

# ABAC 2004 Interim Report to APEC Economic Leaders

## Executive Summary

ABAC is encouraged by this year's brighter global economic picture. While ABAC anticipates stronger growth in the APEC region, ABAC remains concerned about continued risks and uncertainties with regard to global trade.

In this Interim Report, ABAC urges APEC Economic Leaders to take prompt and decisive action to promote global and regional free trade and to secure economic stability in all economies. ABAC has chosen as its theme for 2004 "**Bridging the Pacific: Coping with the Challenges of Globalization.**" In this report, ABAC makes recommendations to APEC Leaders in five key issue areas, as follows:

1. In order to restore confidence in the WTO process with the goal of achieving global free trade, APEC economies must strengthen their efforts to advance the Doha Development Agenda. To this end, economies should demonstrate their commitment to resolving differences in the areas of agriculture, nonagricultural market access (NAMA), services, trade rules, trade facilitation, and transparency in government procurement. ABAC recommends that economies:

- Present a collective approach to advance the WTO negotiations on agriculture involving improved market access through the reduction of tariffs, elimination of export subsidies and substantial reduction in trade distorting domestic support.
- Develop a specific tariff reduction formula with comprehensive coverage for NAMA which should fully respect the Doha mandate.
- Table their services offer as required by the Doha Development Agenda, if they have not done so, and focus on priority areas within the services negotiations including financial services, movement of natural persons, and recognition and regulation of professional standards.
- Support revisions to the WTO Anti-Dumping Agreement to clarify and improve the rules and discipline on anti-dumping.
- Secure a consensus in the WTO to launch trade facilitation negotiations within the scope and timeframe of the Doha Round, leading to a comprehensive and binding agreement. Support of initiatives, like the Trade Facilitation Alliance, is important to encourage the participation of businesses within the region.
- Support negotiations at the WTO on transparency in government procurement, making sure that they take into account the development priorities of developing member economies.

2. The growing trend of preferential trade agreements within the APEC region may increase the risk of inconsistencies in adherence to trading rules, raising the cost to businesses that operate in the region and threatening the success of multilateral trade negotiations. APEC

economies must therefore ensure that RTAs/FTAs are consistent with WTO rules and support the Bogor Goals. ABAC recommends that economies:

- Undertake a review in the WTO of existing rules and procedures on RTAs/FTAs.
- APEC members involved in RTAs/FTAs negotiations should reaffirm their commitment to the Bogor Goals.
- Ensure that RTAs/FTAs should also be compatible with APEC-endorsed principles that apply to competition and regulatory reform, investment, government procurement and trade facilitation.
- Design and features of preferential trade arrangements should be incorporated into the agenda of the Mid-Term Review to be conducted in 2005.

3. As the facilitation of global trade and investment encounters new challenges, APEC economies must seek practical and fair solutions to meet these challenges. In particular, APEC economies must take greater steps to promote trade facilitation measures, improve security in international trading while containing compliance costs, and facilitate the flow of investments in the region through the APEC Trade Facilitation Action Plan. ABAC recommends that economies:

- Adopt the time required for release of goods as one of the objective criteria to measure the effectiveness and impact of customs measures in APEC.
- Join and/or implement the APEC Business Travel Card Scheme. Standardize and enhance technology and immigration procedures to facilitate the mobility of business people in the region.
- Make information available to the business community on rules and procedures for new security requirements, report on their efforts to comply with new security measures, and make efforts to harmonize such measures. Cooperate to provide technical assistance on best practices in adopting security measures and identify capacity building programs to assist developing economies with security compliance. Work with the business community to measure possible efficiency gains due to the adoption of security-driven technologies.
- Facilitate investments by strengthening cooperation among enforcement agencies in protecting intellectual property rights; focusing on concrete deliverables in the areas of insolvency and creditors' rights systems; taking concerted action to develop a common accounting framework; fostering recycling-based economies by implementing environment protection policies; and enhancing transparency in investment-related regulations and procedures.

4. Capacity building in the APEC region is essential to fulfilling the Bogor Goals, and must be conducted at the institutional, organization and human level in order to succeed. As such, APEC economies must work together to address critical capacity building needs at all of these levels. ABAC recommends that economies:

- Enhance collaboration between health and trade negotiation delegations within APEC and encourage interaction between the APEC Trade Ministerial and Health Ministerial processes. Encourage APEC economies' health authorities to take a more proactive and strategic approach to ensure early consideration of public health issues as they relate to trade.
- Enhance capacity building efforts in the area of standards and conformance, including undertaking independent assessments of standards and conformance infrastructure in each APEC economy to identify weaknesses and plan actions to rectify them and developing APEC-wide seminars to promote the business case for the establishment of a standards and conformance regime across the region. Provide other capacity building programs to ensure greater participation in international standards setting organizations.
- Identify bottlenecks in regional supply chains associated with gaps in cross-border logistics infrastructure. Enhance the capability of logistics infrastructure to resist, respond, and recover from acts of terrorism and piracy; such efforts could include development of coordinated vessel and cargo monitoring systems in the APEC region.
- Promote cooperation among enforcement agencies to protect intellectual property rights, including developing practical measures to share information, help economies address new and emerging forms of IP-related crimes, and increase cross-border collaboration.
- Support the development of an APEC Business Schools Network (ABSN), which would aim to build partnerships among these institutions and promote English as the regional medium of business.

