



Jae-Hyun Hyun
ABAC Chair 2005

Letter to Ministers Responsible for Trade

Honorable Ministers:

ABAC believes that progress in achieving the Bogor Goals is directly related to progress within the WTO negotiations on the Doha Development Agenda. ABAC strongly believes that substantial progress must be achieved in the upcoming Ministerial Conference prior to the summer recess if real success is to be achieved at the Sixth Ministerial Conference to be held in Hong Kong, China this December. To build confidence in the multilateral trading system we urge APEC Trade Ministers to lead WTO negotiations in the following areas:

- Agriculture – Major and significant liberalization in the three agricultural ‘pillars’: market access, domestic support, and export competition.
- NAMA – Eliminate or substantially remove tariffs for all products by a specified deadline.
- Services – Liberalize financial services, remove impediments to foreign direct investment, and submit good quality offers by all WTO members by the May deadline.
- Trade Facilitation – Enhance transparency, simplicity, standardization and expeditious movement of goods while building capacity and assisting developing economies.
- Rules – Improve disciplines under the WTO Agreements on Anti-dumping and Subsidies and Countervailing Measures.

In addition, we strongly urge Leaders to reaffirm their commitment to the Bogor Goals, which ABAC characterizes as the absence of tariff and non-tariff barriers, transparent and predictable operating environment, an efficient customs system, removal of barriers to foreign direct investment and liberalization of services trade. As part of the APEC Mid-Term Stocktake, ABAC urges Leaders to:

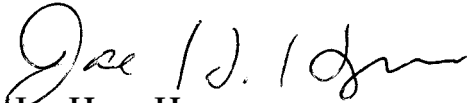
- Enhance concerted action on trade and investment facilitation.
- Make the IAP Peer Review mechanism more robust and effective.
- Establish mechanisms for capacity building programs with participation by the private sectors and IFIs.
- Provide the APEC Secretariat with stronger authority for policy review and advocacy.
- Strengthen coordination and response between ABAC and APEC.

Finally, ABAC will respond to Leaders request to the Santiago Initiative by providing views on emerging trade facilitation issues as well as on the benefits and challenges that arise for business from the increasing number of FTAs and RTAs in the region and ways they can be addressed. In the meantime, ABAC reiterates its recommendation that Leaders:

- Establish a high level task force to examine the feasibility of a Free Trade Agreement of the Asia Pacific (FTAAP).
- Advance trade facilitation through a more concerted process as outlined in ABAC's proposal for a Trans Pacific Business Agenda (TPBA).

ABAC has prepared a comprehensive interim report and our key findings and recommendations are attached. We encourage Ministers to review our assessment and recommendations and take a leadership role in the upcoming global trade negotiations.

Sincerely,


Jae-Hyun Hyun
ABAC Chair 2005

ABAC 2005 Interim Report to APEC Economic Leaders

Executive Summary

The world economy enjoyed one of its strongest years of growth last year. This robust growth is expected to continue this year - albeit at a more moderate pace. Balance sheets are improving, there is a gradual rise in employment and there is no threat of inflation. There are however risks to this outlook which include: (1) the increasingly unbalanced nature of the expansion and rising imbalances between major economies; (2) a tightening of financial market conditions which are leading to a rise in interest rates; and (3) volatile and higher oil prices. Major imbalances are beginning to impact on market perceptions. Spreads on riskier lending are increasing. ABAC senses that an underlying cause is the concern that a global cooperative approach to dealing with major imbalances is lacking. The international economic framework is under-performing.

These risks and challenges notwithstanding, ABAC believes that the world economic conditions present APEC economies an opportunity to undertake reforms needed to bolster medium-term economic growth prospects. This comes at a time when APEC has reached the midpoint of the deadline to the Bogor Goal and questions are being raised whether APEC can achieve these goals. Against this backdrop, ABAC has put forward recommendations in what it believes are areas of priority concerns to the region.

1. **Ensuring the successful conclusion of the Doha Round.** ABAC strongly believes there is no issue more urgent or more deserving of greater attention in the APEC region and urge APEC Trade Ministers to demonstrate leadership within the WTO negotiations, and redouble their efforts in the following areas:
 - Agriculture – Major and significant liberalization in the three agricultural ‘pillars’: market access, domestic support, export competition.
 - NAMA – Eliminate or substantially reduce barriers for non-agricultural products.
 - Trade Facilitation – Enhance transparency, simplicity, standardization and expeditious movement of goods and redouble efforts of WTO capacity building.
 - Services – Liberalize financial and non-financial services, remove impediments to foreign direct investment, and lodge good quality offers by the May deadline. (Use the attached checklists as a benchmark in improving the quality of offers in financial sectors and in removing impediments to investment in financial services.)

ABAC plans to take this message directly to Geneva when ABAC Members meet with WTO officials this June.

2. **Keeping APEC on Track to Achieving the Bogor Goals.** ABAC regards the mid-term stock take as a critical milestone to the Bogor Goals and have recommended that APEC takes the following suite of bold actions if it is to achieve these goals:
 - Reaffirm their commitment to the Bogor Goals, which ABAC defines as free and open trade and investment among APEC economies.
 - Strongly pursue trade and investment facilitation, building on the Santiago Initiative for Expanded Trade in APEC and including the harmonization of standards, increased customs efficiency; addressing barriers and impediments to investment;

implementing APEC's transparency standards on a sector-specific basis; and, measures to address security and related transactions costs.

- Establish mechanisms for planning and executing capacity building programs with participation of the business sector and international financial institutions.
- Take concerted steps to strengthen financial systems and develop robust capital markets:
 - Development of bond markets, the implementation of Basel 2 and convergence to international accounting standards.
 - Measures to improve governance and transparency and to end corruption in the public and private sectors.
 - There needs to be deeper cooperation between public agencies and private sector institutions in improving security in financial systems.
 - Financial sector capacity- building programs, and supporting measures in regional and international forums to strengthen regulatory supervisory capacity.
- Enhance its value proposition by striving to be WTO plus by building on any Doha multilateral liberalization by pursuing the Santiago Initiative through:
 - Establishment of a high level taskforce to examine the feasibility of a 'Free Trade Agreement of the Asia Pacific'.
 - Strengthening of trade facilitation by developing the Trans Pacific Business Agenda.
- Reform the way it operates:
 - It should review whether it would make more effective progress by moving towards more binding commitments.
 - The IAP Review process should be made more robust and should focus on what needs to be done by each economy to achieve the Bogor Goals.
 - Accord the APEC Secretariat the authority and commensurate resources to undertake policy review, advocacy, and research and analysis.

3. **Adapting to the new security environment.** The lack of sufficient financial and technical resources to achieve higher levels of security in the trading system may render the region's entire supply chain vulnerable. It is for this reason that ABAC supports three initiatives which address this issue, first to reveal the impacts businesses face that are directly related to the new security environment. The second is the adoption of an APEC Framework for Security and Facilitation of Global Trade. Finally, to develop a customs handbook and promote information sharing to achieve trade facilitation.

4. **Creating an Environment Conducive for Business.** Promoting good business ethics and addressing corruption in the region complement the number of initiatives taken towards improving the business environment. To promote good business ethics ABAC recommends that APEC: a) continue regulatory reform and enhance the clarity of laws and regulations to remove fundamental sources of corruption like discretion on the part of public officials; b) enforce laws and regulations objectively and fairly when dealing with corporate disputes like labor-management disputes, customer-related disputes, and class action suits; c) support measures which encourage businesses to voluntarily practice ethics in management and d) implement incentives to ensure compliance with laws, rules and regulations as they impact on business, including legal enforcement of contracts. On corruption, ABAC urges Leaders

to expedite implementation of their commitments to become signatories to the United Nations Convention Against Corruption, to deny safe haven to corrupt officials and individuals, and to develop innovative and effective training programs and technical assistance for those in the field. ABAC hopes to work in partnership with governments to create and implement anti-corruption measures more widely in each of the APEC economies.

5. **Emergency Preparedness.** In recent years, the APEC region has experienced a number of man-made and natural crises and disasters including terrorist attacks, the SARS outbreak, and most recently, the Indian Ocean tsunami. ABAC calls upon APEC to create a Regional Disaster Response Network to coordinate emergency preparedness efforts on a regional basis – building capacity to resist and respond to future crises. Initial tasks for the Network would include a review of regional response capabilities and a self-assessment by each APEC economy of their own capabilities in responding to a future crisis or disaster. A Network website should be created to capture and disseminate ‘lessons learned’ from previous disasters and provide links to disaster response organizations, preparedness tools and other emergency resources in each APEC economy. Region-wide communication and notification protocols should include the private sector, along with governments and relief organizations. ABAC recommends that APEC develop an Airport Emergency Team capability within the region, which would be prepared to take over ground operations at response airport locations during the critical first days of a disaster response.

6. **Technology.** Technology innovation and application is increasingly relevant to the APEC region as economies seek to maximize natural resource use, strengthen their human and capital infrastructures, and build prosperity. Growing pressure on **Energy** sources and volatile prices highlights the importance of access to reliable and sustainable supplies. APEC economies must give priority in long-term planning to ways of increasing energy supply, diversifying their sources, exploiting alternative and renewable options, and encouraging conservation and responsible energy use. ABAC envisages closer liaison with APEC Energy Ministers and the Energy Business Network (EBN).

