

## AGENDA ITEM 6

### PEER REVIEW/ACTION PLAN PROCESS FOR CAPITAL MARKET DEVELOPMENT IN APEC\*

#### INTRODUCTION

The development of capital markets, and particularly of long-term bond markets, is an objective that promises to significantly benefit economies in the Asia-Pacific region, in terms of promoting financial stability and economic growth. For this reason, a number of regional initiatives have been launched in recent years<sup>1</sup> to promote the development of local currency bond markets in the region, as well as to facilitate increased cross-border transactions and a long-term process of integrating these markets.

During two major conferences jointly organized by the APEC Business Advisory Council (ABAC) and the Pacific Economic Cooperation Council (PECC) with other institutions in 2004 and 2005,<sup>2</sup> private sector representatives expressed full support for these efforts and their recognition of the considerable economic and commercial benefits involved, as well as the need for effective mechanisms for undertaking regulatory reforms and region-wide convergence toward global capital market standards and practices.

In the design of such mechanisms, governments could learn from the experiences of various international institutions. One capacity-building instrument that has proven very useful is the peer review process, which is used in a number of international organizations, including the WTO (where it is known as the Trade Policy Review Mechanism), the European Union (where it is used in reviewing labor market policies) and the IMF (in the form of the country surveillance mechanism). It is most extensively developed in the OECD, successfully contributing to the significant increase of capital mobility among members, as well as convergence of debt management policies and procedures and enhanced bond market liquidity in the Euro zone (Witherell 2005). Within APEC, the peer review process is also used as part of efforts to develop individual action plans (IAPs) for trade liberalization.

This paper aims to assess the feasibility of developing a peer review/action plan process to support ongoing efforts toward capital market development and integration within the region, drawing upon the experiences of existing institutions (and in particular APEC and the OECD), and taking into account the specific characteristics of Asia-Pacific regional cooperation.

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\* *This is a draft in progress of a paper being prepared by the Pacific Economic Cooperation Council (PECC) in conjunction with its ongoing project on Promoting Trans-Pacific Cooperation in the Development and Integration of Local Currency Bond Markets in the Asia-Pacific Region.*

<sup>1</sup> These include the Asian Bond Market Initiative (ABMI) under the framework of the ASEAN Plus Three (APT), the Asian Bond Fund (ABF) under the framework of the Executives' Meeting of East Asia-Pacific Central Banks (EMEAP) and various initiatives in APEC to support the development of bond market infrastructure and the institutional investor base.

<sup>2</sup> These were the bond market conferences organized by ABAC and PECC in cooperation with the Asian Bankers' Association (ABA) and the Association of Credit Rating Agencies in Asia (ACRAA) in Taipei in May 2004 and in cooperation with the Asian Development Bank Institute (ADBI) in Tokyo in June 2005.

## THE PEER REVIEW PROCESS AND ITS BENEFITS

**Characteristics.** As practiced in international organizations, the peer review process involves the following characteristics (Pagani 2002 and Witherell 2004):

- It is a systematic examination and assessment of the performance of an economy by other economies.
- Its ultimate goal is to help participating economies adopt best practices, comply with established principles and standards, or undertake policy and regulatory improvements through an information- and experience-sharing process that facilitates mutual learning.
- Examinations are undertaken on a non-adversarial basis and rely extensively on mutual trust among participating economies and a shared confidence in the process.
- The results of each peer review are made transparent and reflected in a report, often made accessible to the public, which assesses accomplishments, notes shortcomings and makes recommendations.
- Peer review is characterized by collegial, informal, frank and constructive dialogue among equals and interactive investigations.
- Its operation is facilitated by a neutral secretariat that supports and stimulates the process.

**Structure.** There are many variations in the operation of peer review processes, but they generally have four structural elements in common.

