

## CHAPTER 6

### TRADE AND INVESTMENT FACILITATION—THE COSTS OF DOING BUSINESS

#### Trade facilitation—second pillar of APEC's agenda

6.1 The distinction between trade and investment liberalisation and trade and investment facilitation is difficult to make. Both processes involve removing obstacles to trade and investment. Liberalisation tends to be concerned with removing impediments which 'affect the movement of products, including services, or factors of production across customs barriers' while facilitation is generally concerned with the 'cost or difficulty of doing business' in another country. Thus the reduction or removal of tariffs, quotas, subsidies, and licensing requirements are deemed to be liberalisation while trade and investment facilitation seeks to minimise delays and costs due to customs red tape, consignment hold-ups, travel restrictions, testing and re-testing of products and the multitude of complex and cumbersome commercial transaction procedures. Even so, the distinction between the two is often blurred.<sup>1</sup>

6.2 Despite the problems in defining and separating the two processes of liberalisation and facilitation, APEC over the years has developed an agenda with a distinct three-pronged strategy which comprises: trade and investment liberalisation; trade and investment facilitation; and economic and technical development. Often referred to as the three pillars of the APEC agenda, each pillar is held to be equally important and mutually reinforcing.

6.3 In their Bogor Declaration of 1994, APEC Leaders announced that to complement and support the process of liberalisation, they would expand and accelerate APEC's trade and investment facilitation programs. This would promote further the flow of goods, services and capital among APEC economies by eliminating administrative and other impediments to trade. They went on to state:

We emphasize the importance of trade facilitation because trade liberalization efforts alone are insufficient to generate trade expansion. Efforts at facilitating trade are important if the benefits of trade are to be truly enjoyed by both business and consumers.<sup>2</sup>

6.4 In this chapter, the Committee presents an overview of impediments to trade in the Asia Pacific region. It assesses trade and investment facilitation as the second pillar of APEC's agenda and how APEC has gone about trying to provide an open and conducive environment in which to conduct business. The Committee examines issues

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1 PECC, *Perspectives on the Manila Action Plan for APEC*, Second Edition, 1996, p. 31.

2 APEC Economic Leaders' *Declaration of Common Resolve*, Bogor, 15 November 1994.

such as product standards and conformance and customs procedures, and touches on the more sensitive areas of competition policy, intellectual property rights and dispute mediation.

### *The barriers to doing business*

6.5 Traditional trade barriers such as tariffs and quotas are not the only strategic obstacles to free and open trade. A raft of trade and investment procedures, rules and regulations, unfriendly trade policies lacking transparency or arbitrarily applied and infrastructure problems can impede economic transactions.

6.6 A study prepared by UNCTAD in 1994 showed that seven to 10 per cent of the value of goods traded internationally involves the cost of import documentation and other formalities. On average, an international transaction involves between 27 and 30 different parties, 40 documents, 200 data elements and the re-keying of 60 to 70 per cent of all data at least once. Furthermore, meeting these transaction requirements and costs are separate from the costs incurred in satisfying diverse standards, technical regulations, inspection requirements and performance tests.<sup>3</sup>

### *Impediments to trade in the APEC region*

6.7 Impediments to trade and investment are still relatively high in a number of APEC economies. Mr Christopher Butler, Chair of the APEC Committee on Trade and Investment (1997), maintained that trade facilitation is 'of direct interest to all enterprises in the region, because of the truism a dollar saved is a dollar earned'. He anticipated that improved customs procedures, the harmonisation of standards, better access to information, paperless transactions, the protection of intellectual property, simplified business travel, and other measures to reduce transaction costs would bring substantial benefits to business in the region.<sup>4</sup> In 1997, the APEC Economic Committee estimated that trade facilitation would create a gain of about 0.26 per cent of real GDP to APEC (or about US\$45 billion), while the gain from trade liberalisation would be about 0.14 per cent of real GDP (about US\$23 billion).<sup>5</sup>

6.8 A 1999 update assessing APEC Trade Liberalization and Facilitation underlined the significant role of trade facilitation. This report estimated that real income gains of approximately US\$46 billion may accrue to the region from the APEC trade facilitation measures already agreed to. The report stressed that there is still the potential to increase these gains to US\$64 billion, or 0.4% of GDP by

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3 *MAPA Highlights, Reducing the Cost of Doing Business*, APEC, 1996: See also Philippa Dee et al, *The Impact of APEC's Free Trade Commitment*, Staff Information Paper, Industry Commission, February 1996, p. 10.

4 Christopher Butler, 'APEC: Pathway to Prosperity', APEC, Press release 4, <http://www1.apecsec.org.sg/whatsnew/press/re10a497.html> (5 October 1999).

5 APEC, Report by the Economic Committee, *The Impact of Trade Liberalization in APEC*, November 1997, p. iii.

implementing trade facilitation actions which contribute to reducing the costs of imports.<sup>6</sup>

6.9 Several witnesses before the Committee outlined the difficulties they, or those whom they represent, face in exporting goods and services to APEC economies. Mr Michael Crouch, an Australian representative on ABAC, referred to the diversity of cultures that exist within the APEC membership and the many ways of doing business in the region that depart from established methods. He pointed out that in Asia there is no protection of intellectual property; there is ‘no common customs system, no harmonisation of standards, no testing mechanism for the adoption of standards and no mutual recognition agreement of standards’.<sup>7</sup> Mr Mitchell Hooke, from the Australian Food Council, also drew attention to a number of significant barriers to trade stating, for example, that ‘some of the shelf-life and labelling standards are quite draconian and quite prohibitive in terms of trade’.<sup>8</sup>

6.10 Mr Alex Gosman, Executive Director of the Australian Electrical and Electronic Manufacturers Association (AEEMA), also identified impediments to trade, such as testing and performance barriers, a lack of knowledge of Australia’s capabilities and different standards. In particular, he cited the retesting procedures required for minor changes to products and concluded that in a number of cases members had advised AEEMA that they would avoid a particular export market because of the difficulty in getting through retesting arrangements.<sup>9</sup>

6.11 In 1995, Australia’s Manufacturing, Engineering & Construction Industry Association (MTIA) surveyed its members engaged in international trade on the trade barriers they face in APEC economies. Only a sample of the non-tariff barriers identified in the survey is given below:

### Regulations

China	stringent Government regulations apply and there is preferential treatment of imports from the United States
Chinese Taipei	quantitative restrictions and local content regulations apply

6 APEC, Economic Committee, *Assessing APEC Trade Liberalization and Facilitation—1999 Update*, September 1999, p. 33.

7 *Committee Hansard*, 3 February 1998, p. 415.