Issues to do with **IPR** protection and enforcement are another common concern among APEC economies and to regional business. ABAC recommends that in 2005 APEC Leaders launch an initiative on patent cooperation and harmonization. Additional concrete measures need to be taken on IPR enforcement including endorsement of a set of model principles to control online piracy. In 2005 ABAC will also initiate steps to identify the likely content and possible far-reaching implications for the region of a “**ubiquitous society**”. The concept is still at the emerging stage. However, ABAC believes it is already timely to begin to explore the issues that will need to be addressed as the APEC region moves towards an eventual ubiquitous computing environment.

ABAC has under consideration a range of **environmental and life sciences-related technologies** and initiatives. They draw heavily on positive collaborative work among APEC public sector agencies and research institutions, and have potential to be of particular relevance to APEC developing economies. Included is a proposal to adopt recycling-based economies. There are exciting ICT-supported applications in areas as diverse as border control, bio-security, environmental and health-services monitoring, and DNA-driven food traceability systems.



**ABAC 2005 Interim Report to APEC Economic Leaders
May 2005, Beijing, China**

Outline of Recommendations

- I. Introduction
- II. Ensuring Successful Conclusion of the WTO Doha Development Agenda Negotiations
 - A. Agriculture
 - B. Non-Agricultural Market Access
 - C. Trade in Services
 - 1. Non-Financial Services
 - 2. Financial Services
 - D. Trade Facilitation
 - E. Rules
 - F. Other Issues
- III. Keeping APEC on Track: Achieving the Bogor Goals
 - A. Contributing to the Reform and Development of APEC
 - B. Impediments to Foreign Direct Investment in the Financial Services Sector
 - C. Implementing the APEC Transparency Standards
 - D. Implementing the APEC Privacy Framework
 - E. Revisiting Past ABAC Recommendations
 - 1. Investment Liberalization and Facilitation
 - 2. Intellectual Property Rights
 - 3. APEC Food System
- IV. Building Harmonious Relationship Between the Private Sector and Governments in the New International Security Environments
 - A. The Impact of the New Security Environment on Trade Transaction Costs in the Region
 - B. Adoption of an APEC Framework for Security and Facilitation of Global Trade
 - C. APEC Customs Handbook
- V. Creating an Environment Conducive for Business
 - A. Promoting Good Business Ethics
 - B. Addressing Corruption in the APEC Region
- VI. Achieving Asia-Pacific Community Through Cooperation and Capacity Building
 - A. Strengthening Financial Systems
 - B. Enhancing the Competitiveness of Services SMEs
 - C. Promoting the 'Community' Through Capacity Building
 - 1. Emergency Preparedness
 - 2. Logistics Infrastructure
 - 3. Standards
 - D. Cooperation in Technology
 - 1. Securing APEC's Energy Future in a Changing Energy Environment
 - 2. APEC 2005 Innovation Agenda: Patent Harmonization, Technology Choice and Enhanced IPR Enforcement

- a. Launching an APEC Initiative on Patent Cooperation and Harmonization
- b. Taking Additional Concrete Measures on IPR Enforcement
- 3. Towards a Ubiquitous Society
- 4. Implement the Life Sciences Innovation Strategic Plan
- 5. Technology to Improve Health Care Delivery
- 6. Technology to Address Environmental Concerns
 - a. Recycling-Based Economies
 - b. Environmental Monitoring and Food Traceability
 - c. Border Control and Biosecurity

I. Introduction

The world economy enjoyed one of its strongest years of growth last year. This robust growth is expected to continue this year - albeit at a more moderate and sustainable pace - underpinned by accommodative macroeconomic policies, improving balance sheets, supportive financial market conditions and a gradual rise in employment. There are however risks to this outlook which include: (1) the increasingly unbalanced nature of the expansion; (2) a significant tightening of financial market conditions which are leading to a rise in interest rates; and (3) a further sharp increase in oil prices. Major imbalances are beginning to impact on market perceptions. Spreads on riskier lending are increasing. ABAC senses that an underlying cause are concerns that a global cooperative approach to dealing with major imbalances is lacking. The international economic framework is under-performing.

These risks and challenges notwithstanding, ABAC believes that the current world economic conditions present APEC economies an opportunity to undertake reforms needed to bolster medium-term economic growth prospects. In particular, ABAC believes that the successful conclusion of the WTO Doha Development Agenda, including improved market access for developing economies, will be critical to support global growth.

Against this background, ABAC adopted the theme “Networking Asia-Pacific: A Pathway to Common Prosperity” which addresses the following key issues:

- Ensuring successful conclusion of the WTO Doha Development Agenda negotiations
- Keeping APEC on track: Achieving the Bogor Goals
- Building harmonious relationship between the private sector and governments in the new international security environments
- Creating an environment conducive for business
- Achieving an Asia-Pacific community through cooperation and capacity building

The ABAC 2005 Interim Report to APEC Economic Leaders, which is being submitted through the APEC Ministers Responsible for Trade at their meeting in June 2005, addresses each of these issues and puts forward recommendations in areas of priority concern. Separate reports are being prepared for the APEC Finance Ministers and the APEC SME Ministers.

II. Ensuring Successful Conclusion of the WTO Doha Development Agenda Negotiations

ABAC strongly supports rule-based multilateral trade liberalization under the auspices of the WTO and welcomes the July Framework Agreements that have served to revitalize the Doha Development Agenda negotiations. ABAC believes that the Sixth WTO Ministerial Conference to be held in Hong Kong, China in December 2005 is crucial to build confidence in the multilateral trading system. To ensure the success of the upcoming Ministerial Conference, substantial progress must be achieved before the summer recess.

ABAC urges APEC Trade Ministers to demonstrate leadership in the WTO negotiations, taking into account the ABAC recommendations outlined below.

A. Agriculture

ABAC reaffirms its position that an ambitious outcome on agriculture must be a fundamental part of a successful Doha Round of negotiations. ABAC notes that since negotiations restarted in October 2004 following the “framework” accord reached in July 2004, there has been much constructive dialogue and agreement on several key objectives such as:

- the total elimination of all forms of export subsidies by a credible end date
- economies having higher levels of domestic support will make greater reductions
- all economies other than the least developed will contribute to improved market access

ABAC applauds the advances made in the past year, but is concerned that there remains a huge volume of technical work to be done in agriculture. Without substantial movement among key negotiating groups, the July 2005 deadline to achieve a “first approximation” of agreed modalities in agriculture will be in jeopardy. Delay in moving forward on agricultural issues has serious potential to be a drag on progress on other DDA subjects; this would impact negatively on the outlook for the Sixth Ministerial Conference in Hong Kong in December 2005.

Recommendations

ABAC recommends to APEC Leaders that a heightened sense of urgency is given to resolving outstanding differences in the three agricultural ‘pillars’ as follows:

Market Access

- a substantial reduction in all tariffs
- agreement on a methodology for converting non-ad valorem tariffs to ad valorem equivalents (AVEs)
- agreement on a harmonizing formula to achieve a tiered approach to tariff reductions
- the scope and treatment of ‘sensitive’ and ‘special products’
- the formula for application of ‘special and differential treatment’ to developing countries, including the concepts of ‘proportionality’, ‘special products’ and ‘special safeguards’
- a significant increase in minimum access obligations

Domestic Support

- levels of reduction in all trade-distorting domestic support
- coverage and levels of payment to apply to the ‘blue’ and ‘amber’ boxes
- the percentage level to apply to de minimis support

Export Competition

- the timetable within which export subsidies are to be eliminated
- treatment of other forms of export competition-export credits, food aid, STEs

B. Non-Agricultural Market Access

Recommendations

ABAC urges member economies to develop specific modalities for the negotiations concerning market access for non-agricultural products. ABAC also urges member economies to agree to the following as soon as possible:

- apply an ambitious formula approach to eliminate or substantially reduce tariffs for all products with no a priori exclusions by specified dates;
- utilize other supplemental approaches, including sectoral harmonization in areas such as environmental products, information technology products, and chemicals and zero-for-zero, where they would contribute to further liberalization;
- eliminate tariffs on information technology products and widen the coverage of the ITA including audio-visuals;
- substantially reduce tariff peaks, high tariffs, and tariff escalation;
- eliminate or substantially reduce non-tariff barriers; and
- recognize special needs and interests of developing economies and apply the “less than full reciprocity” principle.

C. Trade in Services

1. Non-Financial Services

ABAC is concerned over the slow progress of the services negotiations. A weak services sector hurts the competitiveness of other industries as a whole, and the regional economy. Enhancing the competitiveness of service industries through progressive liberalization is a key element of development. Liberalization of key service sectors, such as transportation, distribution, telecommunication, and computer services that supports manufacturing industries is indispensable for economic development. ABAC believes that significant progress is achievable in this important area of the negotiations. ABAC however notes that a number of WTO members have yet to submit their initial offers. ABAC urges all WTO members to submit substantially improved offers before the May 2005 deadline.

ABAC encourages member economies to give particular attention to the benefits from services negotiations for SMEs, which are actively involved in services trade. ABAC notes that advances in information and communications technology have enabled SMEs to play a more active role in services trade. ABAC requests member economies to take steps to enhance the environment for services SMEs through the GATS request-offer process.