5. Given the changing landscape in the region, APEC must strengthen its efforts and strategies to remain relevant and effective.

ABAC is actively discussing a range of potential options to accelerate the pace of trade and investment liberalization in the region. These options range from steps to bring new discipline in implementation and more binding commitments to the achievement of the Bogor Goals to an examination of the workability and impact of proposals for a free trade agreement of the Asia Pacific.

Other initiatives proposed by ABAC include the call to APEC Leaders to review the APEC Non-Binding Investment Principles and implement these as a Pathfinder Initiative and to promote public and private sector anti-corruption cooperation through the adoption of an APEC Convention on Combating Bribery of Foreign Public Officials in International Business Transactions at the 2005 APEC Summit.



**ABAC 2004 Interim Report to APEC Economic Leaders  
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## Introduction

The global outlook is more favorable than it has been for a number of years. Global trade is rising sharply, business confidence is improving, financial markets are buoyant and commodity markets are particularly strong. All of these support expectations for strong growth in the APEC region.

This positive outlook notwithstanding, significant challenges and risks remain. These include geopolitical uncertainties, including terrorist attacks and higher oil prices; global imbalances, notably the large US current account deficit on the one hand and surpluses elsewhere; difficult medium-term fiscal situations in many industrial and emerging market economies; and low global interest rates. ABAC supports the view that economies should take advantage of the global recovery to press ahead with structural reforms of their economies as well as the global economic architecture that are needed to improve growth potential, flexibility, and resilience, and to resist protectionist pressures. In particular, ABAC urges APEC Leaders to seize the opportunity and take action to resuscitate the Doha Round and reinvigorate the pursuit of the Bogor Goals.

Against this background, ABAC adopted as its theme for 2004 “**Bridging the Pacific: Coping with the Challenges of Globalization**” which addresses the following issues:

- Achieving concrete results for the WTO Doha Development Agenda;
- Ensuring Preferential Trade Agreements within the APEC region contribute to the Bogor Goals;
- Coping with new challenges for trade and investment;
- Strengthening financial systems in the APEC region;
- Capacity building to face the challenges of globalization; and
- Enhancing the effectiveness of APEC.

The ABAC 2004 Interim Report to APEC Economic Leaders elaborates on these issues and outline recommendations in the areas of trade and investment.

This report is being forwarded to APEC Ministers Responsible for Trade in time for their meeting in Pucon, Chile on 4-5 June 2004. ABAC will also submit to APEC Finance Ministers and APEC SME Ministers recommendations on issues that fall within their areas of concern later in the year.

## **I. Achieving Concrete Results for the WTO Doha Development Agenda**

ABAC acknowledges that the multilateral process of the WTO is superior to bilateral and regional arrangements for achieving trade liberalization that is nondiscriminatory. ABAC therefore welcomes the efforts made by WTO officials and WTO member economies since the Cancun ministerial meeting, to get the negotiation process back on track and move it forward. ABAC acknowledges that such efforts are helpful and necessary to restore confidence in the WTO process.

However, overall progress is slow and original deadlines will be hard to meet. ABAC urges APEC Leaders to take immediate actions to advance the DDA, and to seek concrete solutions. ABAC considers that political schedules in member economies should not stand in the way of a timely conclusion of negotiations and reaffirms the importance of keeping to the negotiation deadline of 1 January 2005. ABAC is encouraged by the fact that the current environment contains less rhetoric and appears to represent a good faith effort to reach an agreement.

In particular, ABAC would like to see greater flexibility on the part of member economies to reach common ground on an appropriate approach to address the key areas of difference covering agriculture, non-agricultural market access (NAMA), services, trade rules, trade facilitation, and transparency in government procurement. ABAC urges continuing work on investment. ABAC reaffirms that APEC economies should consider the Derbez text as the starting point to reenergize the negotiations in each of these areas.

### **A. Agriculture**

ABAC strongly supports the DDA mandate which calls for: substantial improvements in market access; reduction in all forms of export subsidies with a view to their phasing out; and substantial reductions in trade-distorting domestic support. An ambitious result is essential for the Doha negotiations to proceed and to succeed.

#### ***Recommendations:***

- **APEC Leaders present a collective approach to advance the negotiations in agriculture.**
- **The reduction of tariffs, elimination of export subsidies and trade distorting domestic support should ensure the following: (i) that there will be a substantial improvement in market access for all products, especially those of export interest to developing economies; (ii) that developing economies benefit from special and differential treatment, including not having a disproportionate burden in the tariff reductions; and (iii) that member economies having higher trade-distorting subsidies should make greater efforts at reducing them.**

### **B. Non-agricultural Market Access (NAMA)**

Successive multilateral trade rounds have resulted in significant reductions of barriers to trade in industrial products. However, tariff structures are still characterized by tariff peaks and tariff escalation. ABAC reaffirms its support for the Doha mandate on market access for non-agricultural products that calls for the reduction or elimination of tariffs, tariff peaks and tariff

escalation, as well as non-tariff barriers. An early agreement on the tariff reduction formula and on the product coverage for NAMA is critical to the success of the DDA.