8 *Committee Hansard*, 6 March 1998, p. 734.

9 *Committee Hansard*, 27 October 1997, pp. 92–93, 98. See also comments by the South Australian Government, *Committee Hansard*, 6 February 1998, pp. 635–6, DPIE; Submission no. 36, p. 3; and Plastics and Chemicals Industries Association, *Committee Hansard*, 5 February 1998, p. 559. The South Australian Government singled out harmonising customs procedures, regional-wide tariff database and mutual recognition arrangements as important measures to facilitate trade. From DPIE’s experience, industries associated with primary production and energy were looking for greater transparency of regulations and procedures in areas such as quarantine, food inspection and customs clearance as well as greater alignment of standards with internationally accepted standards.

Malaysia limitations on foreign ownership apply

### Standards

Brunei Darussalam all commodities are required to conform with either Brunei or British Standards

Hong Kong United Kingdom industrial standards are specified despite the fact that in many instances these standards do not suit local conditions

Indonesia whitegoods exported to Indonesia must meet the electrical standards of the country

Japan Japanese Industrial Standards are frequently reported as a major barrier

Malaysia electrical machinery and appliances sold in Malaysia must conform with Malaysian or British standards

United States unique standards apply in some industries.

### Limitations on market access

Korea complex procedures apply to become an approved contractor for defence products and Australian exporters have to contend with stringent supplier requirements which favour local suppliers

The Philippines for medical equipment and welding consumables and equipment, importers must go through a registered local trading company, however, registration is difficult for locals.<sup>10</sup>

6.12 It is important to note that non-tariff barriers are particularly severe for small and medium-sized enterprises with their smaller economies of scale, their limited ability to absorb extra costs and their difficulties in gaining access to important information. APEC SME Ministers meeting in April 1999 recognised that ‘Non-tariff barriers represent “fixed costs” in international trade, which are disproportionately burdensome for SMEs’. They called on the APEC working groups to accelerate their trade facilitation work.<sup>11</sup>

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10 Attachment 4 to MTIA’s submission to the White Paper on Foreign and Trade Policy, included in submission no. 28 to the APEC Inquiry.

11 APEC, ‘Joint Statement’, Small and Medium Enterprise (SME), Sixth Ministerial Meeting, Christchurch, 26–28 April 1999.

## The successes—small but significant steps

6.13 Clearly, businesses throughout the APEC region face obstacles on many fronts in exporting their products to other member economies. The task of removing these impediments, however, has proven difficult. Mr Christopher Butler recognised that, although large returns would result from reductions in transaction costs, it would be a ‘long-term and painstaking process of facilitating trade and making it easier to do business across borders’.<sup>12</sup>

6.14 ABAC pointed out that the dismantling of non-tariff barriers presented a dual challenge as they are both difficult to define and their effects are hard to assess.<sup>13</sup> Indeed, the Australian Chamber of Commerce and Industry, in considering the problems in removing non-tariff barriers, told the Committee, ‘Oh yes, tariffs are all fine. We can all see those; we have all written down what we are going to do, but what are we going to do about non-tariff barriers? That will be one of the more...sensitive areas.’<sup>14</sup>

6.15 ABAC stressed in its 1999 report, that the lack of data on non-tariff measures was still a problem and an area that APEC needs to address urgently.<sup>15</sup>

6.16 Despite the difficulty in identifying and dismantling trade barriers, APEC, since its inception, has worked to lower transaction costs and to promote the efficient flow of goods, services and capital among its members. APEC’s initial agenda incorporated trade and investment facilitation objectives. The agenda has progressively broadened to take in a wide range of activities that go beyond traditional border protection to include administrative, regulatory and structural obstacles to trade and investment.<sup>16</sup> In 1997, APEC Leaders announced that among multilateral and regional fora:

APEC is a pioneer in the area of trade and investment facilitation. Our business community tells us that this is the area of APEC activity of most immediate relevance to them. Lowering costs, eliminating red-tape and delay, promoting regulatory reform, developing mutual recognition arrangements on standards and conformance, and increasing predictability are clear benefits, especially to operators of small and medium-sized enterprises.<sup>17</sup>

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12 Christopher Butler, ‘APEC: Pathway to Prosperity’, APEC, Press release 4, <http://www1.apecsec.org.sg/whatsnew/press/re0a497.html> (5 October 1999).

13 ABAC, Action Plan Monitoring Committee 1999 Report in ABAC, 1999 Report to APEC Economic Leaders, APEC, 1999.

14 Mr Brent Davis, *Committee Hansard*, 29 September 1997, p. 38.

15 Action Plan Monitoring Committee 1999 Report in ABAC, 1999 Report to APEC Economic Leaders, APEC, 1999, [http://www.apecsec.org.sg/ABAC/reports/rtael99\\_apmc.html](http://www.apecsec.org.sg/ABAC/reports/rtael99_apmc.html) (26 August 1999).