Recommendations

ABAC urges APEC economies to:

- improve and expand “mode 1” commitments, and make permanent the current moratorium of not imposing customs duties on electronic transmissions
- improve and expand “mode 3” commitments by enhancing transparency and mitigating the risks involved in FDI in order to facilitate cross-border investment by SMEs
- improve and expand “mode 4” commitments concerning business visitors, contract service suppliers, and independent professionals
- promote regulatory transparency within country schedules, by clearly making commitments that reflect the current regulatory situation, listing market access and national treatment restrictions where applicable, as a first step
- eliminate regulatory measures that unnecessarily constrain the access of service-sector SMEs to international markets

2. Financial Services

Much greater effort is needed to promote the liberalization of financial services in the Round. The benefits from liberalization undertaken unilaterally or multilaterally have been well demonstrated across many economies. Financial services liberalization underpins and facilitates strong economic activity, investment and employment growth. A study commissioned by ABAC last year found that *comprehensive* liberalization of services, covering banking, insurance, asset management, payment systems (including credit cards), brokerage and securities provided the greatest benefits to economies. (The study focused on Chile, Chinese Taipei, Korea and Thailand). ABAC remains concerned that the Doha negotiations may perpetuate the current imbalance between financial services sectors, something that will undermine the economic synergies between sectors.

It is critical that APEC economies make high quality offers on financial services in the WTO Doha Round (or undertake unilateral action to liberalize) their financial services sectors to promote economic growth, business and employment and competition. ABAC has proposed a checklist (attached to this report) which defines best practices to be identified in the major financial services sub-sectors; and that this checklist be used as a basis against which offers can be developed and evaluated in the Doha Round and other trade negotiations. Liberalization and facilitation has to be supported by effective measures by developed economies and by international and regional agencies aimed at strengthening institutional capacities in both the public and private financial sectors in developing economies.

ABAC recognizes that some developing economies may need to pursue transitional policies toward full liberalization, step by step, and in so doing will be rewarded by improved market opening and liberalization in developed economies and by support in improving and strengthening institutional capacities. Transitional policies should promote and be integral to the process of liberalization.

Recommendations

- APEC Economic Leaders, Trade Ministers and officials should implement effective initiatives to build institutional capacities in both the public and private financial sectors in developing economies, and involve the private sector and international and regional agencies in those initiatives.
- Adoption of the best practices in ABAC's check list for the WTO Doha negotiations and the use of the check list as a central reference by APEC economies in assessing the quality of their existing offers, and those of others.

D. Trade Facilitation

ABAC is pleased that trade facilitation negotiations in the WTO have begun favorably. ABAC believes that trade facilitation negotiations will achieve a win-win result for both developed and developing economies. The private sector and, in particular SMEs, would benefit from a trade facilitation agreement that enhances transparency, simplicity, standardization, and the expeditious movement of goods. ABAC expects that a new agreement would mitigate the negative impact of heightened security measures.

ABAC would like to underscore the importance of capacity building to the success of trade facilitation negotiations. ABAC encourages economies to review their contributions to WTO capacity building and redouble efforts aimed at assisting developing economies to enable effective participation in trade facilitation negotiations. In this context, ABAC applauds the holding of the APEC/WTO Trade Facilitation Roundtable 2005 in Geneva on 10 February. The Roundtable provided a good opportunity for non-APEC members to share APEC's experience in the area of trade facilitation.

E. Rules

ABAC supports the Doha Declaration's negotiating mandate to clarify and improve disciplines under the WTO Agreements on Anti-dumping and Subsidies and Countervailing Measures while preserving the basic concepts, principles and effectiveness of the agreements and their instruments and objectives. The clarification and improvement of disciplines is also to apply to fisheries subsidies.

Recommendations

ABAC urges APEC economies to push for progress in the negotiations on these areas. In particular, it urges APEC economies to support revisions to clarify and improve rules (1) to prevent abusive and excessive use of anti-dumping and countervailing measures; (2) to avoid excessive burdens on respondents; and (3) to enhance the transparency, the predictability, and fairness of the system in the WTO Doha Round.

F. Other Issues

ABAC believes that investment, competition and government procurement are inseparably linked to trade, and that rules in these areas are necessary for the WTO to keep pace with commercial realities. Clearly, the Doha Development Agenda remains a priority and, to the extent possible, ABAC will work towards a successful conclusion of those negotiations. ABAC is hopeful that APEC member economies will be able to explore other ways to make progress in the so-called “Singapore Issues” in its work program. Furthermore, ABAC calls upon Ministers to review APEC’s contribution to progress on these issues, which are critical to the region’s business community.

III. Keeping APEC on Track: Achieving the Bogor Goals

A. Contributing to the Reform and Development of APEC

In presenting its contribution to the mid term review of APEC’s progress, ABAC focused on what APEC must do to deliver on it’s Vision of “Free and Open Trade in the Asia Pacific”.

Over the last 10 years, significant liberalization has occurred within the region:

- Average tariffs have declined from 12 to less than 7%. However high tariffs remain in key sectors including agriculture, textiles and automobiles.
- More than 44% of tariff lines are now less than 5% level. But tariff escalation remains a problem particularly for agricultural products.
- There has been significant progress in trade facilitation, FDI has grown strongly, economic and technical cooperation is now stronger, while much has been done to help build capacity within the region.

However, it should be noted that APEC’s own processes contributed only modestly to tariff reduction.

Rapid global economic integration; the dominant role of information technology; other emerging technologies; the increasing complexity of multilateral trade negotiations; proliferation of bilateral free trade agreements; emergence of China; and the rise in terrorism have drastically changed the environment in which business operates.

Challenges posed by the financial crisis; creeping protectionism; sharp rises in oil prices; natural disasters; changing demographics; and, new disease epidemics threaten the stability of the region’s economy and call for a coordinated response.

Despite these challenges, ABAC believes that the Bogor Goals remain relevant and strongly recommends that Leaders reaffirm the Bogor Goals of ‘free and open trade and investment by 2010 for developed economies, and 2020 for developing economies. ABAC believes this to mean ‘free and open trade and investment among APEC economies’. However ABAC

has already advised in its Report to Leaders in 2004, that it did not believe that developed economies would reach the target of ‘free and open trade and investment by 2010’, unless a number of initiatives are taken by APEC.

Recommendations

ABAC recommends that APEC:

- Assert a leadership role in the successful and meaningful conclusion of the WTO Doha Development Agenda (DDA).
- Strongly pursue trade and investment facilitation, building on the **Santiago Initiative for Expanded Trade in APEC**, and including the harmonization of standards, increased customs efficiency; addressing barriers and impediments to investment; implementing APEC’s transparency standards on a sector-specific basis; and, measures to address security and related transactions costs.
- Establish mechanisms for planning and executing capacity building programs with participation of the business sector and international financial institutions. For small and medium enterprise development these programs should focus on business skills, product development, and technology uptake for small and medium enterprises.
- Take concerted steps to strengthen financial systems and develop robust capital markets, notably bond markets to ensure financial stability and to broaden the sources of financing for infrastructure and corporate expansion that underpin sustained economic growth. In so doing APEC should:
 - ❑ Establish mechanisms for developing and implementing financial sector capacity-building programs with the participation of the business sector and international financial institutions.
 - ❑ Support measures in regional and international forums to strengthen regulatory supervisory capacity and,
 - ❑ Implement an on-going review and upgrade of financial standards according to international best practices.
- Enhance its value proposition striving to be WTO plus. It should build on any Doha multilateral liberalization by developing the Santiago Initiative proposals:
 - ❑ Establishing a high level taskforce to examine the feasibility of a ‘Free Trade Agreement of the Asia Pacific’.
 - ❑ Strengthen trade facilitation by developing the Trans Pacific Business Agenda.
- Reform the way it operates:
 - ❑ It should review whether it would make more effective progress by moving towards more binding commitments.

- ❑ The IAP Review process should be made more robust and should focus on what needs to be done by each economy to achieve the Bogor Goals.
- ❑ Accord the APEC Secretariat the authority and commensurate resources with regard to policy review, advocacy, and research and analysis.

B. Impediments to Foreign Direct Investment in the Financial Services Sector

The ABAC study concluded that FDI in the financial services sector can help improve the competitiveness of the host economy and have positive benefits for consumers, providing capital, technology, new product lines, managerial knowledge, enhanced skills and the restructuring of inefficient enterprises. In response to these findings, ABAC has compiled the attached list of impediments to FDI in the financial sector, the removal of which would be of most benefit to the host economy and the corporate investor.

Recommendations

- Ministers should consider ways of addressing impediments to FDI in the financial services sector, including working with ABAC to build institutional capacities to make the investment environment more attractive and workable for all concerned. Impediments include:
 - ❑ restrictive conditions of market entry and operation;
 - ❑ issues of national treatment and MFN;
 - ❑ restrictions on the provision of financial services, including asset management;
 - ❑ transparency; predictability and openness in legal and regulatory regimes;
 - ❑ governance; and,
 - ❑ inadequate property rights protection.