***Recommendations:***

**APEC economies take the lead in developing a specific tariff reduction formula to be used in the negotiations. The coverage must be comprehensive and without a priori exclusions. The negotiations should take into account the special needs and interests of developing countries, including through less than full reciprocity in tariff reduction commitments.**

**C. Services**

Given the importance of services to growth and development in all APEC economies, ABAC urges APEC leaders to take immediate steps to advance WTO negotiations on the liberalization of trade and investment in services. Even in developing APEC economies, services account for over 40% of GDP. Despite the major contribution of services to GDP, however, most APEC economies are below the world average in terms of their percentage of services exports.

ABAC notes that under the Doha Development Agenda, member economies were to submit initial offers in terms of improving national treatment and market for trade in services by 31 March 2003. Only 41 WTO members however have submitted their services offers to date, falling short of the number needed to achieve critical mass in the negotiations.

In the area of financial services, initial findings of a study commissioned by ABAC of the benefits of financial services liberalization in the region suggest that: (i) the ability to have a commercial presence in markets is a high priority; (ii) the willingness of an economy to promote policies to facilitate financial sector adjustment also is extremely important; and (iii) more open markets have been met with a significant increase in productive investment in the financial sector from within economies and from neighboring economies. Such investment has the potential for broader economic expansion and employment growth. ABAC will make further recommendations upon the completion of the study.

***Recommendations:***

- **All APEC economies that have not tabled their services offers and/or submitted their requests to their main trading partners to do so as soon as possible.**
- **Collectively develop in the WTO rules to improve transparency of domestic regulations.**
- **Give immediate attention to the following priority areas within the services negotiations:**

**Movement of natural persons**

- **Take steps to improve transparency with respect to visa procedures and establish clear criteria for the application of economic needs tests.**
- **Review and clarify their current visa and immigration policies, and simplify and speed up procedures for approving and processing entry visas.**

- ❑ Support proposal for a GATS Work Permit or other fast-tracking procedure to enable certain types of employees to enter a jurisdiction temporarily to work for subsidiaries or on contracts for the supply of services.

#### Recognition and regulation of professional standards

- ❑ Support further GATS work on ‘equivalence’ in the context of mutual recognition of qualifications, technical standards and licensing requirements.
- ❑ Strengthen regulatory frameworks for the licensing of service professionals.
- ❑ Strengthen developing economies’ capacity for domestic services regulation through technical assistance and their participation in international standards activities for services industries.
- ❑ Take steps towards the development of a mutual recognition initiative on professional credentials for key services industries within APEC economies, as a means of advancing progress on this critical issue.

#### “New” Services

- ❑ APEC economies make comprehensive commitments in “new” services areas such as energy, environment, and express delivery services.

### D. Trade Rules

Trade defense instruments are increasingly taking center stage in recent years because they have been used arbitrarily to protect domestic industries from foreign competition. ABAC notes with concern the emergence of protectionist trends such as the rise in non-tariff measures in sectors where developing countries are becoming competitive. Investigation of shrimp imports is a recent example affecting developing economies in the region.

Anti-dumping measures, in particular, have a chilling effect on trade as anti-dumping investigation impose costs to both producers and trades; and have become a source of trade disputes. ABAC is increasingly concerned that as more member economies actively use anti-dumping measures, divergences among members exist in the interpretation and application of rules in the Anti-Dumping Agreement (ADA), thus resulting to the arbitrary application of anti-dumping measures. Thus, ABAC strongly supports the Doha mandate to clarify and improve disciplines under the ADA, while preserving the basic concepts, principles and the effectiveness of the Agreement and its instruments and objectives

#### *Recommendations:*

**ABAC urges APEC members to support revisions to clarify and improve the rules and discipline on anti-dumping and subsidies to: (i) prevent the use of abusive and excessive anti-dumping measures; (ii) avoid excessive burdens on respondents; and (iii) enhance the transparency, predictability and fairness of the system in the WTO Doha Round.**

### E. Trade Facilitation

With the lowering of tariffs across the globe, the cost of complying with customs formalities has been reported to exceed in many instances the cost of duties paid. In the modern business environment of just-in-time production and delivery, traders need fast and predictable release of

goods. Despite many advances however, traders are still confronted with severe obstacles in moving goods across borders.

ABAC believes that trade facilitation is a critical component of ensuring that the benefits from greater market liberalization are fully realized. ABAC takes note of the important contribution that initiatives like the Trade Facilitation Alliance and encourages businesses within the region to participate.

The introduction of clear, transparent and uniform multilateral rules on trade facilitation will bring greater certainty, reduce costs and delays, and provide more competitive import and export conditions for industry and business. Such multilateral rules however should be complemented by capacity building efforts to help developing economies meet the regulatory and infrastructure requirements of compliance with these new obligations. ABAC therefore strongly supports the launch of trade facilitation negotiations at the WTO.