16 Mr Peter Grey, DFAT, *Committee Hansard*, 20 October 1997, p. 53.

17 APEC 97 Leaders Declaration, para. 7.

6.17 APEC's commitment to facilitate trade and investment in the region is evident in the extent of activities being undertaken by the ten APEC working groups and the various experts groups and special committees. In 1997, APEC ministers endorsed work in the following areas:

- development of the Blueprint for Customs Modernization and of initiatives on customs cooperation;
- establishment of APEC Internet sites for business information and assistance;
- progress on alignment with international standards;
- increased transparency for acquiring and using intellectual property rights;
- development of a menu of options to enhance the environment for investment that members can voluntarily choose to include in their IAPs;
- the development of model mutual recognition arrangements;
- principles to guide work on dispute mediation;
- improved mobility for business people including through expanded participation in the APEC Business Travel Card Scheme;
- non-binding elements of transparency in government procurement;
- work to make the Asia Pacific information society a reality;
- completion of APEC guidelines for the preparation, adoption and review of technical regulations;
- providing public accessibility through the Internet to the applied tariffs of APEC member economies;
- action plans to create integrated and intelligent transportation systems;
- market and trade information for fishing industries;
- development of guidelines for streamlining and making more transparent the tendering, approval, and regulatory processes for independent power producers;
- initiatives in the Trade Promotion and Trade and Investment Data Review Working Groups.<sup>18</sup>

6.18 Although the program is wide-ranging and ambitious, the descriptions of many of the projects are generally vague and open-ended. Even so, APEC has made notable progress particularly in the areas of standards and conformance and customs. Moreover, the trade facilitation initiative has received greater attention in more recent years. In particular, APEC Ministers in Kuala Lumpur in 1998 called for intensified work on trade facilitation and in 1999 APEC sharpened its focus on trade

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18 Ninth APEC Ministerial Meeting Statement, Vancouver, 21–22 November 1997, para 5.

facilitation.<sup>19</sup> In their joint communique APEC Leaders instructed their Ministers to give priority to APEC's trade facilitation programs for the coming year.<sup>20</sup>

*Standards and Conformance—'tested once, accepted everywhere'*

6.19 Most people would agree that standards are necessary to safeguard consumer health and safety and to protect the environment. But, as noted by the APEC Economic Committee, 'diverse standards and technical regulations along with the corresponding testing procedures for compliance can effectively limit market access by preventing economies of scale, raising production and/or testing costs and increasing the possibility of products being rejected at the customs border of the importing economy'.<sup>21</sup>

6.20 There are strong commercial incentives for establishing uniform standards and for implementing a more efficient, more rational process of obtaining recognition for each other's measurement standards. The APEC Economic Committee pointed out, however, that the harmonisation process 'can be daunting and complex, and careful planning and implementation is critical to ensure that the collective standards meet individual economies' needs'. It noted:

Unnecessary incompatibilities impose several costs. The most obvious may be excessively high transaction costs: examples include the frictions between the metric and imperial systems, differences in color television broadcast formats between the United States and Europe, left-hand drive and right-hand drive vehicles, railroad gauge standards and voltage standards. In such cases, the likely effect is to reduce product variety and international competition in particular markets, as potential exporters are discouraged from entering markets with different standards.<sup>22</sup>

6.21 Witnesses from a number of Australian Government departments and business organisations agreed that standards and conformance present a major impediment to trade and market access in the APEC region. DFAT pointed out that the standards issue, such as standards that cannot be met, which are variable or higher or simply different for no particular reason, is probably one of the issues which businesses will most often mention as being a non-tariff barrier.<sup>23</sup>

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19 APEC, Economic Committee, *Assessing APEC Trade Liberalization and Facilitation—1999 Update*, September 1999, pp. iii, 1 and 10.

20 APEC, Leaders' Declaration, 'The Auckland Challenge, APEC Economic Leaders' Declaration, 13 September 1999, <http://www1.apecsec.org.sg/virtualib/econlead/nz.html> (20 September 1999).

21 APEC, *The Impact of Trade Liberalization in APEC*, Report by the Economic Committee, November 1997, p. 6.

22 APEC Economic Committee, *1996 APEC Economic Outlook*, APEC Secretariat, Singapore, 1996, p. 108.

23 Mr Peter Grey, *Committee Hansard*, 20 October 1999, p. 83.

6.22 The ACCI believed that standards and conformance for products and services was an area where the APEC leaders could offer a substantial down payment on the Bogor Declaration—‘an initiative which would be conducive to promoting APEC’s trade facilitation agenda’. It submitted:

Amongst the main near term priorities for standards are clarity and transparency: that is, standards which are clearly defined, consistently applied, made known to (or readily knowable by) business, and easily understood. In the medium to longer term, there is much to be said for the effective harmonisation of standards.

In the conformance area, the main near term priority must be to move towards mutual recognition of testing arrangements, which the EPG neatly encapsulates with the pithy phrase ‘tested once, accepted everywhere’. To overcome the inevitable claims such an approach would mean testing standards and practices would fall to the level of the weakest performer, the better approach could be ‘tested to existing international standards, accepted everywhere in APEC’.

Such a streamlining of regional standards and conformance arrangements would hold out the promise of considerable cost savings for business, especially for the smaller to medium sized enterprises who are not able to meet the direct testing costs and the expenses relating to lost product or inventory (that is, ‘consumed’ in the testing process).<sup>24</sup>

6.23 Under APEC’s trade facilitation agenda, the current major focus is on standards and conformance. The APEC Sub-Committee on Standards and Conformance (SCSC) is the body in APEC responsible for promoting cooperation on standards and conformance activities intended to facilitate trade and reduce costs for business. It encourages members to align their standards with international standards and to achieve mutual recognition of conformity assessment. The Sub-Committee promotes cooperation for technical infrastructure development in order to facilitate broad participation in mutual recognition arrangements and it also seeks to ensure the transparency of the standards and conformity assessments of APEC economies.<sup>25</sup>

6.24 CSIRO maintained that the SCSC has been a very useful forum for APEC to convey the good news about measurement standards. It argued that standards are taken more seriously in the United States than it probably would have been had APEC not come along. It stated: ‘there really is a coming together across regions which has been driven to some extent at least by the presence of APEC’.<sup>26</sup> Clearly APEC, through committees such as the SCSC, is a catalyst for promoting trade and investment through the Asia Pacific region and globally.

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24 ACCI, *What Australian Business Wants From the Osaka’s Meeting*, ACCI, September 1995, in ACCI, submission no. 25, p. 44.

25 Information taken from APEC, *Activities by groups, Standards and Conformance*, 25 June 1999, <http://www1.apecsec.org.sg/committee/standards.html> (30 June 1999).

