



Hoang Van Dung
ABAC Chair 2006

12 May 2006

Hon. Truong Dinh Tuyen

Chair, APEC Ministers Responsible for Trade
Minister of Trade
Socialist Republic of Vietnam

Dear Minister:

As you and your fellow APEC Ministers Responsible for Trade prepare to meet on 1-2 June in Ho Chi Minh City, ABAC is pleased to provide the business view on the major issues on your agenda for the meetings as contained in the attached ABAC 2006 Interim Report to APEC Leaders which reflects the state of play in our agenda.

First and foremost amongst those issues must be achieving meaningful progress toward a successful conclusion of the Doha Development Agenda talks. As outlined in our 11 May 2006 Statement on Doha, in ABAC's view and that of businesses throughout the APEC region, failure is not an option that can or should be contemplated. We encourage you in the strongest possible terms to seize the leadership among APEC trade ministers to move the global talks forward. These issues in the trade agenda are of paramount importance to the business community, and APEC is uniquely suited to provide leadership on the thorniest issues within the Doha discussions: agricultural trade, non-agricultural market access, services including liberalization of financial services, trade facilitation, and rules. Concerted APEC action in these areas would provide robust momentum for – and perhaps indeed could salvage – faltering global trade negotiations.

There are a number of other areas in which APEC Senior Officials and sub-fora under your direction are doing important work that is of critical interest to the business communities of APEC, including: promoting high quality RTAs/FTAs; implementing the Busan Business Agenda; improving the investment environment; IPR enforcement; energy security; fostering innovation; health-related issues; and measures to build capacity for small and medium enterprises in APEC economies. ABAC is undertaking a feasibility study of a Free Trade Area of the Asia-Pacific. ABAC has prepared specific recommendations in these and a range of other areas, which are attached, and respectfully submit those for action by the appropriate APEC bodies.

ABAC members and representatives from our business communities look forward to discussing these issues with you and your colleagues during the upcoming Business Symposium in Ho Chi Minh City, 31 May to 1 June 2006.

Sincerely yours,



Hoang Van Dung
ABAC Chair 2006

CHECKLIST

**FINANCIAL SERVICES LIBERALIZATION:
GOALS AND BEST PRACTICES**

For use by economies in assessing and evaluating the quality of financial services offers in the Doha negotiations.

BANKING

GOALS
<i>The offer should create new market-opening and investment opportunities. To what degree does it satisfy the following goals?</i>
<ol style="list-style-type: none"> 1) Improves upon 1997 commitments (where applicable) 2) Creates new business opportunities through the lifting of restrictions 3) Creates conditions that will attract new capital 4) Addresses market access, national treatment and transparency of domestic regulation measures in a comprehensive manner (as elaborated in the best practices which follow).
BEST PRACTICES
<i>A high-quality offer in the banking sector should contain the elements enumerated below.</i>
ESTABLISHMENT <ol style="list-style-type: none"> 1) Permits investor to choose the form of establishment – whether as a branch, joint venture or wholly-owned subsidiary – that makes the most business sense. 2) Contains no “economic needs tests” or other geographic or product-specific restrictions. 3) Grandfathers existing investments in operations and activities.
TEMPORARY ENTRY OF NATURAL PERSONS Facilitates the temporary entry of key financial services personnel required for managerial, technological, system or risk management purposes (add other categories as may be required by applicable investments).
NATIONAL TREATMENT <ol style="list-style-type: none"> 1) Provides assured national treatment for asset management activities provided by financial services firms. 2) Avoids discriminatory international markets as domestic companies. REPLACED BY "AVOIDS DISCRIMINATORY TREATMENT BETWEEN INTERNATIONAL FIRMS DOING BUSINESS IN A MEMBER ECONOMY AND DOMESTIC COMPANIES" 3) Should treat locally established affiliates of foreign banks on the same basis as domestic companies for regulatory and other purposes. Where differences in such treatment exist, they should not create conditions of competition more favorable to domestic service or service suppliers than for like service or service suppliers of other WTO Members. 4) WHERE COMMITMENTS ARE BELOW THE LEVEL OF ACCESS TO THE MARKET PROVIDED UNDER DOMESTIC LAW, THE OFFER SHOULD NOT LIMIT OR RESTRICT THE PRESENT DEGREE OF MARKET OPPORTUNITIES OR THE BENEFITS ALREADY ENJOYED BY ANY FINANCIAL SERVICE SUPPLIER OF ANY OTHER MEMBER IN THE MARKET, WHETHER CROSS-BORDER OR THROUGH A COMMERCIAL PRESENCE, BUT NOR SHOULD THIS PRECLUDE THOSE BENEFITS BEING AVAILABLE TO ALL OTHER MEMBERS 5) NON-DISCRIMINATORY TREATMENT AGAINST A FOREIGN SERVICE PROVIDER INTRODUCING NEW PRODUCTS OR SERVICES