C. Implementing the APEC Transparency Standards

Transparent governments are key to the business community, and 2005 is a seminal year for transparency in the Asia-Pacific region. APEC Leaders agreed to implement all of the APEC Transparency Standards into their domestic legal regimes by 2005. ABAC applauds the agreement APEC Ministers and Leaders reached in Santiago last year to reflect the Transparency Standards into the APEC Individual Action Plan so that economies can report beginning this year on how they have implemented the Transparency Standards.

Recommendations

ABAC urges all APEC economies to:

- Meet this Leaders' deadline by incorporating and ensuring that the commitments outlined in the Transparency Standards are clearly reflected in their laws and other legal instruments no later than this year.
- Faithfully complete the report this year.

At the same time, ABAC will provide APEC with concrete examples of areas in which economies can improve the transparency of their governmental, legal, regulatory and administrative functions consistent with the APEC Transparency Standards.

D. Implementing the APEC Privacy Framework

The approval of the APEC Privacy Framework by APEC Leaders at the November 2004 Leaders Summit in Santiago is an important milestone in encouraging the development of appropriate protection for personal information in the APEC region. The privacy framework, consisting of nine privacy principles and a roadmap for domestic implementation, strikes the balance of protecting individual's privacy while fostering the responsible flow of global data that is so critical to modern, networked economies.

In order for the APEC region to realize the full benefits of the framework agreement, APEC needs to complete follow on work this year. This includes focus mechanisms that will allow responsible transfers of information across the APEC region and with APEC partners around the globe, and address procedures to foster cross-border cooperation to respond to consumer complaints and to deal with privacy infringements.

Recommendation

ABAC believes the success of this effort will be enhanced by greater participation across both business and government and recommends that APEC economies seize this unprecedented opportunity to work with the business community to develop a mechanism that will encourage and recognize organization's privacy codes or corporate global privacy rules.

In this way, the successful completion of the privacy framework package in 2005 will result in real and tangible trade facilitation benefits for APEC economies. ABAC members seek recognition from APEC economies on the importance of implementing the Privacy Framework and strongly urge each economy to participate in the continuing work on implementation. For its part, ABAC recognizes the role it can play in this process both as commentators and participants and looks forward to providing input to this effort.

E. Revisiting Past ABAC Recommendations

1. Investment Liberalization and Facilitation

Last year, ABAC requested that APEC amend or clarify the wordings of the APEC Non-Binding Investment Principles (NBIP) with a view to improving the environment for cross-border investment. ABAC also proposed measures to promote investment facilitation. ABAC is concerned that APEC activities concerning investment liberalization and facilitation are not as effective as those on trade liberalization and facilitation.

Recommendations

ABAC urges APEC economies to:

- Reaffirm ABAC's recommendations of last year and to include them in the IEG agenda.
- Outline the direction necessary for addressing investment liberalization in its roadmap for the Bogor Goals.
- Take the following steps to achieve the investment liberalization and facilitation goals of APEC:
 - ❑ Review the role of APEC in achieving investment liberalization and facilitation;
 - ❑ Review member economies' implementation of the APEC Non-Binding Investment Principles and Menu of Options for Investment Liberalization and Business Facilitation;
 - ❑ Establish a mechanism by which member economies report implementation of investment transparency standards.

2. Intellectual Property Rights

Last year, ABAC recommended that APEC strengthen the enforcement of intellectual property rights (IPRs) and take steps to further promote cooperation among enforcement agencies in the region in order to facilitate investment.

ABAC welcomes the agreement of APEC Ministers in Santiago in November 2004 to reduce piracy, trade in counterfeit goods, and online piracy, and to increase cooperation and capacity building. ABAC also notes that some economies have already established IPR Service Centers, which provide information for IPR holders so as to allow them to take effective legal action against the infringement of their rights. ABAC urges APEC to take significant additional steps this year and in coming years to strengthen the enforcement of IPRs.

Recommendations

ABAC recommends that:

- APEC take the following actions by the Leaders' Meeting in Busan:
 - ❑ Develop effective guidelines to reduce trade in counterfeit and pirated goods and the sale of counterfeit goods over the internet;
 - ❑ Take steps to reduce on-line piracy and to promote cooperation among IPR enforcement agencies in the region;
- Demonstrate tangible results in terms of IPR-related efforts achieved each year at the Leaders' Meeting, starting from Busan; and
- Establish IPR Service Centers and develop a system to enhance interaction among the Centers.

3. APEC Food System

In the 1995 Leaders Statement, food scarcity was mentioned as a possible future impediment to economic growth and promised APEC action. ABAC responded and proposed several explicit steps in its 1998 and 1999 reports designed to create an APEC Food System that would keep food abundant and affordable. The Leaders adopted the ABAC proposal in 1999 and called again in their 2000 and 2001 Statements for vigorous implementation. However, there has been little accomplished on the APEC Food System despite the Leaders' directions and ABAC's appeal for specific actions to invigorate it.

There are three reasons ABAC again calls attention to the APEC Food System. First, visible action by APEC on the sensitive issue of food, and demonstrating that it can be approached cooperatively instead of contentiously, can very positively influence the WTO negotiations. Second, as concerns about possible tight energy supplies arise APEC should be reminded that, as the Leaders pointed out ten years ago, it needs to take early action to assure that it does not face food shortage pressures a few years hence. Growing populations with greater affluence will dramatically increase food demand; combined with environmental stresses and water shortages this could spell trouble, with an adverse reaction for every business in the region, unless addressed cooperatively. Third, as APEC takes stock of itself this year it needs to look at how it organizes to carry out assigned tasks.

Recommendation

APEC should make a serious study of what went wrong on the APEC Food System before the 2005 Busan meeting and decide what corrective action to take from the "lessons learned."

IV. Building Harmonious Relationships Between the Private Sector and Governments in the New International Security Environments

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. At the same time, the adoption of new security-driven technologies and procedures may result in efficiency gains that will expedite cargo clearance at customs and contribute to the reduction of transaction costs.

The challenges associated with adapting to the new security environment are particularly pronounced for developing APEC economies, due to a lack of sufficient financial and technical resources. This, in turn, may render the region's entire supply chain vulnerable.

It is for this reason that ABAC supports three initiatives which address this issue, first to reveal the impacts businesses face that are directly related to the new security environment. The second is to develop a customs handbook and promote information sharing to achieve trade facilitation. Finally, ABAC is pleased that APEC economies are working towards the adoption of an APEC Framework for Security and Facilitation of Global Trade.

A. The Impact of the New Security Environment on Trade Transactions Costs in the Region

ABAC is currently undertaking a study that will seek to assess the impact of the new security environment on trade transaction costs in the region. Based on these findings, ABAC hopes to be able to highlight opportunities for cost-savings and efficiency gains associated with these new security measures – and to suggest collective measures that APEC economies can take to promote transport security and improve customs regimes, port facilities, and logistics management.

B. Adoption of an APEC Framework for Security and Facilitation of Global Trade

Securing global trade is vital to continued prosperity in the APEC region and the world. A severe disruption to the supply chain in one part of the world can negatively impact the entire global trading system in a far-reaching way. Consequently, it is important that businesses and governments within APEC implement reasonable measures to diminish supply chain security vulnerabilities. Such efforts will also be important in assuring APEC's global trading partners that commerce traveling from or within the APEC region is low risk.

To further APEC's commitment to secure trade flows in a way that is complementary of APEC's core business of trade and investment liberalization and facilitation, and, recognizing that much of the supply chain is in the hands of the private sector, cooperative arrangements between the private sector and government are essential to meeting the twin goals of enhanced security and facilitation.

ABAC was pleased that the APEC Sub-Committee on Customs Procedures agreed in principle to adopt the "Implementation of the APEC Framework based on the WCO Framework of Standards to Secure and Facilitate Global Trade" as a new Collective Action Plan in the hopes of contributing to an expedited facilitation of legitimate and low-risk cargoes. ABAC notes that by implementing an APEC Framework, there are opportunities for the private sector and governments to realize benefits and reduced costs in addition to the direct benefit of improved security. ABAC encourages all APEC economies to work closely with industry to further develop and implement the APEC Framework for Security and Facilitation of Global Trade ("APEC Framework") as proposed at SOM I in Seoul, Korea and looks forward to providing APEC customs officials with detailed input to the APEC Framework.

Recommendations

ABAC recommends that the APEC Framework include the following elements to promote participation:

- Voluntary government-industry partnership programs to improve security and facilitate the movement of legitimate trade, including the development of supply chain security best practices for Authorized Economic Operators (AEO).

- A mechanism for APEC governments and third parties to validate an AEO's adherence to security best practices and a means for mutual recognition of such assurances among governments and AEOs.
- Standard requirements for providing information to customs authorities for use in targeting higher risk shipments.
- A system to provide measurable benefits to secure traders (e.g., reduced inspections, reduced customs clearance time) and system for reporting on these benefits to demonstrate the results after implementation of the Framework related programs.
- Assistance for APEC governments in developing standards and requirements for inspection technologies and customs automation through capacity building.
- Relevant APEC fora host capacity building seminars and pilot projects supportive of implementing the elements of the APEC Framework.

ABAC further recommends the creation of a work plan for implementation with an ambitious timeframe noted below:

- APEC governments commit to implementing the finally agreed WCO Framework in all APEC economies by July 2005.
- APEC economies that do not require capacity building assistance complete implementation of the finally agreed WCO Framework by June 2006 and the remainder of the APEC economies complete implementation of the WCO Framework by June 2007.

