

A CRITICAL APPRAISAL OF INITIATIVES OF ASIA-PACIFIC ECONOMIC COOPERATION (APEC) FOR THE BLUE ECONOMY: DEADLOCKS AND ANY POSSIBLE WAY OUT?

*I-Ju Chen**

ABSTRACT

The article will critically evaluate Asia-Pacific Economic Cooperation's (hereinafter "APEC") Blue Economy implementations as well as ocean governance of the Comprehensive and Progressive Trans-Pacific Partnership (hereinafter "CPTPP") Agreement. APEC's Xiamen Declaration on the Blue Economy pledges to advance sustainable ocean and coastal governance for purposes of fostering economic growth, including scaling up marine protected areas, tackling illegal fishing and facilitating sustainable regional trade in fish. However, the effectiveness of APEC's initiatives for the Blue Economy and its implementation are doubtful due to its talk-shop nature.

APEC has performed a reform of disciplining fisheries subsidies which have been a principal factor leading to depleted fishery stocks. By contrast, APEC has been criticized with regard to its inability to complete sensitive or complex goals, such as achieving sustainable development of the Blue Economy. This inability might arise from APEC's de facto institutional character, which shows a lack of an establishing treaty conferring on APEC an international

* I-Ju Chen is Teaching Fellow of the School of Law at the University of Birmingham where she completed her PhD. She holds an LLM from University College London. She was Visiting Scholar at the School of Law, Durham University. The Author appreciates Professors Heng Wang, Pasha L. Hsieh, and audiences in the 7th AIELN conference. The Author also appreciates peer reviewer's comments and editors' help. Omissions or errors are the Author's. The Author can be reached at: iju.chen.law@gmail.com.

legal personality. Nevertheless, APEC can develop a binding agreement following the example of the Information Technology Agreement (ITA) which was initiated by APEC and adopted at the WTO's 1996 Singapore Ministerial Conference with support from APEC member economies. A recent mega-regional trade agreement in the Asia-Pacific region—CPTPP—would be another possible option for advancing the Blue Economy in the Asia-Pacific region. It is widely recognized that CPTPP has a series of novel and enforceable regulations concerning fishery sustainability. One of the CPTPP's priorities is to combat illegal, unreported and unregulated (IUU) fishing by placing a restriction on trade. In addition, CPTPP's environmental chapter contains a binding dispute settlement mechanism. The final section is to refer to the European Union (hereinafter "EU") model. The EU is a supranational and regional body with enforceable power. EU fishery regulations could be a model for the Asia-Pacific region in the sense of the substance of its rules. The EU has a more complex rule of regulating fishing and fisheries subsidies, such as the Regulation No. 508/2014 directing EU member states to use European Maritime and Fisheries Fund. This article concludes that the CPTPP turns out to be a better policy choice for advancing the Blue Economy, in comparison with the APEC. With regard to improving CPTPP's ocean governance, this article suggests to refer to the EU fishery regulations.

KEYWORDS: *APEC, CPTPP, the Blue Economy, soft-law, EU regional integration*