ADDITIONAL COMMITMENTS	
TRANSPARENCY	EXAMPLES
<ol style="list-style-type: none"> 1) Commits to improved transparency overall. 2) Spells out procedures for providing interested parties with notice of proposed rulemaking and opportunities for comment on proposed new rules. 3) Gives interested parties a reasonable amount of time to comment on, understand and take steps to comply before new or revised regulations take effect. 4) Commits to current and proposed regulations being easily accessible in writing and on the Internet. 5) Commits to a clear and accessible licensing process, including creation of a system for answering inquiries about regulatory requirements, interpretation, exceptions that are easily accessible and responsive to the public. 6) Commits to providing justifications for denials of licenses or applications based strictly on factors explicitly identified in the pertinent regulations. 7) Commits to the making of prompt licensing decisions and provides a timely, non-discriminatory appeals process available for applicants whose applications are denied. 8) Commits to provide clear and reliable information about an economy's financial services laws and practices. 	<ol style="list-style-type: none"> a) Publication in national gazette. b) Standard procedures for submitting public comments. <p>Clearly defines a standard "reasonable amount of time".</p> <p>E-government procedures.</p> <ol style="list-style-type: none"> a) Creates an enquiry point for licensing and application matters. b) E-government procedures. c) Employees are evaluated on accountability to the public. <p>Justifications are provided in writing and within a fixed timeframe, known to all.</p> <ol style="list-style-type: none"> a) Spells out appeals process, sequence and timeframes. b) E-government procedures. <ol style="list-style-type: none"> a) E-government procedures. b) Regular interchanges between regulatory and supervisory bodies and private sector through public forums or other mechanism.

INSURANCE

GOALS
<p><i>The offer should create new market-opening and investment opportunities.</i></p> <p><i>To what degree does it satisfy the following goals?</i></p> <ol style="list-style-type: none"> 1) Improves upon 1997 commitments (where applicable) 2) Creates new business opportunities through the lifting of restrictions 3) Creates conditions that will attract new capital 4) Addresses market access, national treatment and transparency of domestic regulation measures in a comprehensive manner (as elaborated in the best practices which follow).