26 Dr Barry Inglis, *Committee Hansard*, 2 February 1998, p. 323.



6.25 In 1997, Mr Peter Grey, the then Australian Ambassador to APEC, told the Committee that much work was being done on standards to encourage economies to align their standards with international standards, and to develop mutual recognition arrangements.<sup>27</sup> But, despite the advances made in the standards and conformance area, the Department of Industry Science and Technology (DIST) acknowledged that efforts must continue. Mr Wright explained:

...the work being done in the standards and conformance area to make sure that we all understand each other's standards so that we can eliminate differences of that kind is a very important non-tariff measure...No-one is suggesting that it is going to be all plain sailing between now and 2010, but there is that commitment, and it is up to all of us to make it work.<sup>28</sup>

6.26 Mr Drew Andison (DIST) admitted that SCSC has taken small steps in its program toward achieving uniform standards and measurements. He reported that there 'has been agreement within the subcommittee to align members' national standards with international standards in priority areas, most particularly in the electrical area on a product by product basis in certain areas'. Mr Andison told the Committee that a new work program had been developed in relation to building and construction where there are international standards, 'but their development so far has been dominated by European interests'.<sup>29</sup>

6.27 On this matter of European standards, he explained that some of the issues covered by international standards deal with requirements for products, such as snow loadings, which are not relevant to a number of Asian economies. Mr Andison told the Committee:

...the thrust of our work over the next year is to try and get a greater regional input into those standards so that when we talk about alignment with international standards, we are aligning with standards that are actually relevant to the region rather than dominated by European interests.<sup>30</sup>

6.28 In turning to the area of mutual recognition in conformity assessment, Mr Andison explained that the sub-committee had completed a mutual recognition arrangement on food and food products which became operational in 1997. This mutual recognition arrangement (MRA) allows the results of testing and certification in an exporting economy to be accepted by the importing one rather than having products retested upon entry.<sup>31</sup> According to the Department of Primary Industries and Energy (DPIE), the arrangement will provide the basis for the development and implementation of product and/or sector specific arrangements. It pointed out:

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27 *Committee Hansard*, 20 October 1997, pp. 82-3.

28 *Committee Hansard*, 24 November 1997, p. 216.

29 *ibid.*, pp. 217-18.

30 *ibid.*, p. 218.

31 *ibid.*

In addition to facilitating trade, the MRA also provides a platform for pursuing access issues, information exchange on import requirements and food safety issues, and to increase confidence in each other's regulatory authorities and/or regimes.<sup>32</sup>

6.29 In its 1999 report, ABAC recommended that, as part of the initiative to set up an APEC Food System, science-based sanitary/phytosanitary standards be established to facilitate production and trade in agri-food.<sup>33</sup> One of the major outcomes in 1999 was an agreement on the arrangement for the exchange of information on food recalls and food recall guidelines.<sup>34</sup>

6.30 An arrangement was also reached for the exchange of information on toy safety among APEC member economies. The arrangement, which seeks to reduce the risks to the health and safety of children arising from toys, provides a mechanism for the exchange of information among participating members.<sup>35</sup>

6.31 The recent focus on food and on toys is generally recognised as being too modest and according to DPIE could reasonably be extended to include electrical and electronic equipment, automotive and transport equipment, medical and health devices and products, construction materials, and chemicals. Mr Andison noted that work was advanced on negotiating a mutual recognition arrangement within APEC for electrical products. He concluded 'when completed that project will significantly enhance the ability of electrical products to be traded within the region'.<sup>36</sup> Indeed in 1998, SCSC agreed to align member economies' standards with international standards on safety and electromagnetic compatibility by 2004/2008 and in 1999 agreed on a MRA for electrical and electronic equipment.<sup>37</sup>

6.32 Overall, and as noted by Trade Ministers in June 1999, compliance costs associated with trade need to be reduced but that APEC's progress in simplifying and standardising existing processes is too slow.<sup>38</sup> ABAC endorsed this view in its 1999 report calling on APEC members to place priority in identifying and eliminating non-tariff measures in the areas of standards and conformance.<sup>39</sup>

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32 Submission no. 36, p. 6.

33 Letter to Rt Hon Jenny Shipley, in ABAC, 1999 Report to APEC Economic Leaders, APEC 1999, p. 5, [http://www.apecsec.org.sg/ABAC/reports/rtae199\\_letter.html](http://www.apecsec.org.sg/ABAC/reports/rtae199_letter.html) (28 August 1999).

34 APEC, 1999 CTI Annual Reports to Ministers, 1999, p. 42.

35 APEC, Standards and Conformance, <http://www.apecsec.org.sg/scsc/scsc-toy.html> (5 October 1999).

36 *Committee Hansard*, 24 November 1997, p. 218.

37 CTI, Annual Report, 1998, [http://www1.apec.org.sg/cti/cti98/rpt2mins98\\_2a1.html](http://www1.apec.org.sg/cti/cti98/rpt2mins98_2a1.html) (8 January 1999); APEC, 1999 CTI Annual Reports to Ministers, 1999, p. 42.

38 Annex B, Trade facilitation issues in Statement of the Chair, Meeting of APEC Ministers Responsible for Trade, Auckland, 29–30 June 1999, [http://www.apecsec.org.sg/whatsnew/press/rel37\\_99.html](http://www.apecsec.org.sg/whatsnew/press/rel37_99.html) (32 July 1999).

39 Action Plan Monitoring Committee 1999 Report in ABAC, 1999 Report to APEC Economic Leaders, APEC, 1999, [http://www.apecsec.org.sg/ABAC/reports/rtae199\\_apmc.html](http://www.apecsec.org.sg/ABAC/reports/rtae199_apmc.html) (26 August 1999).