C. APEC Customs Handbook

ABAC has agreed to develop a customs and trade facilitation handbook and to publish this in cooperation with customs authorities to provide a concise one-stop depository of custom and trade facilitation related information for all of the APEC economies. ABAC sees this as a tangible joint public-private sector project this year, serving as a useful tool for both businesses and government officials. The handbook will include:

- a compilation of contact information for the various customs agencies of the APEC economies
- contact information for requesting advance rulings on the applicable classification, duty rate, or country of origin of goods to be imported into a specific APEC economy
- contact and procedural information on administrative reviews of a customs agency's decision if an importer and exporter wishes to protest the decision or interpretation of a customs agency
- references to the relevant laws and regulations pertaining to advance rulings and administrative reviews.

At the end of the handbook, a chart would be provided to indicate what elements of trade facilitation (e.g., post clearance of duty payments, acceptance of ATA Carnet, etc.) each customs agency currently provides.

The information required is now being solicited from each customs administration through the APEC Sub-Committee on Customs Procedures for compilation by the end of July 2005. The handbook will be distributed at the APEC CEO Summit in Busan, Korea in November 2005 and thereafter posted on the APEC and ABAC websites.

V. Creating an Environment Conducive for Business

A. Promoting Good Business Ethics

The economic environment is changing and impacted by the removal of barriers against international competition, by conventions on Combating Bribery of Foreign Public Officials in International Business Transactions, by Guidelines for Good Corporate Governance, the Green Round for environmental protection, and by the Blue Round on labor related issues.

In responding, ABAC believes that an important ingredient for long term profitability is the voluntary acceptance by business of ethics management; reflecting the interests of stakeholders, including shareholders, customers, employees and subcontractors, government and the community broadly. To ensure the successful implementation and practice of business ethics management, ABAC will take measures to promote the prohibition of bribes to government officials; mutual trust with customers, community residents and business partners, sound labor-management relations; the protection of shareholders' interests, and the observance of government rules and regulations.

Recommendations

ABAC recommends that APEC:

- continue regulatory reform and enhance the clarity of laws and regulations to remove fundamental sources of corruption like discretion on the part of public officials
- enforce laws and regulations objectively and fairly when dealing with corporate disputes like labor-management disputes, customer-related disputes, and class action suits
- support measures which encourage businesses to voluntarily practice ethics in management
- implement incentives to ensure compliance with laws, rules and regulations as they impact on business, including legal enforcement of contracts

B. Addressing Corruption in the APEC Region

Corruption and lack of transparency in the government and corporate spheres are major impediments to economic growth and development; they distort market systems and threaten the integrity of public and private institutions.

Corruption results in an enormous, unseen tax on domestic and international systems of trade and commerce. It is a major obstacle to economic and social development and causes the most severe impact in economies with the highest development needs. The direct costs of bribery to national economies are credibly estimated at over one trillion dollars each year.

For too long, corrupt practices have been considered mere nuisances or “necessary evils.” However, last November in Santiago, APEC Leaders took decisive action by adopting the “Santiago Commitment to Fight Corruption and Ensure Transparency” and the “APEC Course of Action on Fighting Corruption and Ensuring Transparency.” Recognizing that a comprehensive approach is required, these bold initiatives apply to public and private sectors and to all manner of corrupt practices. In November 2004, ABAC also clearly demonstrated its commitment to fight corruption as every ABAC member signed the ABAC anti-corruption statement.

ABAC maintains its commitment to encourage business and governmental institutions to conduct their affairs with the highest level of integrity and ethics. Expanding on last year’s initiative, this year ABAC will begin to solicit all major companies in the 21 APEC economies to sign the ABAC anti-corruption statement. We note that under the leadership of Korea, APEC will host an international symposium on anti-corruption in September in Gyeongju. ABAC will participate in this event as part of the joint effort to build public-private partnerships to combat corruption.

Recommendations

ABAC applauds the APEC Leaders’ resolve to fight corruption at all levels. ABAC now urges Leaders to:

- Implement quickly their previous commitments to become signatories to the United Nations Convention Against Corruption;
- Deny safe haven to officials and private citizens engaging in corrupt practices; and
- Develop innovative and effective training programs and technical assistance for government, corporate and NGO personnel involved in combating corruption.

VI. Achieving Asia-Pacific Community through Cooperation and Capacity Building

A. Strengthening Financial Systems

The Finance Working Group draws attention to the continued threats to financial system stability in some economies caused by volatile short-term capital flows, and the activities of hedge funds.

Recommendations

ABAC reiterates earlier recommendations as follows:

- Economies must take measures to improve their domestic economic management systems to better deal with these threats;
- Regional and international agencies need to improve their monitoring of these activities and provide a sensible supervisory framework based on international cooperative efforts aimed at minimizing these forms of risk.

ABAC encourages the adoption of internationally agreed accounting standards and convergence by APEC economies in the implementation of those standards. It stresses the importance of continuing to strive to strengthen and deepen the region's financial systems, particularly in the development of the region's bond markets, the adoption of global best financial supervisory practices and effective implementation of Basel 2 in banking systems. ABAC strongly supports measures aimed at strengthening security in financial systems and urge deeper partnerships between public agencies and the private sector in this work. ABAC is taking initiatives to promote governance and transparency in the region's financial systems and urges APEC Leaders and Ministers to continue regulatory reforms and to enhance laws and regulations to remove fundamental sources of corruption, like discretion on the part of public officials, and to deal fairly when enforcing laws dealing with corporate disputes. ABAC strongly endorses capacity building initiatives to strengthen financial systems and recommends Ministers' support for the work of the ABAC/PECC Advisory Group on APEC financial system capacity building.

ABAC sees major challenges ahead, arising from demographic pressures and population ageing. Financial markets will play a profound role in dealing with those challenges and with the associated requirement to mobilize finance for the massive infrastructure financing needs of the region. ABAC associates these issues with the need for governments to encourage the growth of private pension savings for retirement purposes. The links between long-term savings for retirement, long-term financing for infrastructure and bond market development to intermediate savings and investment needs provide great opportunities as well as challenges for APEC. ABAC proposes to develop a set of policy recommendations to assist Ministers in dealing with these major public policy issues.

B. Enhancing the Competitiveness of Services SMEs

Services SMEs comprise over 90% of all companies in the APEC region. Yet despite the importance of these companies, many governments in the APEC region have overlooked their contribution – or have not adequately taken into account the needs of small services companies when developing their policies and programs. ABAC believes that there is a need for greater awareness in all APEC economies of the important role of SMEs in services trade – and greater capacity building efforts by governments and business associations alike to take steps to further enhance the competitiveness of services SMEs.

Last year, ABAC undertook a survey of all APEC economies to determine what governments and business associations in the region are currently doing to support SMEs in the services sector. Based on these findings, ABAC presented a number of key recommendations to APEC Ministers Responsible for SMEs. Although well received by the Ministers, APEC has not yet taken up ABAC's recommendations with regard to supporting services SMEs. Given the importance of this sector, ABAC wishes to reintroduce a number

of its key recommendations from 2004, and looks forward to working closely with APEC SME officials in their implementation.

Recommendations

- Set targets for increasing services trade by SMEs, such as doubling the number of SME service exporters in each APEC economy by 2007.
- Provide technical assistance to APEC developing economies on services exporting, including analysis of services exporting capacity and identification of priority services for export promotion, training of SMEs in successful services exporting, training to business associations and trade promotion agencies on how to assist SME service exporters, regional networking of associations in support of SME service exporters, and training of government services trade negotiators to link export capacity in negotiating strategies.
- Build regional best practice networks to support SME services trade by establishing a network of SME services exporting focal points/champions in each of the APEC economies, with the responsibility of reporting each year to the APEC SME Ministerial.
- Give priority in both the WTO and APEC to addressing barriers to SME services exporting.

C. Promoting the ‘Community’ Through Capacity Building

1. Emergency Preparedness

In recent years, the APEC region has experienced a number of man-made and natural crises and disasters including terrorist attacks, the SARS outbreak, and most recently, the Indian Ocean tsunami of December 26, 2004, which resulted in enormous loss of life and economic damage. These events bring into sharp focus the need for robust early warning and response systems for future disasters of all kinds.

In responding to the tsunami disaster, ABAC has focused its attention on the challenge of effectively incorporating the region’s business community in capacity building efforts for emergency preparedness. In its discussions, ABAC has considered each of the three phases associated with any natural or man-made disaster or situation, namely:

- **Resist phase** – measures aimed at defense and preparation for future event of scale;
- **Response phase** – relief efforts in the first hours and days of a crisis that can overwhelm traditional response mechanisms;
- **Recovery phase** – measures taken in the intermediate to longer term following an event of scale to rebuild

Recommendations

Based on its assessment of the current status of the regional business communities' involvement in Resist and Response phases, ABAC recommends that APEC create an **'All Hazards APEC Regional Response Network'**.