BEST PRACTICES
<i>A high-quality offer in the insurance sector should contain the elements enumerated below.</i>
MARKET ACCESS
<ul style="list-style-type: none"> 1) Contains no “economic needs tests” or other geographic or product-specific restrictions. 2) Grandfathers existing investments in operations and activities.
Reinsurance: marine and transportation insurance allowed cross border (Mode 1).
Reinsurance: Access to marine and transportation insurance and intermediation on cross border basis (Mode 1 for each).
Life and non-life reinsurance:
<ul style="list-style-type: none"> a) Elimination of mandatory cessions b) Elimination of restrictions for cessions to foreign reinsurance companies c) Elimination of right-of-first refusal privileges d) Elimination of discriminatory collateralization and localization of assets e) Abolition of reinsurance monopolies f) Guarantee of freedom of form for reinsurance contracts
ESTABLISHMENT
<ul style="list-style-type: none"> 1) Permits investor to choose the form of establishment – whether as a branch, joint venture or wholly-owned subsidiary – that makes the most business sense. 2) Provides full regard for relationship between parent and subsidiary. 3) Allows use of home company name in host economy. 4) Does not permit denial of form of establishment on the basis of the legal entity in the home market. 5) Permits freedom to determine percentage of foreign equity shares in joint ventures. 6) Provides for staged elimination of foreign equity limitations (if any) with minimum 51% ownership during staging period.
Compulsory lines: Fully bound by national treatment and market access, as defined by GATS
Monopolies: Best endeavors to eliminate insurance monopolies and exclusive services providers
TEMPORARY ENTRY OF NATURAL PERSONS
<ul style="list-style-type: none"> 1) Avoids nationality / residence requirements irrespective of nationality 2) Provides freedom to foreign insurance company to select its own representatives in host economy 3) Provides for temporary visa or work permits for short periods of stay
NATIONAL TREATMENT
<ul style="list-style-type: none"> 1) Provides the ability to compete for insurance coverage otherwise provided by state-owned or state affiliated enterprises. 2) Provides full national treatment with respect to capital, solvency, subject to prudential carve out (must explain reasons for less favorable treatment under prudential carve out) 3) Insurance mediation: monetary transfer obligations limited to what is necessary to assume legal responsibilities in host economies. 4) AVOIDS DISCRIMINATORY TREATMENT BETWEEN INTERNATIONAL FIRMS DOING BUSINESS IN A MEMBER ECONOMY AND DOMESTIC COMPANIES. 5) WHERE COMMITMENTS ARE BELOW THE LEVEL OF ACCESS TO THE MARKET PROVIDED UNDER DOMESTIC LAW, THE OFFER SHOULD NOT LIMIT OR RESTRICT THE PRESENT DEGREE OF MARKET OPPORTUNITIES OR THE BENEFITS ALREADY ENJOYED BY ANY FINANCIAL SERVICE SUPPLIER OF ANY OTHER MEMBER IN THE MARKET, WHETHER CROSS-BORDER OR THROUGH A COMMERCIAL PRESENCE, BUT NOR SHOULD THIS PRECLUDE THOSE BENEFITS BEING AVAILABLE TO ALL OTHER MEMBERS. 6) NON-DISCRIMINATORY TREATMENT AGAINST A FOREIGN SERVICE PROVIDER INTRODUCING NEW PRODUCTS OR SERVICES

<p>TRANSPARENCY</p> <ol style="list-style-type: none"> 1) Regulations to be made publicly available 2) Prior comment on new and revised regulations 3) Reasonable time interval prior to new regulations entering into force 4) Written explanations provided for rejected or accepting proposals 5) Written statement to insurance applicant outlining necessary documentation 6) Ability to provide information to the public on creditworthiness of a company 7) No restrictions on availability of financial services information to insurance suppliers 8) Availability of rules and procedures with respect to identification of financially troubled institutions 9) New tax measures affecting insurance enter into force only after their notification to the WTO on a semi-annual basis
<p>SOLVENCY AND PRUDENTIAL FOCUS</p> <ol style="list-style-type: none"> 1) New products, rates and services for other than personal or compulsory lines not subject to file and approval requirements 2) Regulations aimed at allowing the market to determine which products and rates are to be applied 3) Written explanation required of products that require file and approval procedures 4) “Deemer” method for use in file and approval procedures 5) No limits on the number or frequency of new products by an insurance supplier 6) No restriction on dividend payments, provided that solvency provisions are met 7) Encouragement of use of international “best practices” standards in accounting and auditing activities
<p>INSURANCE MONOPOLIES</p> <ol style="list-style-type: none"> 1) Monopolies generally prohibited from offering products outside monopoly designations, with provision that they not abuse monopoly position where authorized 2) Insurance suppliers with monopoly rights will keep separate accounts regarding monopoly and non-monopoly activities
<p>INSURANCE REGULATOR Must be an independent government entity.</p>

<p>PENSIONS</p> <ol style="list-style-type: none"> 1) When private pensions are allowed, provide immediate obligations for full market access/national treatment to those providing private pensions in the market 2) Private pension fund managers designated to manage public or private pensions in host economy 3) Freedom to select form of commercial presence 4) Ability to offer range of product / investment options.
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ASSET MANAGEMENT

<p>GOALS</p> <p><i>The offer should create new market-opening and investment opportunities. To what degree does it satisfy the following goals?</i></p>
<ol style="list-style-type: none"> 1) Improves upon 1997 commitments (where applicable) 2) Creates new business opportunities through the lifting of restrictions 3) Creates conditions that will attract new capital 4) Addresses market access, national treatment and transparency of domestic regulation measures in a comprehensive manner (as elaborated in the best practices which follow).