6.33 The Committee welcomes the work being done by APEC in the area of standards and conformance. It supports the recommendation of the Australian Chamber of Commerce and Industry that APEC leaders be encouraged to give undertakings to accelerate the development and operation of a standards and conformance regime in the Asia Pacific region based on the principle of ‘tested once to existing international standards, accepted everywhere in APEC’.<sup>40</sup>

*Customs procedures—the bane of business people*

6.34 Another area where APEC is making a valuable down payment on trade facilitation is customs simplification. Customs processes add to the cost of doing business and the more complicated and time-consuming the process, the more costly it is for business. Streamlining procedures and minimising the time taken to get products into a country will reduce costs. The Australian Customs Service recognised that burdensome customs procedures and practices are a significant impediment to trade in the region. Mr Holloway from Australian Customs told the Committee:

This is an area where business has said to us, ‘We believe that some work needs to be done here. It takes us two or three times as long to get our goods into particular countries than others’. There is a question of corruption associated with it, so it can be a very significant non-tariff measure. That is why simplification, harmonisation, throughout the region is seen as being a fundamental reduction to cost to business.<sup>41</sup>

The Customs Service estimated that ‘one or two per cent of the cost of doing business and international trade comes from delays at borders or customs problems’.<sup>42</sup>

6.35 Clearly, the diversity and complexity of customs processes and regulatory procedures operating within the APEC region present significant hurdles to trade and may deter business from engaging in international transactions. The ACCI explained how measures that expedite the flow of goods and simplify customs procedures would bring substantial benefits to exporting firms. It submitted:

A single, standard customs document for all products would overcome the need for various forms and paper-trails for different products to different countries. Administrative processes and compliance costs for governments, as well as for business, would be made much easier if such an approach could be put in place. The deadweight costs of international trade would also be reduced.

Greater use of electronic data interchange would streamline the customs processing task by encouraging more effective use of risk management approaches to the proper barrier protection work of customs agencies

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40 Submission no. 25, p. 44.

41 *Committee Hansard*, 27 October 1997, pp. 118–19.

42 *ibid.*, p. 116: See also Australian Customs Service, submission no. 39, p. 10.

(including greater use of computer software-based random selection and checking procedures), as well as overcoming the perennial problem of misplaced or incomplete paperwork resulting in sometimes commercially damaging delays in customs processing.

It would also be useful in redressing bribery and extortion which remain problems in some parts of the world, and enable much faster and more broadly based take-up of pre-clearance arrangements, the latter of which would be especially advantageous for time-sensitive products such as foodstuffs.<sup>43</sup>

6.36 APEC customs authorities fully appreciated that certainty and speed in clearing goods through international borders would lower costs to business and would assist each economy's growth and development. The APEC Customs Procedures Group of Customs Experts was converted into a formal CTI Sub-Committee on Customs Procedures (SCCP) in 1995. This was in response to the priority that APEC Ministers had given to addressing customs procedures. The major focus of SCCP's program is to harmonise and simplify customs procedures across the APEC region. It aims to 'facilitate trade and investment by expediting the cross-border flow of low risk, legitimate goods and travellers while at the same time dealing effectively with the growing contraband problem'.<sup>44</sup>

6.37 The SCCP has developed a comprehensive work program to improve customs practices throughout the APEC region and during 1997 broadened and deepened its program. It has already achieved a number of significant results, which include:

- full implementation of the Harmonised System of Classification—all APEC economies are now using a common system of tariff nomenclature using a standardised system that will benefit business by engendering certainty and preventing confusion.<sup>45</sup>
- publication of *A Blueprint for Customs Modernization Working with Business for a Faster, Cheaper and Better Border*—it describes, in practical terms, customs simplification and harmonisation in the Asia Pacific region. This publication was updated in 1999.
- launch of the APEC Tariff Database on the Internet—Australia was the chair of the APEC Tariff Database Taskforce throughout the life of the project which brought together the SCCP and Federal Express to introduce an interactive database detailing tariff information for all APEC economies onto the world wide web. The database is freely available to the public and contains current and comprehensive tariff and tariff-related information from most APEC

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43 Submission no. 25, p. 45.

44 Australian Customs Service, submission no. 39, pp. 1–2. For background information on CTI, see chapter I, paras, 1.44 and 1.86.

45 Australian Customs Service, submission no. 39, p. 2.

economies.<sup>46</sup> This marks the first time that there has been a compilation of all the applied tariff rates for all the APEC economies in one location and in English.<sup>47</sup>

- publication of a handbook of SCCP best practices related to customs laws, regulations, administrative regulations and rulings—also available on the Internet.
- seminars and workshops on rules of origins, risk management and computer applications and the United Nations Electronic Data Interchange for Administration, Commerce and Transport (UN EDIFACT)—EDIFACT is a computer messaging system and Australia is the lead shepherd for this project.<sup>48</sup>

6.38 Mr Holloway also explained to the Committee that the Australian Customs Service was looking at the Internet as a means of providing cheaper information on customs matters to business, particularly small business. He also said that the Customs Service was working on a number of pilot projects involving the Internet in order to provide information and cargo automation.<sup>49</sup> A Virtual Customs Group has been established to explore and develop common approaches towards developing a compendium of APEC customs initiatives on electronic commerce.<sup>50</sup>

6.39 Clearly APEC has made headway in simplifying and harmonising customs systems across the region. The focus has turned to establishing electronic data change systems and shared data bases. APEC is gradually moving toward ‘paperless trading’ but again as noted by APEC Trade Ministers in June 1999 progress in modernising and harmonising is too slow.<sup>51</sup> This assessment was further underlined by ABAC in its report to Economic Leaders in 1999, when, in acknowledging the efforts by APEC officials to streamline customs procedures, it stressed that business ‘continues to tell us that there are still serious obstacles to trade in this area’.<sup>52</sup>

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46 Australian Customs Service, submission no. 39, p. 5; see also APEC, 1997 Collective Action Plans (CAPs), <http://www.apecsec.org/cti/ipart1.html> (27 November 1997).

47 Mr Reinhard Thieme, DPIE, *Committee Hansard*, 17 November 1997, p. 194.

48 The achievements noted are only a sample taken from APEC CTI 1998 Report, Convenor Summary Reports and Collective Action Plans and APEC, CTI 1999 Annual Report to Ministers, 1999. for information on UN-EDIFACT see Mr Stephen Holloway, *Committee Hansard*, 27 October 1997, p. 127. The 1998 CTI Report also listed work being done by SCCP including the development of a comprehensive work program for the three new CAPs on common data elements, risk management, and express consignment clearance.

49 *Committee Hansard*, 27 October 1997, p. 126.

50 APEC, Activities by Groups, Customs Procedures, updated 25 June 1999; APEC, 1999 CTI Annual Reports to Ministers, 1999, p. 49.