***Recommendations:***

**ABAC strongly supports the launch of trade facilitation negotiations at the WTO. [note: this is not a recommendation; should be deleted or added as a sentence to paragraph above.]**

**□ ABAC urges APEC economies to work together to secure an explicit consensus for the launch of trade facilitation negotiations within the scope and timeframe of the ongoing WTO Doha Round which would:**

- ✕✕☞▪ Lead to a comprehensive and binding agreement devoted solely to trade facilitation within the WTO framework which would incorporate existing GATT provisions relating to certain elements of trade facilitation; and**
- ✕✕☞▪ Ensure capacity building assistance is provided to WTO developing country members coupled with a phase-in period for any new trade facilitation disciplines that are agreed.**

**F. Transparency in Government Procurement**

ABAC considers that transparency in government procurement helps counter corruption, lower the costs to government, and builds trust in the rule of law. Transparency in laws, regulations, procedures and practices in government procurement encourages wider participation by potential suppliers in the procurement exercise, leading to increased choices for the buyer (the government) and enhanced competition. ABAC thus strongly supports the negotiations on a multilateral agreement on transparency in government procurement.

***Recommendations:***

**ABAC urges APEC Leaders to:**

- Reach a consensus to support commencement of negotiations in government procurement. The negotiations shall be limited to the transparency aspects; and hence, will not restrict the scope for member economies to give preferences to domestic supplies and suppliers.**

- Ensure that the negotiations carefully take into account the development priorities of developing member economies in the negotiations. Special and differential treatment shall be implemented through transitional periods for the implementation of the agreement and higher thresholds for developing economies. In addition, provide adequate technical assistance and capacity building to developing member economies.
- Ensure that measures to address corruption are included in the agenda of the Working Group on Transparency in Government Procurement and that specific anti-corruption provisions are included in the WTO Government Procurement Agreement, and any future WTO Transparency Agreement, particularly as it pertains to bribery of foreign public officials.

### **III. Preferential Trade Agreements within the APEC Region**

Over the past few years, APEC member economies have become more aggressive in forging bilateral and regional trading arrangements. It is clear that these agreements will dominate the regional trade agenda until and unless the WTO multilateral negotiations process gets back on track.

A major concern for this growing trend is on the possible effects that these trading arrangements may have on the costs of doing business. This can occur if businesses have to deal with different scope and speed of tariff reductions, and different rules and regulations governing the FTAs, for the same products and services

Nevertheless, ABAC believes that these RTAs/FTAs can be made consistent with the WTO and serve as “building blocks” toward achieving the Bogor Goals provided certain conditions are met regarding their design and implementation.

#### ***Recommendations:***

- **APEC economies support that a review in the WTO be undertaken of the existing WTO rules and procedures on RTAs/FTAs.**
- **APEC members involved in RTAs/FTAs negotiations should reaffirm their commitment to the Bogor Goals.**
- **RTAs/FTAs must be compatible with other principles that APEC has endorsed such as those that apply to competition and regulatory reform, investment, government procurement and trade facilitation.**
- **The design and features of preferential trade arrangements be incorporated into the agenda of the Mid-Term Review to be conducted in 2005.**

## **IV. Coping with New Challenges for Trade and Investment**

### **A. APEC Trade Facilitation Action Plan**

ABAC intends to participate in the Expanded Dialogue on Trade Facilitation to be held in SOM III to present its views on the implementation of the Action Plan but in the meanwhile submits recommendations on specific areas of the Action Plan, namely: customs; standards and conformance; and mobility of business people.

#### *Recommendations:*

##### **Customs**

- Review by each member economy of its customs procedures, including identifying specific areas within the customs framework where time and costs in the movement of goods could be reduced.
- Adopt the “Time required for release of goods – time taken between the arrival of goods at seaports/airports and their release (customs’ permission)” as one of the objective criteria to measure the effect of various actions and measures on trade facilitation in APEC.

##### **Standards and Conformance**

- Undertake detailed independent assessments of the standards and conformance infrastructure currently existing in each APEC economy with the objective of identifying weaknesses and shortfalls to be overcome, and recommending and planning actions to rectify them.
- Urge Ministers to continue to press the issue over the potential trade restricting effects of the EU’s proposed new system for the registration, authorization and evaluation of chemicals (REACH).

##### **Mobility of Business People**

- APEC participating economies in the APEC Business Travel Card (ABTC) scheme that have not yet implemented the scheme should immediately do so; while member economies that have not yet joined are encouraged to join.
- Urge member economies to make a concerted effort to disseminate information concerning the benefits and operation of the scheme.
- APEC member economies coordinate the standardization of technology requirements and enhance the harmonization of immigration procedures in order to further facilitate the mobility of business people in and around the region.
- APEC economies proactively consult with the business sector in discussing rational cost sharing, both in terms of dollars and time, for strengthening immigration control in order not to disproportionately burden the latter in meeting security requirements.