BEST PRACTICES
<i>A high-quality offer in the ASSET MANAGEMENT sector should contain the elements enumerated below.</i>
<p>ESTABLISHMENT</p> <ol style="list-style-type: none"> 1) Removes barriers to establishment by foreign investors in the financial sector and allows wholly-owned subsidiaries. 2) Allows establishment in the form of branches or other forms of presence. 3) Commits to permitting locally established affiliates of foreign asset management firms to use the services of affiliates outside the host economy to provide asset management services to domestic clients in the host economy. 4) Commits to removing prohibitions on foreign firms from managing pension assets, including public assets, on the same basis as domestic firms. 5) Contains no “economic needs tests” or other geographic or product-specific restrictions. 6) Commits to grandfather existing investments in operations and activities. 7) Ensures market access for the full range of asset management services INCLUDING CASH OR PORTFOLIO MANAGEMENT, ALL FORMS OF COLLECTIVE INVESTMENT MANAGEMENT, PENSION FUND MANAGEMENT, AND CUSTODIAL, DEPOSITORY AND TRUST SERVICES AND AUXILIARY SERVICES, INCLUDING CREDIT REFERENCE AND ANALYSIS , INVESTMENT PORTFOLIO RESEARCH AND ADVICE ON ACQUISITIONS AND ON CORPORATE RESTRUCTURING AND STRATEGY 8) Permits the dissemination and processing of financial information necessary to provide clients with necessary services. 9) Commits to support the provision and transfer of financial information, financial data processing, and the provision of advisory and software related services.
<p>CROSS BORDER</p> <ol style="list-style-type: none"> 1) Permits foreign asset management firms to provide services on a cross border (Mode 1) basis 2) Commits to support financial services provided cross border without requirement of local establishment (Mode 3) and also permits by consumption abroad (Mode 2)
<p>TEMPORARY ENTRY OF NATURAL PERSONS</p> <ol style="list-style-type: none"> 1) Facilitates the temporary entry of key financial services personnel required for managerial, technological, system or risk management purposes (add other categories as may be required by applicable investments). 2) Removes requirements for a minimum number of senior or key personnel to be resident or located in the economy.
<p>NATIONAL TREATMENT</p> <ol style="list-style-type: none"> 1) Provides assured national treatment for the full range of asset management activities provided by financial services firms. 2) Locally established affiliates of foreign asset management firms should have the same access to domestic and international markets as domestic companies. 3) Locally established affiliates of foreign asset management firms should be treated for regulatory and other purposes on the same basis as domestic companies. Where differences in such treatment exist, they should not create conditions of competition more favorable to domestic service or service suppliers than for like service or service suppliers of other WTO Members. 4) AVOIDS DISCRIMINATORY TREATMENT BETWEEN INTERNATIONAL FIRMS DOING BUSINESS IN A MEMBER ECONOMY AND DOMESTIC COMPANIES 5) WHERE COMMITMENTS ARE BELOW THE LEVEL OF ACCESS TO THE MARKET PROVIDED UNDER DOMESTIC LAW, THE OFFER SHOULD NOT LIMIT OR RESTRICT THE PRESENT DEGREE OF MARKET OPPORTUNITIES OR THE BENEFITS ALREADY ENJOYED BY ANY FINANCIAL SERVICE SUPPLIER OF ANY OTHER MEMBER IN THE MARKET, WHETHER CROSS-BORDER OR THROUGH A COMMERCIAL PRESENCE, BUT NOR SHOULD THIS PRECLUDE THOSE

BENEFITS BEING AVAILABLE TO ALL OTHER MEMBERS.
6) NON-DISCRIMINATORY TREATMENT AGAINST A FOREIGN SERVICE PROVIDER INTRODUCING NEW PRODUCTS OR SERVICES