Such a network would seek to coordinate APEC's emergency preparedness efforts for future events of scale through a number of specific measures, including:

Resist Phase activities:

- Review of regional response capabilities
- Self assessments of individual economy capabilities
- A mechanism to capture and disseminate 'lessons learned' (e.g. public education for emergency preparedness, early warning communication, etc.)
- Establishment of region-wide communication and notification protocols for events of scale, which would seek to include the private sector along with other relevant government, multilateral, and NGO actors

To capture this information, ABAC recommends that the APEC Virtual Task Force on Emergency Preparedness build upon the website framework that currently exists, in order to create a **website** with the following six major sections:

- Disaster response organizations in each economy, including links to their websites
- Preparedness tools currently available from each economy (e.g. checklists, manuals, etc.)
- Response phase organizations (government, NGOs and private sector), including website links
- Checklists for immediate Response phase needs
- Lessons learned from previous events of scale
- Pages for specific events of scale containing up to date information, critical needs list and current status

Many of the resources for such a website may already exist and require only coordination and supplementation to achieve the desired outcome.

Response Phase activities:

- Recent tragic experience has raised regional interest in the development of rapid response communications networks for use in natural disasters or in the event of a terrorist strike on national infrastructures. A number of APEC economies have trials in hand of potentially significant enhancements of current disaster recovery technologies. These include pre-packaged network infrastructure and remote access grid nodes that can be quickly deployed and made operational.
- As a first step in developing a regional response mechanism in the case of future natural disasters, ABAC recommends that APEC members work toward the development of an **Airport Emergency Team** capability within the region. Such a Team would be prepared to take over ground operations at response airport locations during the critical first days of a disaster response, when relief operations cause a sudden surge in incoming cargo.

Structure of the APEC Regional Response Network:

- ABAC would propose that the reactivated APEC Virtual Task Force on Emergency Preparedness coordinate the Resist phase initiatives outlined above and be prepared to provide day-to-day direction during a Response phase.
- An Executive Committee, made up of officials, private sector representatives and NGOs would provide oversight and guidance to the APEC Regional Response Network.

ABAC encourages APEC member economies to allocate sufficient financial resources to the establishment of the APEC Regional Response Network and the delivery of the initial projects outlined above.

In the development of the All Hazards APEC Regional Response Network, ABAC would play a supporting role, working to mobilize the regional resources of the private sector.

Recovery (reconstruction, rehabilitation)

Although focused on more intermediate and longer-term goals, the objective of the Recovery phase of any event of scale should be to restore “business as usual” as quickly as possible, restoring jobs and income to affected communities. The business community has an even larger part to play in this phase.

a. Financing Reconstruction

The region’s business communities play a critical role in reconstruction efforts following any natural disaster or other event of scale. APEC economies should seek to expedite this process by ensuring that the awarding of reconstruction contracts through international financial institutions and bilateral government programs is done quickly, efficiently and in a transparent manner.

The region’s financial services companies need to work closely with their governments in financing reconstruction following events of scale. Insurance providers should seek to settle claims quickly and develop new insurance products to offer protection against certain events of scale in more dangerous areas. As outlined in Box 2, the region’s banks, in partnership with their governments, play a critical role in providing financial resources for reconstruction and business rehabilitation in the aftermath of a catastrophe.

Recommendations

- As part of the work of the Virtual Task Force on Emergency Preparedness, APEC member economies should undertake a review of best practices in providing public-private partnership financing for reconstruction
- ABAC encourages APEC economies to review their procedures for the awarding of reconstruction contracts through IFIs and bilateral government programs and to develop protocols for fast-tracking the awarding of reconstruction contracts

- ABAC calls upon APEC economies to undertake a review of insurance availability for business assets against certain risks and take steps to liberalize their financial services industries, where necessary, to ensure that business and homeowners have access to the widest possible range of insurance options to protect their assets.

b. Support for MSMEs

Micro-, small- and medium-enterprises (MSMEs) form the backbone of the economy in all APEC economies, providing employment and income to millions. The sooner that livelihoods are restored and businesses are up and running again following a disaster, the better for the villages, towns and cities in which they operate.

With regard to financial support for rehabilitation, microcredit lending has already been used in certain APEC economies hard hit by natural disasters. ABAC has in the past highlighted the need to strengthen the capacity of micro-finance institutions (MFIs), including upgrading the quality of management, improving accounting and administration and facilitating links with public institutions providing aid funding.

In addition to financial support, MSMEs may also need access to retraining programs where a disaster has devastated their particular industries, whether temporarily or permanently. Working in partnership with government programs, small business advisors can deliver educational and training solutions to local entrepreneurs to promote the successful development of new micro-enterprises in the wake natural or man-made disasters.

Recommendations

- ABAC encourages APEC Finance officials to undertake a review of financing options that can be made available to MSMEs in case of events of scale, including microcredit lending, loan guarantees, leasing arrangements, venture capital funds and other innovative lending and equity financing mechanisms.
- Similarly, ABAC calls upon the APEC SME officials to undertake a review of the resources available in each APEC economy for MSME retraining and how these can be mobilized in the aftermath of an event of scale. ABAC encourages APEC SME officials to share best practices and ‘lessons learned’ in the delivery of SME retraining programs.

c. Restoring Confidence

Following any disaster – whether natural or man-made – a critical factor in full economic recovery is the challenge of restoring confidence in the affected region in the eyes of the outside world. Providing positive and accurate information on recovery efforts is critical to rebuilding investor and business confidence in an affected region. Restoring the confidence of consumers is also important, particularly at it relates to tourism. Here, the region’s marketing and communications industries can assist in targeted information

and promotional campaigns, aimed at rebuilding confidence and overcoming misperceptions of potential tourists to the region.

Recommendation

ABAC encourages APEC Ministers to instruct their relevant promotion agencies (i.e. tourism, investment, trade) to review their emergency preparedness planning to ensure that they have the necessary resources in place to mount a campaign aimed at restoring confidence following an event of scale, working in close partnership with the private sector.

2. Logistics Infrastructure

The development of cross-border distributions systems between assembly plants and parts-producing factories is indispensable to “just-in-time” assembly systems. While the development of seaport cargo infrastructure continues to improve, bottlenecks related to land route cross-border distribution systems in many APEC regions is lagging behind. Difficulties include inconsistent customs procedures and application of tariffs at land route crossings, degradation of roads and trucks, congestion and natural hazards such as flooding.

Recommendation

ABAC encourages APEC to cooperate with the private sector in identifying capacity building priorities related to the improvement of cross-border land route logistics infrastructure in the APEC region, including upgrading of infrastructure, simplification and standardization of land route customs clearance procedures, and strengthening of freight terminal functions at land borders.

3. Standards

ABAC is undertaking a study to benchmark the approach taken to development and application of standards in the Asia-Pacific region against the European approach, which is widely regarded as more effective. Regional business is disadvantaged in relation to competitors from other parts of the world as a result of shortfalls against “best practice” in the standards area. The objective of the ABAC study is to assist in setting a longer-term agenda for standards development and implementation in our region, which can be pursued by APEC in future years. Capacity-building to strengthen standards institutions will be a significant part of that agenda.

D. Cooperation in Technology

Technological innovations make up an important part of the economic activity of each APEC economy, assisting individual APEC economies with to make best use of resources, enhance capabilities and increase overall prosperity of the region. The potential for positive cooperation is huge.

1. Securing APEC's Energy Future in a Changing Energy Environment

The global energy equation has changed. Dwindling “easy” supply combined with rapidly growing demand in the APEC region and throughout the world has increased the costs of energy. Large inflows of capital are required to meet infrastructure and power generation needs of the next twenty years.

All of APEC's critical Bogor Goals require a safe, reliable, affordable, efficient and stable supply of energy. The new energy environment requires economies to consider a variety of ways to increase energy supply, diversify sources of supply, and encourage its responsible use. Adopting this three-pronged approach can help APEC create strategic policies to prepare for the future. The rise of oil prices in recent months underscores the need for action; this is therefore an opportune time to review APEC's energy outlook and strategies. ABAC is undertaking on-going work in the energy area with a view to having specific recommendations prepared for APEC Energy Ministers for their consideration at their October meeting in Korea.

Energy supplies can be increased, for example, through creating forward movement on international investment disciplines in trade agreements, enhancing transparency of the business environment, and creating legal regimes where contract terms and enforcement mechanisms instill confidence in investors. The APEC Energy Working Group developed a set of Best Practices (“Ten Priorities for Financing Energy Infrastructure Projects”) that highlight policies governments can adopt to facilitate investment in energy projects. ABAC applauds the adoption of these Best Practices by the Energy Ministers at their June 2004 meeting in Manila, and would urge early adoption.

Diversification and conservation of energy sources can be achieved by capturing the potential of energy sources such as liquid natural gas, creating more regulatory certainty throughout the energy value chains, and leveling the playing field between national and foreign companies. Many APEC economies are already leaders in the area of utilizing diverse energy sources. New Zealand, for example, generates over 65% of its electricity from non-traditional sources such as hydro and geo-thermal power plants. Similarly, Japan's New Energy and Industrial Technology Development Organization (NEDO) is undertaking several projects which aim to maximize energy efficiency, and further international cooperation in new energy technologies.

Responsible use of energy requires close management of commercial demand through conservation and improved efficiencies, reducing consumer demand with a variety of mechanisms, and the sharing best practices, technologies and standards.