51 Statement of the Chair, Meeting of APEC Ministers Responsible for Trade, Auckland, 29–30 June 1999.

52 Letter to Rt Hon Jenny Shipley, Prime Minister of New Zealand, in ABAC, 1999 Report to APEC Economic Leaders, APEC 1999, [http://www.apecsec.org.sg/ABAC/reports/rtael99\\_letter.html](http://www.apecsec.org.sg/ABAC/reports/rtael99_letter.html) (26 August 1999).

### *Quarantine*

6.40 An area closely related to customs is quarantine. The Australian Wheat Board submitted that quarantine is an area where sudden changes in standards can have a significant impact on trade and can act as a significant non-tariff barrier.<sup>53</sup> Dr Gebbie (DPIE) agreed that trade barriers, such as quarantine, are looming as significant. He told the Committee, however, that although such issues are being addressed in APEC, 'it is early days'.<sup>54</sup>

### *Mobility of business people*

6.41 Business mobility is of significant importance to enterprises. In 1996, ABAC recognised that travel within the region had increased in recent years and that economic growth had generated a substantial increase in business opportunities while improvements in transportation had reduced the cost and time of travelling. It noted, however, that despite these advantages many unnecessary impediments to business travel remain. Delays in expediting the entry and exit of business travellers as well as hold-ups in the approval of business residency permits and their extension, if required, constitute real barriers to time-efficient business operations.<sup>55</sup>

6.42 Australia, in its 1996 IAP, announced that it would work with other APEC members to establish the APEC Business Travel Card system, allowing the equivalent of visa-free travel to participating economies for accredited business people.<sup>56</sup> As an interim step, Australia, Korea and the Philippines agreed in 1997 to implement the scheme on a trial basis. Chile and Hong Kong, China also joined the scheme.<sup>57</sup> The scheme started operating on a permanent basis from March 1999 and seven APEC economies are now participating.<sup>58</sup> The travel card offers significant time and cost savings to business travellers and is yet another example of Australian initiative and leadership in APEC.<sup>59</sup>

6.43 The Committee appreciates the progress being made by APEC in the area of customs procedures but notes that more could be done to expedite the flow of goods, services and capital across borders. The Committee endorses the proposal by the ACCI that APEC Leaders be urged to accelerate efforts to streamline customs policies

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53 AWB, submission no. 46, p. 5.

54 *Committee Hansard*, 17 November 1997, p. 194.

55 ABAC, 1996 Report, *APEC Means Business*, 'Facilitating Cross-Border Flows: the True Measure of Liberalization', 1999.

56 APEC, Manila Action Plan for APEC (MAPA), 25 November 1996, <http://www.apecsec.org.sg/mapa/vol1/australi.html> (4 July 1998).

57 APEC 1998–Malaysia, 'Trade and Investment Facilitation', Australian Department of Foreign Affairs and Trade, [http://orpheus.dfat.gov.Australia/apec/98/981109\\_ti\\_facilitation.html](http://orpheus.dfat.gov.Australia/apec/98/981109_ti_facilitation.html) (3 August 1999).

58 APEC, 1999 CTI Annual Reports to Ministers, 1999, p. 81.

59 ABAC, 1997 ABAC Report to Economic Leaders, *APEC Means Business: ABAC's Call to Action*, November 1997, <http://www.apecsec.org.sg/ABAC/abacrt97/abac97.html> (27 November 1997).

and practices which feature ‘one standard customs form for all products, a commitment to much greater use of electronic data interchange, and expanded use of pre-clearance of both products and natural persons’.<sup>60</sup>

### *The working groups*

6.44 In the Asia Pacific region, the ten Economic and Technical Cooperation Working Groups are promoting free and open trade. They form one of APEC’s central mechanisms for achieving its trade and investment facilitation objectives. The groups provide a forum for debate about policy and priorities and for the development of cooperative strategies to meet the challenges facing the region across a range of sectors. They have the potential to make considerable gains in facilitating regional trade by targeting a variety of practical impediments to trade and already are making headway particularly in the standards and conformance area.

6.45 Australia is directly and actively involved in the work of a number of the groups. The Australian Telecommunications Industry Association (ATIA) has been participating in the APEC Telecommunications Working Group, and, in particular, its task group on developing mutual recognition arrangements for telecommunications product testing. According to ATIA, the standards and conformance arrangements that apply to telecommunications equipment vary considerably among APEC members and have been identified as a major inhibitor to exports through increased costs, often attributed to the requirement for re-testing equipment.<sup>61</sup>

6.46 To encourage APEC economies to pull together in developing standards, the task group has developed two sets of guidelines. One is the APEC Guidelines for the Regional Harmonisation of Equipment Certification which encourages conformity amongst APEC members as they liberalise their telecommunications arrangements, including technical and regulatory procedures. CTI noted that current procedures for equipment certification in each APEC economy were complying with the guidelines.

6.47 The second guideline is a ‘Model Mutual Recognition’ framework document. ATIA pointed out that ‘this document sets out the principles which will be followed for developing multilateral and bilateral agreements’.<sup>62</sup> A framework for conformity assessment of telecommunications equipment was agreed in September 1997 and a MRA for conformity assessment of telecommunications and telecommunications equipment was completed and endorsed by telecommunications ministers in June 1998 for implementation by members. As of 1 July 1999, eight economies (Australia; Canada; Hong Kong, China; Japan; Korea; Singapore; China; Chinese Taipei; and the United States) have been participating in Phase I of the arrangement.<sup>63</sup>

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60 Submission no. 25, p. 46.

61 Submission no. 21, p. 23.

62 *ibid.*, p. 24.

63 1998 CTI Report, p. 3; APEC, 1999 CTI Annual Reports to Ministers, 1999, p. 95.