ADDITIONAL COMMITMENTS	
<i>TRANSPARENCY</i>	<i>EXAMPLES</i>
<ol style="list-style-type: none"> 1) Commits to improved transparency overall. 2) Spells out procedures for providing interested parties with notice of proposed rulemaking and opportunities for comment on proposed new rules. 3) Gives interested parties a reasonable amount of time to comment on, understand and take steps to comply before new or revised regulations take effect. 4) Commits to current and proposed regulations being easily accessible in writing and on the Internet. 5) Commits to a clear and accessible licensing process, including creation of a system for answering inquiries about regulatory requirements, interpretation, exceptions that are easily accessible and responsive to the public. 6) Commits to providing justifications for denials of licenses or applications based strictly on factors explicitly identified in the pertinent regulations. 7) Commits to the making of prompt licensing decisions and provides a timely, non-discriminatory appeals process available for applicants whose applications are denied. 8) Commits to provide clear and reliable information about an economy's financial services laws and practices. 	<ol style="list-style-type: none"> a) Publication in national gazette. b) Standard procedures for submitting public comments. <p>Clearly defines a standard "reasonable amount of time".</p> <p>E-government procedures.</p> <ol style="list-style-type: none"> a) Creates an enquiry point for licensing and application matters. b) E-government procedures. c) Employees are evaluated on accountability to the public. <p>Justifications are provided in writing and within a fixed timeframe, known to all.</p> <ol style="list-style-type: none"> a) Spells out appeals process, sequence and timeframes. b) E-government procedures. <ol style="list-style-type: none"> a) E-government procedures. b) Regular interchanges between regulatory and supervisory bodies and private sector through public forums or other mechanism.

Financial Services Collective Request

Collective Request:

The GATS provides a framework under which economies can undertake financial services liberalization while enabling regulators to protect the stability and integrity of the financial system. Improved GATS commitments should include and build upon existing financial services liberalization as appropriate.

The following objectives should help WTO Members consider the scheduling of meaningful GATS commitments:

- Definitions: Use the agreed definitions in the GATS Annex on Financial Services for scheduling commitments (see attachment).
- Mode 1: undertake commitments for marine, aviation and transport insurance; reinsurance; insurance intermediation, insurance auxiliary services; financial advisory services and financial information and data processing services.
- Mode 2: undertake commitments for marine, aviation and transport insurance; reinsurance; insurance intermediation, insurance auxiliary services; and all non-insurance financial services (subsectors v-xvi).
- Modes 1 and 2: there can be advantages of additional liberalization, especially where the consuming agent is sophisticated, for example, an institutional consumer of securities services.
- Mode 3: for all financial services sectors, undertake commitments encompassing rights to establish new and acquire existing companies, in the form of wholly-owned subsidiaries, joint ventures and branches.
- Modes 1, 2 and 3: remove discrimination between domestic and foreign suppliers regarding application of laws and regulations (“national treatment”).
- Modes 1, 2 and 3: remove limitations such as monopolies, numerical quotas or economic needs tests and mandatory cessions.
- Transparency in development and application of laws and regulations, transparent and speedy licensing procedures, and other regulatory issues should be addressed in the negotiations.

Attachment: Definitions:

Insurance and insurance-related services

- (i) Direct insurance (including co-insurance):
 - (A) life
 - (B) non-life
- (ii) Reinsurance and retrocession;
- (iii) Insurance intermediation, such as brokerage and agency;
- (iv) Services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.

Banking and other financial services (excluding insurance)

- (v) Acceptance of deposits and other repayable funds from the public;
- (vi) Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;
- (vii) Financial leasing;
- (viii) All payment and money transmission services, including credit, charge and debit cards, travelers cheques and bankers drafts;
- (ix) Guarantees and commitments;
- (x) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:
 - (A) money market instruments (including cheques, bills, certificates of deposits);
 - (B) foreign exchange;
 - (C) derivative products including, but not limited to, futures and options;
 - (D) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;
 - (E) transferable securities;
 - (F) other negotiable instruments and financial assets, including bullion.
- (xi) Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;
- (xii) Money broking;
- (xiii) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;
- (xiv) Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;
- (xv) Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services;
- (xvi) Advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (v) through (xv), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.

Barriers and Impediments to Foreign Direct Investment (FDI): Checklist and Recommended Policy Response

The World Bank and others, including private sector groups, have provided advice on the optimal investment environment. The following guiding principles seem to be used by many multinational corporations to evaluate direct investment opportunities. These are divided into two main groups: (1) The basic requirements, meaning those that a potential investor will want to see met before going any further; and (2) Specific requirements, those that inhibit the willingness of an investor to seriously consider an investment or inhibit the ability of the investor to operate efficiently and effectively in a market. The overarching message is that governments must take steps towards greater financial sector openness **AND ADDRESS SPECIFIC SECTOR IMPEDIMENTS** in conjunction with broader structural reform policies in order for both entities, the investor and the host economy, to fully realize the benefits of FDI.