**A. Procedural basis.** This may be a decision by a body or a provision in a treaty or agreement that authorizes the undertaking of peer review. An example is the 1997 ministerial-level OECD Council Meeting, which provided the mandate to conduct reviews of regulatory reform, using as basis the OECD Report on Regulatory Reform and which led to the OECD Horizontal Program on Regulatory Reform, the framework under which peer reviews were conducted.

**B. Agreed set of principles, criteria and standards for performance review.** These may include best practices, guidelines, policy recommendations, specific indicators, benchmarks, numerical targets and legally binding principles. Examples are the Millennium Development Goals used in OECD development assistance reviews, the OECD Codes of Liberalization of Capital Movements and Current Invisible Operations for regulatory reform reviews, and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions used in the reviews conducted by the OECD Working Group on Bribery.

**C. Designated entities to carry out the process.** Four entities play essential roles in the peer review process:

- *The collective body undertaking the review.* This may be a committee or a working party, which holds a plenary meeting on a regular basis to undertake the review of its members.
- *The reviewed member entity.* The reviewed entity may include the economy as a whole or bodies at different levels (e.g., ministries, agencies).
- *Examiners.* The examiners are member entities assigned to represent the collective body to take the lead in reviewing a fellow member entity and provide guidance in collective discussions. The designation of examiners may be done through rotation or using specific criteria, e.g., special knowledge of the reviewed member entity's situation. Examiners are expected to be fair and objective.
- *Secretariat.* The secretariat provides administrative support, produces documentation and analysis, upholds quality standards and maintains records and institutional memory. The division of labor between examiners and the secretariat may vary. The secretariat may also engage consultants to undertake some of these tasks, for example as independent experts.

**D. Set of procedures.** Although procedures vary widely across organizations, peer review processes normally go through three phases.

- *Preparatory phase.* This may include research, data gathering, the preparation of a background analysis, some form of self-evaluation by the reviewed entity and the development and circulation of questionnaires and documents related to the reviewed entity.

- *Consultation phase.* The examiners and the secretariat conduct consultations in coordination with the reviewed entity during this phase. It may involve on-site visits, discussions with officials and representatives of interest groups, civil society and the research/academic sectors, as well as the preparation of a draft report (e.g., by the secretariat or by designated consultants) which is discussed with examiners and the reviewed entity.
- *Assessment phase.* This involves discussion in plenary meetings by the collective body of the results of the consultations, often in the form of a draft report, and the adoption (or noting) of a final report. The final report is generally adopted or noted by consensus, and may include dissenting views expressed during the discussions. Ideally, the report should follow a standard template for all reviews. In certain cases, private sector representatives are invited to participate in discussions of the collective body. The adoption of the final report may also be followed by media releases and events and dissemination seminars.

**Benefits.** The extensive practice of peer review in a number of important international organizations attests to the benefits that governments and agencies derive from its use. The following are the most significant benefits of the peer review process (OECD Joint Group on Trade and Competition 2002):

- *Facilitation of convergence.* Through structured activities, the peer review process provides a forum for officials to develop extensive contacts and cooperation and to undertake substantial interaction that facilitate convergence of views over time and the eventual convergence of laws and regulations.<sup>3</sup> Experiences in both the OECD and the WTO confirm the important role of peer review in facilitating consensus. In many cases where no consensus was attained, peer review proved useful in more precisely identifying areas of disagreement and in achieving a greater understanding of areas where convergence is neither feasible nor desirable.
- *Promoting transparency.* Through open discussions and the publication of reports according to a common template, the peer review process promotes transparency. Enhanced transparency of systems, policies and regulations facilitates more effective evaluation of their costs and benefits and the identification of beneficial reform measures to reduce costs and enhance benefits.
- *Facilitation of information- and experience-sharing.* The peer review process provides an extensive source of constantly updated material on laws, policies, regulations and practices of economies at various levels of development.
- *Promoting improvements in policy-making.* Peer review can provide independent and objective assessments of policies originating from outside the domestic political context. In the WTO, the results of peer review have been useful to members as inputs into national policy formulation, particularly in making improvements to current policies. They have also strengthened the hand of domestic agencies vis-à-vis domestic pressure or interest groups in promoting liberalization and encouraged greater inter-agency cooperation.
- *Strengthening technical assistance and capacity-building.* Developing and least developed economies found their experiences with the WTO's peer review mechanism (the TPRM) as very positive (WTO 2001). Through this process, these economies were able to acquire a deeper understanding not just of trade policy structures in other member economies, but also of the WTO agreements and complex technical issues related to competition policy. Peer review also proved useful in identifying capacity constraints and technical assistance needs while facilitating interaction among government agencies, thus playing a critical role in capacity-building.