Recommendations

ABAC recommends that the following be considered for the upcoming APEC Energy Ministerial:

Policy and Regulatory Action:

- Conservation policy that includes tax and fiscal incentives for efficient energy technologies
- Creation of a market environment conducive to FDI
- Preferential tariff treatment for highly energy-efficient products
- Research and development of various alternative energy sources such as hydrogen, wind, solar, nuclear, and thermal power, and other renewables such as biomass.
- Periodic reports to leaders on the progress of APEC economies in adopting and implementing Policy Best Practices adopted by the Energy Ministers in (a) facilitating cross border trade in pipeline gas and LNG, (b) accelerating investment in natural gas infrastructure, and (c) financing energy projects

APEC Energy Planning

- Inclusion of energy planning in APEC-wide and Individual Action Plans with specific policy direction, resource goals, timelines and measurements.
- Investigation of new energy sources, alternatives and transition strategies
- Stimulation of new technology development by imposing specific efficiency targets for new consumer products

Ongoing APEC Energy Work Program

- Regularization of a vigorous Energy Ministers process to provide guidance on this critical issue to the APEC Leaders through established SOM mechanisms.
- Dissemination of energy-saving technologies, manufacturing techniques and R&D in renewable energy technology through capacity building initiatives.
- Continued outreach activities with economies on a voluntary basis to disseminate information about Policy Best Practices developed by the EBN and EWG to help APEC achieve the energy basis needed to support the Bogor goals.

2. APEC 2005 Innovation Agenda:

Patent Harmonization, Technology Choice and Enhanced IPR Enforcement

The APEC 2004 Leaders' Declaration recognized that improved protection and enforcement of Intellectual Property Rights promote investment, innovation and economic growth. APEC Leaders welcomed APEC's work on the APEC Comprehensive Strategy on Intellectual Property Rights and encouraged further progress in 2005.

In addition, APEC Leaders in their October 2003 Leaders' Declaration agreed to "[a]dvance all pathfinder initiatives, including the...Digital Economy Statement to, e.g., stop optical disk piracy and allow technology choice for business" (emphasis added).

In 2005, under Korea's leadership, APEC can achieve significant breakthroughs in fostering growth and innovation by:

a. Launching an APEC Initiative on Patent Cooperation and Harmonization

Recommendations

- Expand resource and work sharing initiatives between participating APEC member economy patent authorities to make efficient use of search and examination capacity; and
- Build common understanding on four prior art related issues – definition of “prior art,” grace period, novelty and non-obviousness/inventive step.

Developing technology choice principles that will maximize flexibility for users of technology to use technologies that best meet their needs.

- Develop a set of technology choice principles to be incorporated into the APEC Pathfinder Digital Economy Statement, including:
 - **Standards:** Use of industry-led, voluntary, consensus-based, international standards that respect intellectual property;
 - **Procurement:** Use of merit-based procurement policies where procurement specifications are performance-based and do not mandate or extend preferences to specific technologies; and commitment by member economies to implement the 1999 APEC Non-Binding Principles on Government Procurement; and
 - **Service Provider:** freedom of technology choice for service providers and Consumers.

b. Taking additional concrete measures on IPR enforcement

Recommendations

ABAC proposes the following initiatives:

- Adoption of an APEC Member Economy Self Evaluation against APEC’s Optical Disk Effective Practices;
- Creation of an IPR Enforcement Task Force to help institutionalize and regularize cross-border enforcement cooperation, sharing of best practices, and opportunities for public-private partnership in training; endorsement of Model Principles to Control On-line Piracy in order to provide a model blueprint as APEC economies modernize and update legislation to address IPR challenges of the digital age; Establishment of Regularly Scheduled Cybercrime and IP Enforcement Workshops.

Model Principles to Control Online Piracy

- Ratify and fully implement both WIPO Internet Treaties (WCT and WPPT)
- Ensure adequate and effective prohibitions on the circumvention of technological protection measures that protect copyright through copy and access controls, including trafficking in circumvention tools

- Ensure that widespread, willful unauthorized distribution of copyrighted material is a criminal offence even if not undertaken for profit
- With regard to material residing or stored on an ISP's network or system, adopt a formalized notice and takedown system, imposing the following obligations on ISPs as a condition for protection from monetary liability:
 - ❑ Require ISPs to remove or take down infringing material expeditiously upon receiving notification from rights holders
 - ❑ Require ISPs to take action against known or obvious infringers even when no notification has been received from a copyright holder (except that an ISP should not be required to monitor its service or affirmatively seek out infringing activity)
 - ❑ Require ISPs to notify alleged infringers of notification received from rights holders
- Establish meaningful and effective administrative or judicial procedures enabling rights holders to obtain from a service provider information in its possession identifying the alleged infringer
- Support consumer education campaigns to promote understanding of and respect for copyright and discourage infringing behavior.

3. Towards a Ubiquitous Society

As APEC looks forward at the future use and implication of technology a concept of increasing importance is the “ubiquitous society,” broadly defined as a society in which people are connected anytime, anywhere, and to anyone through a ubiquitous computing environment where every object is equipped with artificial intelligence. The concept is still emerging, and there are many varied views on specifics on definitions, requirements, and norms which would underpin a ubiquitous society. APEC and ABAC need to explore a wide range of issues as a precursor and foundation for an eventual ubiquitous computing environment. There are very serious issues raised by existing and expected technologies and their interface and impact on commerce, personal privacy, legal frameworks and a host of other issues that are not yet defined.

Discussions on the U-society concept are underway in many parts of the world. In the Asia-Pacific region, the Japanese government started the Asia IT Initiative (AIII) in 2003 under the framework of its e-Japan II strategy, a comprehensive plan for IT integration in that economy and Korea launched the IT839 Initiative to develop ubiquitous industry and infrastructure in 2003. In addition, Korea, China, and Japan hold regular government-initiated working-level meetings for the research of Radio Frequency ID/ Ubiquitous Sensor Network technology (USN) fundamental to many ubiquitous society plans, the

establishment and implementation of joint-pilot projects, and other cooperation for the advancement of related industries.

Recommendations

- ABAC should commission a study of the challenges APEC economies face in creating an environment where a ubiquitous society can flourish, including
 - Access to broadband convergence network,
 - Legal and self-regulatory frameworks to address privacy concerns, Intellectual property protections and on-line piracy prevention
- Among the elements that ABAC may wish to consider looking into are: Sensor based computing, data management, security of networks and computing environments, potential privacy issues where personal information may be associated or tracked as well as infrastructure issues. These technology issues also have sectoral application issues - the impact of sensor-based computing on logistics, supply chain and Customs, process optimization and data management in paperless trading environments.
- Informed by the study, ABAC will conduct a symposium to further explore views on this technology, its integration into society, definitions, legal frameworks and other related issues.
- The regional business community needs to develop a business consensus that it is ripe or beneficial to raise any particular issue within APEC. Many of the issues have local, regional or global implications that need to be considered.

Long-term outcomes

Once the framework of a “ubiquitous society” is better established and challenges APEC faces in doing so are identified, ABAC may urge APEC to create a dialogue/working group with the private sector within the APEC e-commerce framework which can begin to address these issues.

4. Implement the Life Sciences Innovation Strategic Plan

ABAC welcomes the endorsement of the Strategic Plan for Life Sciences Innovation as an important tool to assist economies in developing an environment that attracts investment and supports innovation in life sciences. Investment in the life sciences industry by APEC Member economies will contribute to the longevity, wellness, and economic potential of the region and help to address critical areas of concern, including early detection, prevention, and treatment of disease. As such, ABAC supports and encourages implementation of the Strategic Plan and we aim to act as advocates with our governments in that regard.

Intellectual property protection is critical to the development of an innovative life sciences sector. In this context, ABAC welcomes the Strategic Plan's robust approach to IPR protection and supports its treatment of IPR as an area of priority focus for the region.

Recommendations

ABAC supports:

- **A robust implementation model** that identifies one or two outcomes in each of the four critical areas in the life sciences value chain –
 - **Research** (biomarker discovery and research cohort),
 - **Development** (capacity building in Good Clinical Practice and clinical trials infrastructure),
 - **Manufacturing and Marketing** (capacity building in Good Manufacturing Practices), and
 - **Health Services** (consistent and transparent approach to regulatory development and decision-making).
- Efforts to **develop a medical biotech venture capital fund** on a regional or sub regional basis in order to provide critical financing for innovation.

At the same time, we recognize the importance of LSIF implementation in the context of reaching the Bogor goals of liberalized trade and investment in the APEC region. Dramatically different policy and regulatory environments serve as a hindrance to trade and investment in the life sciences sector - the Strategic Plan seeks to counter these problems by providing best practices for harmonizing regulatory standards and thus provides an enabling environment for life sciences innovation. Additionally, the clear link between health and economic development makes improved access to innovating medicines and medical treatments key - as healthy people make health economies.

5. Technology to Improve Health Care Delivery

Another way that technological advances are being brought to bear to improve health and health care delivery in the region is the development of information/communications technology (ICT) - supported electronic patient health systems that improve the accuracy and delivery of health information. Examples of systems include combining National Health and National Practitioner Indexes, both common in APEC economies. The ultimate aim is an Electronic Health Record (EHR) which contains GP, Specialist, DHB and Prescription records.

Trials of various IT technologies for hospitals are proving potential improvements in efficiencies and the safety of hospital patients. For instance, wireless Bed Management systems are a novel application for improving the critical task of hospital bed management.