6.48 Through its participation in the APEC telecommunications working and task group meetings, Australian industry is able to assist less developed nations, mainly ASEAN countries, to improve their standards and testing facilities and processes, and ultimately, it is hoped that better access to markets will result.<sup>64</sup>

6.49 The Transportation Working Group is another APEC group that is seeking to facilitate trade in the region. Australia is an influential member of this group and was the lead economy for a number of transportation projects including:

- the Road Transport Harmonisation Project which aims to reduce the regulatory barriers to trade in automotive products. It is identifying vehicle safety and emission standards being applied by member economies and developing strategies for increasing member awareness and acceptance of international automotive standards. The working group is now implementing phase V of the project, designed to develop and harmonise regulatory system for road vehicles safety and environmental protection.<sup>65</sup>
- the model MRA on Automotive Product, which has the potential to produce cost efficiencies for road vehicle and component exporters. It was an Australian initiative and provides a framework for bilateral and multilateral agreements and sets out standard conditions for the mutual recognition of safety standards, legislative, regulatory and approval processes.<sup>66</sup>

6.50 APEC's Transportation Working Group has also made progress with the finalisation of the Transportation Congestion Points Study and production of 'best practice' manuals for removing bottlenecks at air and sea ports. The study forms the basis of consultations among APEC members for a more effective and coordinated transport system for the region. The study should encourage better planning domestically and will provide Australian exporters with improved access to export markets in the region.<sup>67</sup>

6.51 Mr Bowdler, Deputy Secretary of the Department of Transport, pointed out to the Committee that transportation is 'increasingly being seen as a seamless process both in Australia and elsewhere'. He added:

Most of our growing markets are in the Asia-Pacific area. Transporting our products, such as agri-food products, to those economies is very important. We have to be able to facilitate that chain from virtually when, say, the

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64 Submission no. 21, p. 25.

65 Commonwealth Department of Transport and Regional Development, submission no. 26, pp. 2-4; APEC, 1999 CTI Annual Reports to Ministers, 1999, p. 98.

66 Submission no 26, pp. 2-3.

67 Queensland Government, submission no. 47, p.11. See *Congestion Points Study Phase III: Best Practices Manual and Technical Report*, vols. 1 and 2, APEC Transportation Working Group, 1997.



tomatoes are grown in Australia to when they are in a supermarket in Malaysia or somewhere like that.<sup>68</sup>

6.52 This example highlights how the efforts to reduce transaction costs and delays in different areas, such as customs, quarantine and transport, combine to make a significant contribution to the facilitation of trade and to bring real benefits to business in the region.

6.53 The working group projects mentioned above, such as the road transport harmonisation project, provide only a sample of the activities being undertaken by various APEC groups to cut a more direct and less costly route through the production process to point of sale. Witnesses before the Committee generally agreed that the working groups were actively pursuing their respective programs to facilitate trade and investment in the region and were gaining ground, if slowly, in removing obstacles to trade. As explained by the United States APEC Coordinator, Ambassador Wolf, "...its the kind of clearing of trade underbrush where APEC work can really work well".<sup>69</sup>

### **The difficult sectors—marking time**

6.54 Despite the advances that have been made by the working and experts groups and the special committees, much work still needs to be done and progress in some sensitive areas is painstaking. Criticism has been levelled even where an agreement has been concluded. Mr Hooke from the Australian Food Council described some of the difficulties in reaching an agreement, especially in sensitive areas, among 18 (now 21) very diverse economies. He referred to the APEC Food Mutual Recognition Arrangement which, he maintained, held out some promise in the early stages of negotiation. He told the Committee:

The intention was to provide an acceptable level of insurance to importing countries and that their technical regulations on safety fitness for purpose and labelling were complied with while, at the same time, minimising point of entry inspection and control. It would ensure that the procedures in testing laboratories, et cetera, of one country were accepted by another country and that additional conformance testing was not required at the point of importation...It started out as a more ambitious project—with firm commitments required from participating countries and specific sectoral arrangements developed for identified product categories—but it has been substantially softened to the point where we have got a fairly benign umbrella agreement with a capability to do sectoral agreements as annexures and on a bilateral basis. So, to put it bluntly, the uptake is slow.<sup>70</sup>

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68 *Committee Hansard*, 27 October 1997, p. 135.

69 USIA, Worldnet Dialogue, Ambassador John S. Wolf, 22 October 1997.

70 *Committee Hansard*, 6 March 1998, p. 729.

To date only five participants have agreed to enter into an agreement pursuant to the umbrella agreement—New Zealand, China, Singapore, Australia and Thailand.<sup>71</sup> The Food Council believes that the fundamental problem is that many developing economies' standards and conformance are 'not up to scratch'.<sup>72</sup>

### *Competition policy*

6.55 In 1995, the Eminent Persons Group (EPG) identified competition policy as an important policy area and 'one where despite the complexity of the issues themselves, new APEC initiatives should be quite feasible'.<sup>73</sup> It explained that the heading 'competition policy' takes in issues covered by the term 'antimonopoly' but also embraces policies on restrictive or abusive business practices that fall outside the domain of antimonopoly policy. The EPG observed:

Competition policy is of high salience to APEC because a growing number of the most important trade disputes in the region derive from concerns about the behaviour of private firms, and the absence of governmental responses to them, rather than from concerns about government policies themselves as in the past.<sup>74</sup>

6.56 The EPG pointed out that harmonisation of competition policy in the APEC region would 'substantially reduce the potential inconsistencies and conflicts faced by private firms as they do business in different locales throughout the region'. Even so, they acknowledged that no consensus existed even among experts or within the EPG on 'the standards toward which competition policy should converge'. They conceded that 'it would be premature to achieve extensive convergence among national competition policies at this early date'.<sup>75</sup>

6.57 In its submission to the Committee, the MTIA asserted:

The potential gains from trade liberalisation initiatives are in many instances negated by the layers of internal barriers to market access present within the economies of our trading partners. Some markets, despite having low tariff barriers, are effectively closed to Australian exports due to restrictive trade practices.<sup>76</sup>

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71 APEC 1998–Malaysia, 'Trade and Investment Facilitation', Australian Department of Foreign Affairs and Trade, [http://orpheus.dfat.gov.au/apec/98/981109\\_ti\\_facilitation.html](http://orpheus.dfat.gov.au/apec/98/981109_ti_facilitation.html) (3 August 1999).

72 Mr Mitchell Hooke, Australian Food Council, *Committee Hansard*, 6 March 1998, p. 729.

73 The Eminent Persons Group, *Implementing the APEC Vision*, Third Report of the Eminent Persons Group, August, 1995, p. 15.

74 *ibid.*, p. 16.