1. Basic Requirements

Stable and sensible economic policies. Business needs confidence that the host economy will be managed in a competent and predictable way and that the rules of the game will not change mid-way through.

Low political risk. Capital tends to flow toward environments with low political risk. An investor's ability to rely upon the integrity of the host government, and its ability to maintain local law and order, are both essential to any long-term investment.

A well educated labor force and availability of necessary inputs to an operation, including access to technology. While the investor brings capital, often new technologies and management to the table, the quality of the local work force, and the availability of in-country materials are also important for success. As **BUSINESS OPERATIONS, FINANCIAL SYSTEMS AND COMMERCE** become increasingly IT-enabled, access to communications infrastructure and the Internet become critical.

The size, value and potential for growth of the host economy's domestic market, especially the purchasing power of its consumers. Companies will not invest in areas where there is little potential to make a profit. Note: some markets are small but attractive because they are high value.

Reliable infrastructure. The ability to complete transactions, get products and services to market, resolve disputes, and enter into contracts depends upon the presence of reliable telecommunications services, transportation services, power generation, office support services, a competent financial system, legal and judicial services, and other basics. Investments cannot yield reliable returns without them.

A stable currency, especially protection from currency devaluation or manipulation. Investments are often made in a foreign currency, usually dollars or yen, but the local products are sold in the local currency. While businesses recognize they need to adopt good mechanisms and management regimes to hedge against currency fluctuations, businesses are wary of economies with a history of currency devaluations and artificial currency manipulations. For example, they will be unwilling to make an investment in dollars if they suspect that local assets (valued in the local currency) will be devalued, and they will lose part (or possibly all) of the original dollar-based investment.

Stable and well-functioning market system. Private property and the freedom to make contracts are essential components as are financial disclosures based on sensible accounting practices. Investors and creditors are rewarded for their good decisions and not shielded by government from the consequences of bad decisions.

Ongoing program of regulatory reform and efficiency. Increased regulatory uniformity among economies should lower regulatory costs for market participants and the governments.

2. Specific Requirements

Market access and non-discrimination. Investors will gauge the degree to which foreign governments will interfere with the company's ability to enter the market and compete fairly with domestic or other foreign providers. In some cases joint ventures are a condition of market entry. These can increase the risk to the investor if the regulatory framework is not transparent, is discriminatory and the local partner is not well established. The freer the market, the more attractive it becomes as an investment opportunity.

Sensible capital requirements and the ability to manage assets. Investors will look favorably on economies that adhere to international best practices for paid up capital and capital reserves requirements, and where foreign and local investors are treated in the same way. They also look favorably on markets where they have the ability to manage assets on a global basis (for example, in the ability to invest funds where the return is likely to be greatest, rather than being forced to invest all funds domestically).

Policies that encourage the development of strong and stable capital markets. Investors need to be able to borrow and invest locally as they wish with competitive sources of capital.

Provision for the remittance of dividends, interest, and royalties. Investors are reluctant to place significant investments in economies that do not allow the repatriation of profits.

Property rights and the protection against the unfair seizure of or nationalization of assets. Investors will not put their resources into economies that confiscate them. The importance of government protection of property and asset rights cannot be overstated. Property, includes real assets as well as intangible assets like patents and copyrights.

A good corporate governance ethic, supported by the host economy to ensure that the owners of a company and all its stakeholders get their fair share.