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<sup>3</sup> The usefulness of peer review in the context of the competition policy work of the WTO has been recognized by many economies, including Canada, the European Union, Japan and the United States, particularly in connection with efforts toward greater convergence of competition laws and enforcement practices (Canada 2001, European Union 2000, Japan 1999, United States 2001).

**Preconditions for success.** The effectiveness of the peer review process depends on the fulfillment of a number of preconditions. Pagani (2002) and Kanbur (2004) identify these requirements, which are as follows:

- **Shared values.** Participants should be in agreement on the standards and criteria for evaluating performance, which requires a certain degree of adherence to common values.
- **Mutual trust.** This is an important precondition that encourages disclosure of data, information and documentation, as well as open and frank discussions.
- **Commitment.** As the peer review process involves significant dedication of time and effort, all participants should have an adequate level of commitment. This applies particularly to participants assigned to act as examiners, as well as to other participants who are not the subject of a current peer review, and are expected to contribute to the review of a fellow participant.
- **Competence.** The usefulness and sustainability of the peer review process depends on the credibility of its results as an accurate and sound assessment of participating entities. This in turn hinges on the technical competence of examiners, secretariat staff and consultants engaged in the review.
- **Resources.** Adequate human and financial resources should be provided to support the peer review process, which involves significant travel, research and administrative work. Resources should be commensurate to the achievement of outputs that meet high standards of quality.
- **Independence.** The credibility of the process also depends on ensuring that the integrity of the review is not compromised by undue influence on the reviewers and secretariat from participants under review or from other parties.

#### **APEC'S EXPERIENCE WITH PEER REVIEW AND THE ACTION PLAN PROCESS**

APEC has developed a unique process for promoting reforms among its member economies toward the declared vision of “free and open trade and investment.” The design of this process has been influenced by the organization’s voluntary and non-binding nature, a consequence of the great diversity of cultures, socio-political systems and levels of economic development among its members. From 1993 to 1995, APEC defined its vision, its goals (the Bogor goals of 2010/2020) and the principles guiding its operations (the Osaka Action Agenda).

The individual action plans (IAPs) and collective action plans (CAPs) became APEC’s main instruments in moving toward the Bogor goals. The design of the action plan process is based on the concept of concerted unilateral liberalization, where free trade is to be achieved through mutual encouragement rather than negotiations (Woo 2003). APEC adopted a peer review mechanism for IAPs. During its initial years until 2001, the system of peer review of IAPs was seen as lacking in effectiveness, particularly due to the absence of objective benchmarks and the lack of independent scrutiny.

In 2001, the APEC Senior Officials’ Meeting (SOM) introduced changes to improve the IAP peer review mechanism. These included the appointment of an independent expert to work with each review team and the presentation of review findings during special sessions of SOM, followed by open and frank discussions. These changes made IAP peer reviews more useful and encouraged more meaningful discussions of member economies’ action plans.