Recommendations

ABAC recommends:

- Digitization of all patient records;
- Improvement of all processes for recording/managing data;
- Enhanced procurement/payer/insurance system;

- Maintenance of a secure internet/wireless system for access/ transmission/storage of the data.

ABAC also welcomes the launch of the Pacific Health Summit, a multi-year project that begins in June, 2005 in Seattle with a first-of-its-kind gathering of scientists, policy makers, health care providers and industry. The annual Pacific Health Summit will bring together the most current scientific information and technology for decision-makers' discussions. The Summit will also mark the launch of a major APEC-wide biomarker research project that will provide data critical to the early detection and prevention of diseases.

6. Technology to Address Environmental Concerns

ABAC has considered a number of environmental-related technologies and initiatives including a proposal to adopt recycling-based economies, environmental monitoring, border control and biosecurity, and food traceability with greater application of Information and Communication Technologies.

a. Recycling Based Economies

Issues and challenges to implementing the proposed practices need to be identified and addressed. Organizational challenges, IPR protection and funding deficiencies are some of the impediments to progress.

Last year, ABAC recommended that APEC Leaders work closely with the G8 Ministerial Conference with a view to implementing the 3Rs of environmental protection. In conjunction with this, The Reduce, Reuse, and Recycle (“3R”) Initiative has launched at a Ministerial Conference held on 29-30 April 2005 in Tokyo.

At the Ministerial Conference, the view was shared that the promotion of 3Rs is key to realize in the 21st century a society in which sustainable consumption and production patterns are established in both developed and developing economies.

Recommendations

- Each Economy needs to incorporate an environmental conservation plan and strategy and identify capacity and technology needs.
- APEC should provide a “Facilitator” for environmental technology transfer.
- APEC Economies should provide environmental investment incentives.

Increased efforts are needed in 3R (Reduce, Reuse, Recycle) for sustainable development in the APEC Region. While “pre-cycling” is now often built in at the product design stage, many economies are not utilizing these principles due to deficiencies in social infrastructure, support industries, relevant technologies and commitment of leaders, producers and consumers. In order to realize 3R goals, APEC economies need to move toward standardized regimes for recycling in the region to ensure that all goods produced in one economy can be used and recycled in any other economy.

ABAC and APEC are supporting a capacity building project in order to implement recycling based economies. The objectives are:

- Identify issues and challenges to implementing 3R in APEC member economies.
- Share best practices of 3R in selected industries – e.g. electric/electronic, automobile and office equipment.
- Design, develop and conduct Capacity Building pilot projects in 3 member economies for specific industry sectors.
- Disseminate the resulting best practices to all APEC economies.
- Establish an Experts Network to facilitate implementation of RBE in APEC.

b. Environmental Monitoring and Food Traceability:

Applying Information and Communication Technologies (ICT) to environmental monitoring improves agricultural and horticultural productivity and management as well as food traceability. This lowers the economic impact of anticipated environmental and traceability compliance regulations, which for APEC food-exporting economies could amount to technical barriers to trade.

Monitoring the environment can ensure environmentally sustainable practices such as reducing pollutants and improving yield. Monitoring weather provides frost warnings, waterway visibility, nutrient balancing and effluent tracking which can contribute to agricultural efficiency. It can also aid bio-security authorities and warn of local weather patterns. Food traceability will be an important element in facilitating agricultural trade and thus economic development as technology becomes less expensive, more functional and energy efficient.

c. Border Control and Biosecurity

The risk of incursions of disease, unwanted substances and contaminants is a common concern to APEC economies. Work is proceeding with ICT-supported diagnostics to provide APEC Customs authorities with a quick method of sampling and detection. The ability to match DNA samples to remotely stored databases will greatly improve biosecurity and border protection,

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

The offer should create new market-opening and investment opportunities. To what degree does it satisfy the following goals?

- 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

A high-quality offer in the banking sector should contain the elements enumerated below.

ESTABLISHMENT

- 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

- 1) Provides assured national treatment for asset management activities provided by financial services firms.
- 2) Avoids discriminatory international markets as 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.

ADDITIONAL COMMITMENTS	
<i>TRANSPARENCY</i>	<i>EXAMPLES</i>
<p>1) Commits to improved transparency overall.</p> <p>2) Spells out procedures for providing interested parties with notice of proposed rulemaking and opportunities for comment on proposed new rules.</p> <p>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.</p> <p>4) Commits to current and proposed regulations being easily accessible in writing and on the Internet.</p> <p>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.</p> <p>6) Commits to providing justifications for denials of licenses or applications based strictly on factors explicitly identified in the pertinent regulations.</p> <p>7) Commits to the making of prompt licensing decisions and provides a timely, nondiscriminatory appeals process available for applicants whose applications are denied.</p> <p>8) Commits to provide clear and reliable information about a country's financial services laws and practices.</p>	<p>a) Publication in national gazette.</p> <p>b) Standard procedures for submitting public comments.</p> <p>Clearly defines a standard "reasonable amount of time".</p> <p>E-government procedures.</p> <p>a) Creates a enquiry point for licensing and application matters.</p> <p>b) E-government procedures.</p> <p>c) Employees are evaluated on accountability to the public.</p> <p>Justifications are provided in writing and within a fixed timeframe, known to all.</p> <p>a) Spells out appeals process, sequence and timeframes.</p> <p>b) E-government procedures.</p> <p>a) E-government procedures.</p> <p>b) Regular interchanges between regulatory and supervisory bodies and private sector through public forums or other mechanism.</p>

INSURANCE

GOALS

The offer should create new market-opening and investment opportunities. To what degree does it satisfy the following goals?

- 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

A high-quality offer in the insurance sector should contain the elements enumerated below.

MARKET ACCESS

- 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:

- 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

- 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 country.
- 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

<p>minimum 51% ownership during staging period.</p> <p>Compulsory lines: Fully bound by national treatment and market access, as defined by GATS</p> <p>Monopolies: Best endeavors to eliminate insurance monopolies and exclusive services providers</p>
<p>TEMPORARY ENTRY OF NATURAL PERSONS</p> <ol style="list-style-type: none"> 1) Avoids nationality / residence requirements on personnel 2) Provides freedom to foreign insurance company to select its own representatives in host country irrespective of nationality 3) Provides for temporary visa or work permits for short periods of stay
<p>NATIONAL TREATMENT</p> <ol 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 countries.
<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
INSURANCE MONOPOLIES <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 authorized2) Insurance suppliers with monopoly rights will keep separate accounts regarding monopoly and non-monopoly activities
INSURANCE REGULATOR Must be an independent government entity.

PENSIONS <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 market2) Private pension fund managers designated to manage public or private pensions in host country3) Freedom to select form of commercial presence4) Ability to offer range of product / investment options.
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ASSET MANAGEMENT

GOALS

The offer should create new market-opening and investment opportunities. To what degree does it satisfy the following goals?

- 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

A high-quality offer in the banking sector should contain the elements enumerated below.

ESTABLISHMENT

- 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 country to provide asset management services to domestic clients in the host country.
- 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
- 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.

CROSS BORDER

- 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)

TEMPORARY ENTRY OF NATURAL PERSONS

- 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 country.

NATIONAL TREATMENT

- 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.

ADDITIONAL COMMITMENTS

<i>TRANSPARENCY</i>	<i>EXAMPLES</i>
<ul 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 is easily accessible and responsive to the public.6) Commits to providing justifications for denials of licenses or applications based strictly on factors	<ul style="list-style-type: none">a) Publication in national gazette.b) Standard procedures for submitting public comments. Clearly defines a standard "reasonable amount of time". E-government procedures. a) Creates a enquiry point for licensing and application matters.b) E-government procedures.c) Employees are evaluated on accountability to the public. Justifications are provided in writing and within a fixed timeframe, known to all.

<p>explicitly identified in the pertinent regulations.</p> <p>7) Commits to the making of prompt licensing decisions and provides a timely, nondiscriminatory appeals process available for applicants whose applications are denied.</p> <p>8) Commits to provide clear and reliable information about a country's financial services laws and practices.</p>	<p>a) Spells out appeals process, sequence and timeframes.</p> <p>b) E-government procedures.</p> <p>a) E-government procedures.</p> <p>b) Regular interchanges between regulatory and supervisory bodies and private sector through public forums or other mechanism.</p>
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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 over-arching message is that governments must take steps towards greater financial sector openness 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 financial services 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 won't 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 countries 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 countries 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 countries 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 countries 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 services beyond the geographic area of establishment.** A business will not necessarily locate in a particular country or geographic region of a particular country 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 a country.
- **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 a country'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 Sector 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 - SME's 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 country) 	<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 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 - permit foreign majority ownership - establish a strong regulatory system (thereby making establishment and operating restrictions unnecessary) <p><i>Strengthen Local Industry</i></p> <ul style="list-style-type: none"> - 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.

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 through capacity building (e.g. Basel 2) - remove discrimination between foreign 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 - weak property protection rights and enforcement 	<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

Barrier/Impediment	Issues/Concerns	Recommended Policy Response
<p>Capital controls</p> <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
<p>Weak governance</p> <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
<p>Poor property rights protection</p> <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
<p>Restrictions on the Movement of Natural Persons</p> <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