## **B. Trade and Security**

The new security environment has brought additional costs to businesses in the APEC region associated with the need to achieve higher levels of security in the trading system. This compliance costs could jeopardize APEC's commitment to reduce trade transaction costs by 5% by 2006.

Developing APEC economies face particular challenges in adapting to the new security environment, due to a lack of sufficient financial and technical resources, which may render the region's entire security chain vulnerable.

Building upon the Bangkok security commitments, ABAC has identified a number of priority areas for action by APEC economies.

### *Recommendations:*

- **Make available as much information as possible to their business communities on rules and procedures associated with new security initiatives. Authorities in all APEC economies should clearly report on the steps they are taking to communicate and consult with their business communities on the impact of these new security arrangements.**
- **New security requirements should be transparent and not be applied in a manner which could constitute a means of discrimination between economies where the same conditions prevail nor be a disguised restriction on international trade.**
- **Report on their efforts to comply with new key security measures such as the ISPS code and 24-Hour Advance Manifest presentation through their e-IAPs. Other new security-driven initiatives should be harmonized as far as possible on the basis of international standards and employing mutual recognition arrangements for testing conformity.**
- **Cooperate with each other and in partnership with business to provide technical assistance and to exchange information on best practices associated with the adoption of new security measures. In order to assist developing economies in the region to comply with the new requirements – thus strengthening “weak links” in the security chain – APEC should seek to identify specific capacity building programs including training opportunities for APEC customs officials in implementing and maintaining security systems.**
- **Work with the region's business community in developing tools to measure possible efficiency gains due to the adoption of new security-driven technologies and procedures, which may have resulted in the reduction of transaction costs and will contribute to APEC's 5% target. ABAC proposes that a study be undertaken in 2005 to measure the impact of the new security environment on trade transaction costs.**

## **C. Investment Facilitation**

ABAC highlights the crucial importance of long term cross-border investments, particularly foreign direct investment (FDI), in promoting economic growth in the region. ABAC notes that APEC economies are pursuing a number of measures to facilitate the flow of investments in the region. These include reducing impediments to investments, implementing business facilitation measures to strengthen APEC economies, and initiating investment promotion and facilitation activities. ABAC urges consideration of additional measures to further facilitate investment flows in the region.

### *Recommendations:*

- **Strengthen enforcement of intellectual property rights by promoting cooperation among enforcement agencies in the region.**
- **Strengthen economic legal infrastructure by focusing on concrete deliverables in the areas of insolvency and creditors' right systems.**
- **Take concerted efforts to develop a common accounting framework, in line with the International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board (IASB), giving due consideration to the situation of markets and the views of the private sector.**
- **Implement effective environmental protection policies aimed at fostering recycling-based economies in order to facilitate cross-border investment.**
- **Enhance transparency in investment-related regulations and procedures, particularly through the implementation of the APEC Transparency Standards and measures to reduce/eliminate corruption and improve administrative efficiency.**

## **D. E-Commerce**

### **1. Privacy**

ABAC recognizes and applauds the efforts made by economies to develop the APEC Privacy Framework that encourages the development of common, effective privacy protections and ensures the free flow of information in the region. The goal of the implementation phase is to create a streamlined approach in the APEC region for approving and recognizing organization-wide rules such as Codes of Conduct. This approach would ensure that Codes of Conduct recognized in one APEC member economy are recognized by other APEC economies. Codes of Conduct would also eliminate the cost and uncertainty that arise as a result of the administration of complex contractual arrangements across a global enterprise and would permit a code recognized by one APEC economy.

### *Recommendations:*

- **Ensure that the set of core agreement contained in the APEC Privacy Framework are adopted and implemented by all member economies and look to develop an implementation mechanism.**

- **Ensure the core privacy agreement reflected in the final APEC Privacy Principles must remain consistent across all member economies in order for companies to devise meaningful global privacy solutions for their cross border data transfer/transactions.**
- **Promote Codes of Conduct, as part of the implementation mechanism, as one of the methods to implement the APEC Privacy Agreement.**

## **2. Paperless Trading**

Paperless trading has direct benefits in the reduction of transaction costs, achieves both facilitation and security, and meets APEC's Trade Facilitation goals.

To date, fifteen economies have prepared Paperless Trading Individual Action Plans. These IAPs outline the steps APEC economies are taking to meet APEC's target to reduce or eliminate the requirement for paper documents needed for customs and other cross-border trade administration and other documents and messages relevant to international sea, air and land transport, that is, "Paperless Trading" (for trade in goods), where possible, by 2005 for developed and 2010 for developing economies, or as soon as possible thereafter.

ABAC recognizes the good work done by the subgroup and will work to bring this to the attention of businesses around the Asia-Pacific region, highlighting the opportunity for business input in this effort.

### ***Recommendations:***

**ABAC encourages all APEC economies to participate in the work of the sub-group for greater input.**

## **V. Capacity Building to Face the Challenges of Globalization**

Last year, ABAC endorsed a three-level capacity building framework for identifying capacity gaps in the region in seeking to achieve the Bogor Goals. This framework is aimed at addressing the need for capacity building at the institutional, organizational and human level within the APEC region. This year, ABAC has identified a number of priority areas aimed at addressing regional capacity building needs at each of these three levels.