Potential for the provision of GOODS AND services beyond the geographic area of establishment. A business will not necessarily locate in a particular economy or geographic region of a particular economy solely to operate there. Companies value the ability to source from an operating unit in one market to serve nearby external markets, or geographic regions in an economy. **OFTEN COMPANIES MAY DECIDE TO INVEST IN AN ECONOMY FOR THE SOLE PURPOSE OF EXPORTING THE PRODUCTS OF THAT INVESTMENT TO NEIGHBOURING ECONOMIES. THE EXTENT TO WHICH BARRIERS TO TRADE IN NEIGHBOURING ECONOMIES CAN DETERMINE WHERE THE INVESTMENT IS PLACED, FOR EXAMPLE, WHERE AN ECONOMY IS A PARTICIPANT IN A BILATERAL OR REGIONAL FREE TRADE OR OTHER PREFERENTIAL AGREEMENT, RULES OF ORIGIN WITHIN THAT AGREEMENT AND LOCAL/REGIONAL CONTENT ISSUES BECOME IMPORTANT.**

A CONSISTENT AND TRANSPARENT STANDARDS REGIME IN LINE WITH INTERNATIONAL BEST PRACTICES. THIS IS ESPECIALLY IMPORTANT IN THE AGRICULTURE, FOOD AND GOODS SECTORS. FOR EXAMPLE ADHERENCE TO CODEX, WTO TECHNICAL BARRIERS TO TRADE AND SANITARY AND PHYTOSANITARY AGREEMENTS AND THE ABILITY OF AN ECONOMY TO REGULATE THE PRODUCTS OF SUCH INVESTMENT TO WORLD CLASS STANDARDS WILL BE IMPORTANT DETERMINANTS OF INVESTMENT.

A transparent and open legal and regulatory regime and good regulatory supervision. Companies seek markets with fair and consistently enforced business laws, sensible and well-designed regulatory regimes, which do not impose undue burdens and impede the ability of the company to grow and create more opportunities. At the same time, they want to be sure that their investment is subject to sensible and predictable regulatory supervision consistent with international best practices.

Favorable taxation and tax incentives. While tax incentives geared to attract initial investments are important, governments have to think long term. The final investment decision is usually based on how an economy's taxation will affect the normal operating environment.

Temporary entry of natural persons. Companies want to have the ability to move in professionals from other areas or regions on a temporary basis as needed.

Checklist of Barriers and Impediments to FDI in the Financial Services SectorS AND IN OTHER SECTORS and Recommended Policy Response

Barrier/Impediment	Issues/Concerns	Recommended Policy Response
<p>Restrictive conditions of market entry and operation:</p> <ul style="list-style-type: none"> - inhibits the willingness or ability of investors to bring in full range of capital, skills and technology and the efficiencies of management and new product lines - increases risk to potential investor - benefits of new capital, skills, technology and products only available to a portion of the market where establishment or trade is restricted to certain geographic regions - SMEs in restricted regions unable to profit from competitive benefit of new services - Incentive reduced for host government to upgrade prudential standards to internationally accepted requirements (foreign investors generally subject to high standards of prudential supervision in their home economy) 	<ul style="list-style-type: none"> - foreign equity caps - joint venture requirements including ownership and control issues - limits on range of products - limits on ability to operate in an integrated national OR REGIONAL market - onerous capital requirements 	<ul style="list-style-type: none"> - phase out foreign equity caps - phase out joint venture requirements as condition of market access - remove limits on range of products offered (subject to appropriate supervisory mechanisms) - permit comprehensive market access in all regions of an economy - ENSURE THAT BILATERAL AND/OR REGIONAL TRADE OR PREFERENTIAL AGREEMENTS TO NOT DISCRIMINATE AGAINST PRODUCTS OF FOREIGN INVESTMENT - CONSIDER EXPORT CONTROL PRACTICES THAT DO NOT CONFORM TO INTERNATIONAL NORMS - CONSIDER EXTERNAL TRADE BARRIERS THAT MAY BE A DISINCENTIVE TO INVESTMENT - permit foreign majority ownership - establish a strong regulatory system (thereby making establishment and operating restrictions unnecessary) <i>Strengthen Local Industry</i> - support and encourage capacity building in regulatory supervision - encourage local providers to participate in Basel 2 capacity building workshops (capital adequacy, risk assessment and management, operational risk and financial disclosure); and

