2(a) and 2(b) of the GATS Annex on Financial Services.
33. Nothing in these Principles is intended to prevent an APEC economy from adopting or maintaining nondiscriminatory measures of general application taken by any public entity in pursuit of monetary and related credit policies or exchange rate policies.

² Terms used in this paragraph have the same meaning as in paragraph 5(a) of the GATS Annex on Financial Services and in paragraph I:3(c) of the GATS.