### **A. Institutional Capacity Building**

#### **1. Enhance Policy Coherence between Health and Trade**

Increasing international trade and travel have increased the risk of a rapid spread of infectious diseases, posing new challenges to public health. The concern of business is that responses to these new health challenges could be used consciously or unconsciously as impediments to free and open trade and investment.

There is much common ground between trade and health objectives, and health and trade policymakers can benefit from closer cooperation to ensure coherence between their different areas of responsibilities. APEC provides an excellent framework in which capacity building towards ensuring coherence between trade and health policy can be developed and implemented.

Current efforts in the APEC Life Sciences Innovation Forum to promote investment in health and innovative treatments and in the agricultural biotechnology forum are examples of successful convergence of health and trade policy. ABAC supports the establishment of a high-level APEC Health Forum.

#### ***Recommendations:***

- **Take steps to enhance greater collaboration between trade and health negotiation delegations within APEC, in which key trade and health issues could be identified and taken into account in the early stage of policy making.**
- **Encourage strong liaison between the APEC Trade Ministerial process and the Health Ministerial meeting for more formal involvement in the APEC structure to ensure compatibility in public health interests with the goals of free and open trade and investment.**
- **Encourage APEC economies' health authorities to take a more proactive and strategic approach to ensure early consideration of public health issues as they relate to trade.**

#### **2. Promote Standards and Conformance**

Progress on developing and implementing domestic and international standards has been extremely slow and disappointing and participation in international standards setting bodies is inadequate. Lack of progress in this area continues to hamper achievement of the Bogor Goals and also the targeted five percent reduction in trade-related transaction costs.

*Recommendations:*

- Undertake enhanced capacity building in the area of standards and conformance assessment.
- Calls specifically for APEC TILF funds to enable a program of APEC-wide seminars promoting the business case for the adoption and implementation of an internationally recognized standards infrastructure.
- Rectify shortfalls which prevent participation in the activities of international standards setting organizations and to develop adequate capacity building programs.

**3. Build Critical Logistics Infrastructure**

As globalization progresses, integration into the global supply chain of vendors, becomes increasingly important. ABAC recognizes various logistics capacity gaps in the region, including poor inland transportation systems, outdated facilities, inadequate maintenance, intricate customs clearance, and poor transparency. Addressing these gaps would foster balanced and equitable economic growth in the APEC region.

*Recommendations:*

- Identify bottlenecks in regional supply chains associated with gaps in cross-border logistics infrastructure.
- Enhance the capability of logistics critical infrastructure to resist, respond, and recover from acts of terrorism and piracy. Such efforts could include development of coordinated vessel and cargo monitoring systems in the APEC region.
- Promote comprehensive capacity building in critical logistics infrastructure by the APEC TILF fund, the Asian Development Bank, and other funding sources.

**4. Strengthen Enforcement of Intellectual Property Rights**

The enforcement of intellectual property rights remains a big challenge in the Asia-Pacific region. There continues to be rampant sale and distribution of counterfeit and pirated goods.

*Recommendations:*

In order to strengthen the enforcement of intellectual property rights, ABAC proposes that APEC economies:

- Take steps to further promote cooperation and information exchange between enforcement agencies, including administrative authorities, customs authorities, judges, prosecutors, patent attorneys, and police organizations in the region. These steps should include practical measures to: (i) enhance information-sharing regarding infringement; (ii) strengthen the capacity of APEC member economies to address new and emerging forms of IP-related crimes through policy development, legislative measures, training activities, and allocation of sufficient resources for enforcement; and (iii) increase cross-border collaboration at the operational level.

- **Make all capacity building programs and toolkits available in the languages of developing member economies so that as many people as possible can participate in the programs. ABAC believes that the private sector in the region can contribute to the capacity building efforts of APEC member economies given their advanced technologies, experiences and human resources.**

#### **B. Organizational Capacity Building in the Services Sector for SME Development**

ABAC is currently undertaking a survey of all APEC economies which will provide a clearer picture of what governments and business associations in the APEC region are currently doing to support services SMEs. The survey examines the domestic policy framework as well as trade promotion initiatives to assess the extent to which policies and programs support the growth of services SMEs.

This project will assist APEC governments in identifying any gaps in their policies and programs where further support for services SMEs may be needed – and will also help business associations and chambers in advocating for services needs. Based on these findings, ABAC will develop specific recommendations to APEC SME Ministers later this year.

#### **C. Human Capacity Building in Development of an ABAC Business Schools Network**

There is a need to provide quality training in leadership and management best practice for APEC regional executives and professionals.

The promotion of the English throughout the region as the business language of choice is a fundamental aspect of intra-regional communications on APEC-related subjects.

ABAC applauds APEC Education Ministers' endorsement of the concept of an "APEC Business Schools' Network (ABSNS)" that would aim to build partnerships among regional tertiary/training institutions; foster mutual recognition of qualifications (especially MBA degrees); encourage academic and educational exchanges; develop common standards; share resources; identify best practices; enhance career prospects; and, strengthen the place of English as the regional medium for training and business intercourse.