Currently, a number of economies volunteer each year<sup>4</sup> to be peer reviewed by a formal review team, working with independent experts and ABAC. IAP peer reviews of individual economies are based on the following: (a) information from the member economy’s most recent IAP, which describes measures being

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<sup>4</sup> The schedule for the first round of IAP peer reviews was as follows:

- 2002: Japan, Mexico
- 2003: Australia, Canada, Thailand, Hong Kong, China; Korea; New Zealand
- 2004: Chile, China, Peru, the United States, Singapore, Chinese Taipei
- 2005: Brunei Darussalam, Indonesia, Malaysia, Philippines, Russia, Viet Nam.

undertaken in each of the Osaka Action Agenda's 14 policy areas;<sup>5</sup> (b) responses by the economy to questions submitted by other member economies; (c) responses to questions posed by the review team; and (d) supplementary information from earlier IAPs, reports issued by the WTO and published studies on the economy under review. Peer reviews are available on the e-IAP website.<sup>6</sup>

Some observers believe that a number of challenges remain with respect to the IAP peer review process (see Woo 2003 and Suphachalasai 2003). One such challenge is the need for a more consistent methodology for practical and concrete assessment beyond the generic principles of the Osaka Action Agenda. Another is how to differentiate the IAP peer reviews from the trade policy reviews that most APEC economies already undertake under the WTO framework and thus add value to current efforts toward trade liberalization and facilitation. A third relates to the question of enlarging the scope of peer reviews, in particular to cover voluntary measures arising from collective initiatives, including economic and technical cooperation, as well as preferential trading arrangements.

APEC's experience with the peer review and action plan processes so far has been largely focused on the area of trade policy. However, APEC has been expanding its work on structural and regulatory reform, which is an area that includes the creation of diverse and efficient capital markets. In 2000, the APEC-OECD Co-operative Initiative on Regulatory Reform was launched, focusing on the exchange of experiences on regulatory concepts, policies and practices and the implementation of principles of regulatory reform in member economies (Hecklinger 2004). The next section discusses the possible use of the peer review and action plan process to promote capital market development in particular.

#### **PROSPECTS FOR A PEER REVIEW AND ACTION PLAN PROCESS FOR CAPITAL MARKET DEVELOPMENT IN APEC**

It has been argued that the peer review process, which relies on consensus, non-adversarial dialogue and voluntary involvement, would be well-suited to the institutional culture of APEC (Witherell 2004). On the other hand, the great diversity among member economies, particularly in terms of culture, socio-political systems and levels of economic development, presents a challenge that may require peer review to be applied somewhat differently in APEC from the OECD, whose membership is relatively more homogeneous. This is especially the case with respect to the financial sector, where the divergence among member economies is more pronounced than in other economic sectors.

The APEC Finance Ministers' process provides a well-established framework for the effective operation of a peer review and action plan process. It includes all the significant financial markets in East Asia and North America (and a number from Latin America) and involves key international financial institutions, development agencies and the private sector in the process, thus providing a rich and fertile ground for dialogue and the sharing of experiences and information. It has also established a noteworthy track record of collaboration among its members through various policy initiatives in a number of areas since its first meeting in 1994, and has counted on substantial support from the ADB.

While so far the finance ministers have not yet deemed it useful to adopt the action plan process, as used by APEC in trade and trade-related areas, focusing instead on policy initiatives involving policy dialogue, analysis and training,<sup>7</sup> regional financial cooperation has now reached a stage where it may begin to

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<sup>5</sup> These are Tariffs; Non-tariff measures; Services; Investment; Standards and Conformance; Customs Procedures; Intellectual Property; Competition Policy; Government Procurement; Deregulation/Regulatory Review; WTO Obligations (inc. Rules of Origin); Dispute Mediation; Mobility of Business People; and Information Gathering and Analysis.

<sup>6</sup> This can be accessed at <http://www.apec-iap.org/default.asp?pid=/peerReview/default>.

<sup>7</sup> In their 2001 strategic review of the APEC Finance Ministers' process, the ministers identified the following mechanisms to be used in moving toward their goals:

- encouraging understanding and implementation of policy reforms and international standards through the preparation of reports, seminars, workshops, training initiatives and policy dialogues;
- discussing and providing feedback to standard setting bodies on the development of international standards and codes;

benefit more fully from structured activities such as the peer review and action plan process. Over the years, the work of the APEC finance ministers has advanced with a considerable degree of consensus in a number of areas.<sup>8</sup> More importantly, further progress in key areas, especially capital market development, now require measures to promote convergence of standards and practices, which can be better addressed through such structured activities.