		other financial sector capacity building programs such as those promoted by the IAIS, World Bank, ADB, IMF, PECC and APEC.
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Barrier/Impediment	Issues/Concerns	Recommended Policy Response
<p>Lack of National Treatment and MFN</p> <ul style="list-style-type: none"> - reduces competitiveness and discourages growth and efficiency of local providers - local providers less resilient to shocks - increase risk by over-reliance on a few foreign service providers 	<ul style="list-style-type: none"> - discrimination between local and foreign providers, including differing capital requirements - differential requirements on 3rd country providers - discriminatory tax 	<ul style="list-style-type: none"> - equal treatment for foreign and local providers - improve operational risk MANAGEMENT IN THE FINANCIAL SERVICES SECTOR AND IN OTHER SECTORS through capacity building (e.g. Basel 2) - remove discrimination between foreign GOODS AND service providers in terms of market access and operations
<p>Restrictions on Asset Management</p> <ul style="list-style-type: none"> - inability to get best return on investment - increases risk - inability to match liabilities with assets 	<ul style="list-style-type: none"> - restrictions on financial service providers; banks, insurers, asset managers - restrictions on assets for investment - restrictions on personnel 	<ul style="list-style-type: none"> - allow cross border investment - allow fund management from overseas - provide for commercial presence of overseas service suppliers
<p>Lack of transparency, predictability and openness in legal and regulatory regimes</p> <ul style="list-style-type: none"> - increases risk to investor and consumer - encourages discriminatory business practices - increases risk of corruption - promotes market inefficiencies 	<ul style="list-style-type: none"> - procedures for right of redress and/or appeal - license application and award procedures - inconsistent and discriminatory treatment of business entities 	<ul style="list-style-type: none"> - clear, published processes for legal and regulatory decisions and right of appeal - clear published process for regulatory policy formulation and stakeholder consultation
<p>Weak regulatory and legal infrastructure</p> <ul style="list-style-type: none"> - inhibits smooth functioning of the market - encourages monopolistic and cartel practices - inhibits ability to enter into contracts - increases risk and costs to investor and host economy 	<ul style="list-style-type: none"> - poor prudential supervision - enforcement of binding contracts - lack of expertise - inadequate solvency and creditor rights - INADEQUATE STANDARDS FRAMEWORK AND REGULATORY PROCESSES - weak property 	<ul style="list-style-type: none"> - capacity building in internationally recognized best practices for financial sector regulation - strengthened economic and legal infrastructure, including bankruptcy laws and regulations - CAPACITY BUILDING TO BRING STANDARDS AND REGULATORY PROCESSES UP TO INTERNATIONALLY ACCEPTED NORMS

	protection rights and enforcement	AND BEST PRACTICES
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Barrier/Impediment	Issues/Concerns	Recommended Policy Response
Capital controls <ul style="list-style-type: none"> - potential to increase cost of capital to investor and consumer - inhibits ability of investor to source and place capital appropriately and efficiently - difficulty in hedging risk - inhibits willingness of investor to participate in the market - future exchange rate vulnerabilities without clear exit strategy 	<ul style="list-style-type: none"> - repatriation of profits, dividends, remittances - inability to source capital and place investments on a global basis 	<ul style="list-style-type: none"> - phase out capital controls - strengthen capital markets infrastructure - regulatory reform - phase in flexible exchange rate arrangements
Weak governance <ul style="list-style-type: none"> - increases threat of corruption - reduces market efficiency - promotes monopolistic practices - threat of market failures 	<ul style="list-style-type: none"> - corruption - lack of accountability - unpredictable market situation - lack of competition 	<ul style="list-style-type: none"> - strong corporate and public sector governance ethic - capacity building measures to promote understanding and awareness of good governance - competition policy and laws
Poor property rights protection <ul style="list-style-type: none"> - inhibits ability of investor to offer innovative product lines - inhibits willingness to fully participate in the markets 	<ul style="list-style-type: none"> - asset seizure, including nationalization - patent, copy right and trademark protection 	<ul style="list-style-type: none"> - adequate laws and rights of redress - eliminate ability to nationalize assets - enforcement of property laws
Restrictions on the Movement of Natural Persons <ul style="list-style-type: none"> - reduced ability to share expertise, technology and skills - increases operational inefficiencies - inhibits ability to offer and service innovative product lines on time 	<ul style="list-style-type: none"> - delays in processing temporary visa applications - limited adjudication ability - lack of clear criteria and procedures 	<ul style="list-style-type: none"> - facilitate business travel and intra-company transfers - expedite visa processing for professionals