#### ***Recommendation:***

**ABAC encourages member economies to nominate one or more business schools that will be founding members of ABSNS.**

## **VI. Enhancing the Effectiveness of APEC**

Noting that the landscape facing APEC economies has changed dramatically since the establishment of the Bogor Goals of free and open trade and investment in 1994, ABAC undertook a review in 2003 of APEC's progress. ABAC found that while there was progress in a number of areas, much more needs to be done. This conclusion carries a disturbing message that, without a strong new APEC resolve to succeed, the achievement of the Bogor Goals will be under threat.

Until now APEC's "modus operandi" has been based on the voluntary nature of member economies' individual commitment to the Bogor Goals. As a result, members have produced a large number of initiatives (e.g., guidelines and/or principles, menus of options and mutual recognition arrangements), the implementation of which has been less than desirable. It does not help that the Doha Development Agenda negotiations remain stalled.

ABAC believes that it is timely for APEC to take steps to enhance the effectiveness of the APEC process, ensure its continuing relevance, and advance the Bogor Goals. In particular, APEC should strengthen its implementation mechanism, including by improving the clarity and specificity of IAPs and promoting greater use of pathfinder initiatives. The coming APEC mid-term review scheduled for 2005 would be an opportune time to do this.

**ABAC is actively considering a range of potential options to accelerate the pace of trade and investment liberalization in the region. These options range from steps to bring new discipline and more binding commitment to the achievement of the Bogor Goals to an examination of the desirability and impact of a free trade agreement of the Asia-Pacific in which all APEC economies can participate.**

ABAC offers a number of specific proposals where implementation of APEC commitments could be strengthened.

### **A. New Proposals**

#### **1. APEC Non-Binding Investment Principles**

ABAC recognizes the benefits of investment liberalization and the necessity of measures to cope with various problems regarding investment issues faced by the private sector in the APEC region. Currently, the APEC Non-Binding Investment Principles (NBIP) serve as the framework for strengthening the efficiency of investment administration, eliminating investment obstacles, and establishing a free and open investment environment in the region. Acknowledging that greater predictability for investors will lead to the expansion of investment inflows, ABAC made an assessment of the NBIP with the aim of improving the environment for cross-border investment. The review process gave due considerations to the WTO rules, which is limited to the GATS and TRIMS, provisions of bilateral and regional trading arrangements made by member economies, and the different stages of member economies' economic development.

*Recommendations:*

- APEC amend or clarify the wordings of the NBIP particularly in the areas of: (i) transparency; (ii) non-discrimination between source economies; (iii) national treatment; (iv) performance requirements; (v) repatriation and convertibility; (vi) entry and sojourn of personnel; (vii) avoidance of double taxation; and (viii) removal of barriers to capital exports.
- APEC add a new principle concerning intellectual property rights.
- APEC provide the following definition of “investment” in order to clarify the Principles:

*“For the purpose of these Principles, the term “Investment” means assets directly or indirectly owned or controlled by investors, and includes direct investment, rights conferred under contracts, and intellectual property rights. It shall exclude short-term financial transactions for speculative purposes. Direct investment shall comprise investment undertaken by foreign investors for the purpose of permanent profit. In accordance with the IMF definition, direct investment shall mean those investments where ratio of stocks and other holdings by foreign investors, comprising stock capital, reinvested profit, capital related to borrowing between companies, or other capital is ten percent or more the total capital.”*

- APEC implement the APEC Non-Binding Investment Principles as a Pathfinder Initiative.

## 2. Anti-Corruption in Government Procurement

Corruption is a scourge that undermines good governance, erodes the rule of law and hampers economic development. Given that the perverse economic impact of corruption is large enough to derail fair trade, ABAC believes that this needs to be addressed forcefully by governments and businesses in the APEC region.

**ABAC recommends that APEC governments:**

- ⌚ ▪ Commit in Santiago to adopt an *APEC Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* at their 2005 Summit, which would be binding on participating economies. The following measures to actively combat bribery should be incorporated in the convention:
  - Ensuring the existence of domestic legislation with dissuasive sanctions which effectively and actively combat the offence of bribery of public officials;
  - Ensuring the existence and effective enforcement of anti-money laundering legislation that provide for substantial criminal penalties for the laundering of the proceeds of corruption and crime consistent with the law of each economy;

- Ensuring the existence and enforcement of rules to ensure that bribery offences are thoroughly investigated and prosecuted by competent authorities; these authorities should be empowered to order that bank, financial or commercial records be made available or be seized and that bank secrecy be lifted;
- Strengthening of investigative and prosecutorial capacities by fostering inter-agency cooperation, by ensuring that investigation and prosecution are free from improper influence and have effective means for gathering evidence, by protecting those persons helping the authorities in combating corruption, and by providing appropriate training and financial resources.
- Strengthening bilateral and multilateral cooperation in investigations and other legal proceedings by developing systems which – in accordance with domestic legislation – enhance (i) effective exchange of information and evidence, (ii) extradition where expedient, and (iii) cooperation in searching and discovering of forfeitable assets as well as prompt international seizure and repatriation of these forfeitable assets.
- 🕒 ▪ Develop other specific anti-corruption initiatives. These could include expanding APEC’s current peer review of government procurement regimes to include an examination of the existence and performance of anti-corruption legislation and encouraging all APEC economies to redouble capacity building efforts to promote transparency in government procurement activities.