In light of the above considerations, there now exists an opportunity for APEC Finance Ministers to consider the possibility of initiating a peer review and action plan process to achieve the goals stated in their 2001 strategic review (APEC FMM 2001).<sup>9</sup> Inasmuch as the development and integration of bond markets is currently a priority area of work in the region, both within and outside APEC, it would be useful to begin work in this area, where APEC is committed to promote the development of market infrastructure in coordination with efforts of the APT and the EMEAP to develop demand and supply in Asian local currency bond markets.

The following are key elements that may be considered in the design of a peer review and action plan process for the development of capital markets in the APEC region.

- **Objective and scope.** An objective that such a peer review and action plan process may pursue is the development of legal, policy and regulatory frameworks, infrastructure and practices to promote the development of local currency bond markets in the Asia-Pacific region and cross-border investment in and issuance and trading of bonds in these markets. These would involve domestic reforms in conjunction with regional convergence toward global standards and practices and measures to facilitate cross-border transactions in these markets. Ideally, the scope of the process should cover measures that help promote the development of market infrastructure and the investor (institutional and retail) and issuer base.
- **Procedural basis.** The APEC Finance Ministers would be an appropriate body to launch the process, which could become one of the policy initiatives under its umbrella. To promote confidence in the process and full commitment by all member economies, the ministers as a body should agree on the design of the process of formulating and reviewing action plans and on the principles, criteria and standards for the review of performance. The ministers could rely on a well-established institution, e.g., the ADB, to assist them in this task, with the cooperation of other public institutions and private sector organizations, including ABAC and PECC, as well as inputs from the OECD.
- **Set of principles, criteria and standards.** In the formulation of principles, criteria and standards to guide and lend consistency to the process, ministers may consider various materials that have been developed by officials, the private sector and academe. Key objectives identified by ABAC and

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- undertaking analysis in policy areas relevant to the strategic goals, where this is not being done elsewhere;
  - maximising the opportunities APEC provides for high level political support for reform policies; and
  - ensuring that private sector perspectives are integrated into the Finance Ministers' process through effective collaboration and input from private sector groups.

<sup>8</sup> These include ministerial statements on the free and stable movement of capital, meeting the financial challenges of population ageing, fiscal policies, regional bond market development, financing of SMEs and micro-enterprises, fiscal and financial aspects of regional trading arrangements, combating the financing of terrorism and money laundering, fiscal and financial reforms, improving the allocation of domestic savings, strengthening the international financial system, strengthening domestic financial systems, strengthening corporate governance, improving social safety nets, fighting financial crimes, creating new opportunities with information technology, capital market development, capital account liberalization, the development of securitization, and facilitating private sector participation in infrastructure development.

<sup>9</sup> In their strategic review, the Finance Ministers pledged to promote sound and credible policies for:

- sustainable and broad-based growth with equity in the APEC region;
- good corporate governance and public sector management;
- stable and efficient financial markets;
- greater economic cooperation, integration and openness among APEC economies; and
- facilitation of economic and technical cooperation within the region in pursuit of the above goals.

PECC [*attached as an annex to this paper*] provide useful inputs resulting from discussions among finance and central bank officials, regulators and standard setters, private sector experts and market players from the banking, insurance, fund management, legal, accounting and credit rating industries that are involved in the operations and development of capital markets in the region.

- **Participants.** The peer review process should draw on one of the key strengths of the APEC Finance Ministers' process, i.e., the participation of both developed and developing economies from both sides of the Pacific, international financial and development institutions and the private sector. Although developing economies would likely reap the most benefits from this process, developed member economies should be actively involved to share their varied experiences in the course of peer reviews. The process may be designed to allow for participation by a wide range of agencies that play significant roles in bond market development (e.g., finance ministries, central banks, capital market regulators, accounting standard-setting bodies, securities exchanges, local credit rating agencies etc.). Consideration may also be given to whether to invite the participation of interested non-APEC member economies (e.g., non-APEC members of APT) from organizations that are undertaking parallel efforts to promote the development of local currency bond markets.
- **Secretariat.** Given the resources needed to support a multi-year process, the secretariat would need to have access to significant funding sources. It needs to have adequate technical competence in the area of financial systems and regulation and familiarity with the region's financial markets to provide credibility to the process. It should have the capability to be a repository and disseminator of material and information generated in the process. It must also be neutral and independent, while being able to operate effectively in the context of the region's multicultural environment. The ADB would be an excellent candidate to provide this kind of function. The IADB may be considered to lend support in connection with the participation of APEC member economies from Latin America. Consultants may be engaged as independent experts to provide technical support, undertake specific tasks or draft reports during the review of member economies.
- **Interaction between action plans and peer reviews.** The formulation of action plans (which would ideally include both individual and collective measures and based on the principles and policy areas identified and agreed upon by the participants) may be distinguished from the conduct of peer review. In the APEC IAP peer reviews, the action plans were first formulated on the basis of the principles and action areas as defined by the Osaka Action Agenda, followed by peer reviews focusing on the voluntary action plans. In other international organizations, peer reviews, which are directly based on the agreed set of principles, criteria or standards, precede the formulation of action plans. For the proposed action plan and peer review process, two possible alternatives that may be considered are the following:
  - **Option 1: First round of peer review precedes initial action plan.** Under this option, initial action plans could be developed as products of the first round of peer reviews. Peer reviews of participating economies would be directly based on the agreed principles and policy areas. Economies would formulate action plans based on the results of this initial round as reflected in the peer review reports. As these are voluntary action plans, economies may or may not choose to incorporate individual recommendations from the peer review report, but would be expected to identify recommendations they disagree with and discuss why these are neither feasible nor desirable. Subsequent rounds of peer reviews would be based on the action plans and geared toward their improvement, as is practiced in the APEC IAP peer reviews. The advantage of this option is that the initial action plans would benefit more fully from the information- and experience-sharing that takes place during the process of peer review and thus would likely be robust and substantial.
  - **Option 2: Initial action plan precedes the peer review.** Under the second option, initial action plans are first formulated individually by participating economies based on the agreed principles and policy areas. The first and subsequent round of peer reviews would be based on these action plans in a manner similar to the APEC IAP peer reviews. This option may be considered if economies are not comfortable with the format of the first option.

- **Procedures.** The following is an example of a set of procedures that may be considered appropriate for a peer review/action plan process for capital market development:
  - *Preparatory stage.* This would involve the appointment of the review team (and lead reviewer) among participating economies, as well as the initial collection of information and the drafting of a background study of the relevant issues in the reviewed economy by the secretariat or an independent expert. This may also involve the use of a questionnaire based on a standard format that could be circulated and retrieved before the end of the preparatory stage.
  - *On-site visit.* The review team and the assigned secretariat staff or independent expert visit the reviewed economy and conduct meetings with relevant public agencies and institutions, the private sector and academic experts.
  - *Report drafting.* The report is drafted by the assigned secretariat staff or independent expert under the guidance of the review team. It is initially discussed with the reviewed economy and the response of the reviewed economy is attached to the report. The report should follow a standard format for more convenient reference and easier comparison of different peer review reports.
  - *Constructive dialogue.* The report is discussed in a plenary session of the APEC Finance Ministers process technical working group, with the participation of invited international financial institutions, development agencies and the private sector (e.g., ABAC, PECC), with the lead reviewer leading the discussions.
  - *Finalization of report.* The report is finalized based on the results of the dialogue and lodged with the secretariat. The secretariat may print the report, organize media events and dissemination seminars, and make it available on-line.

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