Business recognizes the negative influence of corruption on business and trade in the Asia Pacific region. Together with government, business has a leadership role in developing and implementing anti-corruption principles and practices.

ABAC urges Leaders to encourage businesses to adopt the following principles:

- ❖ The enterprise shall prohibit Bribery in any form.

Bribery (“Bribery”) is the offering, promising or giving, as well as demanding or accepting, of any undue advantage, whether directly or indirectly in order to obtain, retain or direct business or to secure any other improper advantage in the conduct of business.

- ❖ The enterprise shall commit to the continuation or implementation of an effective Program to counter Bribery.

An enterprise should develop a Program that clearly and in reasonable detail articulates values, policies and procedures to be used to prevent Bribery from occurring in all activities under its effective control.

### **Scope and Guidelines**

#### *Bribes*

The enterprise should prohibit Bribery in all business transactions that are carried out either directly or through third parties, specifically including

subsidiaries, joint ventures, agents, representatives, consultants, brokers,

contractors, suppliers or any other intermediary under its effective control.

*Political contributions and charitable contributions*

The enterprise, its employees or intermediaries should not make direct or indirect contributions to political parties, party officials, candidates or organizations or individuals engaged in politics, as a subterfuge for Bribery and all political contributions should be transparent and made only in accordance with applicable domestic law. The enterprise should ensure that charitable contributions and sponsorships are not used as a subterfuge for bribery and all charitable contributions and sponsorships should be transparent and made in accordance with applicable domestic law.

*Facilitation payments*

Where facilitation payments are prohibited under the anti-bribery laws of a country, enterprises should support their identification and elimination.

*Gifts, hospitality and expenses*

The enterprise should prohibit the offer or receipt of gifts, hospitality or expenses whenever such arrangements would be in violation of applicable domestic law.

## **B. Areas for Implementation**

ABAC urges greater priority attention to be given to a number of initiatives where implementation has been inadequate:

### **1. Multilateral Agreement on the Liberalization of International Air Transportation – Cargo**

In 1999, ABAC recommended that Leaders implement the eight steps for more competitive air services, and identify and implement further steps toward liberalization of air services in line with the Bogor Goals. APEC Leaders agreed to support the Council's recommendations in the Auckland Declaration in 1999.

*Recommendation:*

**ABAC recommends that Ministers should support liberalization of aviation by endorsing participation of APEC economies in the Multilateral Agreement on the Liberalization of International Air Transportation on all-cargo basis. ABAC also urges APEC economies to further support implementation of the eight steps.**

## **2. APEC Food System**

The 2003 APEC SOM III commissioned the Agricultural Technical Cooperation Working Group to “organize a high-level dialogue on rural poverty, food safety, food security, trade, rural development, sustainable agriculture, natural resource conservation, multi-functionality of agriculture and impediments to agriculture and food production.” ABAC is aware that a meeting of some APEC Ministers for Agriculture was held on the margins of the World Agriculture Forum during 2003.

### ***Recommendation:***

**ABAC requests that if there is still interest in moving this initiative forward that Ministers of Agriculture identify areas in which ABAC could lend its assistance to move the issue forward.**

## **3. Digital Economy**

In order to achieve the full benefits of the digital economy, additional work is needed in raising public awareness of the importance of technology choice, IPR protection, and the benefits to be derived from an effective enforcement regime.

### ***Recommendations:***

**ABAC urges APEC economies to implement the Leaders’ Digital Economy Statement adopted in Los Cabos and the additional measures adopted in the Bangkok Leaders and ministerial declarations including:**

- **the Comprehensive Strategy on IPR in APEC and the Digital Piracy Initiative, specifically to stop optical disk piracy; and**
- **allowing technology choice for both governments and business through implementation of the technology choice proposal adopted by APEC economies.**

## **Conclusion**

ABAC reaffirms the primacy of the multilateral trading system. ABAC therefore urges Leaders to demonstrate firm and unambiguous commitment to a comprehensive multilateral outcome under the Doha Development Agenda negotiations. ABAC appreciates that preferential trade arrangements find increasing favor but requests vigilance that the trend unfolding does not infringe the multilateral process.

Trade facilitation has unprecedented priority on ABAC's agenda this year because of heightened regional security. Private sector uptake is critical to the success of those necessary measures. ABAC asks Leaders to ensure the business community is fully consulted before new procedures are put in place and notably in respect of likely compliance costs.

ABAC is conscious that APEC's mid-term review is fast approaching. The actions recommended in this report are designed to help leaders identify realistic benchmarks against which progress toward the Bogor Goals can be assessed. ABAC welcomes the opportunity to contribute a distinct business perspective to that assessment.

Taipei, 14 May 2004