75 *ibid.*, p. 18.

76 Submission to the White Paper on Foreign and Trade Policy, November 1996, in submission no. 28, p. 16.

6.58 MTIA took the strong position that Australian industry should ‘not be forced to incur the considerable expense and management time costs which it presently does in order to prevent or end unfair trading activity which potentially threatens industry’s viability and adversely affects Australia’s balance of trade’.<sup>77</sup>

6.59 Although competition policy has been established as an issue on the trade and facilitation agenda by its inclusion in the Osaka Action Agenda, progress has moved little beyond workshops, seminars and proposals for conducting studies.<sup>78</sup> In 1997, ABAC pointed out that there was a need for continued discussion within APEC with the view to reaching a consensus on the definition and scope of competition policy; the objectives of competition policy and deregulation, and the role and scope of competition law.<sup>79</sup> A significant step toward building a common understanding of competition was reached with the endorsement by APEC leaders in 1999 of the APEC Principles to Enhance Competition and Regulatory Reform. However, these core principles are non-binding and will be implemented by each member voluntarily.<sup>80</sup> Moreover, the language used in setting down these principles is vague and the commitment required in endorsing the principles is loose and open to broad interpretation.<sup>81</sup>

6.60 In 1999, the CTI reported:

The main focus of the short-term and ongoing objectives of the Competition Policy CAP, is to promote information sharing, dialogue and study on competition policy/laws and their enforcement, and their inter-relationship with other policies related to trade and investment, and to increase the transparency of existing competition policies.<sup>82</sup>

Competition policy is another area that is proving difficult for APEC to advance beyond the stage of study and information gathering and soft commitment.

### *Intellectual Property Rights (IPR)*

6.61 In marketing products in Asia there is no protection of intellectual property. Professor Pitman suggested that much could be done not only to put in place a framework but to ensure that people observe them and set standards. He was not

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77 *ibid.*

78 APEC, CTI 1997 Collective Action Plans (CAPs), Report submitted to ministers, <http://www.apecsec.org.sg/cti/ipart1.html> (27 November 1997); APEC, 1999 CTI Annual Reports to Ministers, 1999, p. 61.

79 APEC, ABAC Report 1997, <http://www.apecsec.org.sg/abacrpt97/abac97-recomm.html> (27 November 1997).

80 APEC, 1999 CTI Annual Reports to Ministers, 1999, pp. 62–63.

81 *ibid.* See Attachment to Leaders’ Declaration, *the Auckland Challenge*, APEC Economic Leaders’ Declaration, 13 September 1999.

82 APEC, 1999 CTI Annual Reports to Ministers, 1999, p. 61.

referring to policing but to establishing an understanding and acceptance of the win-win situation that there is in proper use of intellectual property.<sup>83</sup>

6.62 The Osaka Action Agenda directed APEC economies to ‘ensure adequate and effective protection, including legislation, administration and enforcement of intellectual property rights in the Asia-Pacific region on the principles of MFN treatment, national treatment and transparency as set out in the TRIPs Agreement and other related agreements’. The WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) covers copyright, trademarks, patents, industrial designs and trade secrets. Despite this assertion in 1995, progress on reform in the area of IPRs in APEC economies is slow.<sup>84</sup>

6.63 The APEC Committee on Trade and Investment established an intellectual Property Rights Get-Together in early 1996 to address the issue of intellectual property rights. Although progress has been made in improving transparency in the area of intellectual property rights in the APEC region, few tangible results can be identified. ABAC noted that ‘various APEC economies are enacting legislation to implement TRIPS...it is essential that IPR legislation be supported by robust enforcement procedures’.<sup>85</sup>

#### *Government Procurement, Rules of Origin and Dispute Mediation*

6.64 Government procurement, rules of origin and dispute mediation have been established as issues on APEC’s trade and facilitation agenda. ABAC commended the work undertaken to improve the transparency of its member economies’ in procurement practices but urged members to go beyond commitments made in their IAPs. During 1999, the Government Procurement Expert’s Group completed the development of a set of non-binding principles on government procurement. The Dispute Mediation Experts’ Group has set out principles for guiding discussions on APEC dispute mediation and published and distributed a guidebook on arbitration, mediation and conciliation services in each member economy entitled the *Guide to Arbitration and Dispute Resolution in APEC Member Economies*. In 1999, the CTI identified rules of origin as one of the areas most difficult to move forward. Overall, progress in these three sensitive areas of government procurement, rules of origin and dispute mediation has shifted little beyond various information-exchange exercises and training programs.<sup>86</sup>

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83 *Committee Hansard*, 29 September 1997, p. 19.

84 APEC, Osaka Action Agenda, <http://www.apecsec.org.sg/osaka/agenda.html>.

85 ABAC, 1997 Report, 3 November 1999: APEC.

86 CTI 1997 Collective Action Plans (CAPs), Report submitted to ministers, <http://www.apecsec.org.sg/cti/ipart1.html> (27 November 1997); APEC, 1999 CTI Annual Reports to Ministers, 1999, pp. 70, 75–76, 87–88, 212.

## Services

6.65 In turning to the services sector, the Osaka Action Agenda required APEC economies to reduce progressively restrictions on trade in services and to provide progressively for *inter alia* most favoured nation treatment and national treatment for trade in services. DIST argued that services is a rapidly growing sector for Australia and the APEC reform process will significantly boost Australian export prospects. Investment reforms will also assist Australian industries to diversify their investment portfolios and broaden market activities, including the potential to export to overseas markets.<sup>87</sup> At the moment, however, APEC members are concerned primarily with reforms within the traded goods sector, while the more difficult task of addressing trade and market access in the services and investment sectors is moving at a snail's pace.<sup>88</sup>

6.66 ABAC pointed out that although the IAPs cover an extensive range of unilateral reforms in service industries many of the reforms have long lead times or cover only a fraction of the industry. It noted in 1997 that 'there remains an extensive array of impediments to regional trade and investment in services. In some cases, APEC work programs have not given the importance to services that their share of global economic activity demands'.<sup>89</sup> During 1997, the Group on Services (GOS), a sub group of the Committee on Trade and Investment, held 'useful discussions comparing experiences on liberalisation of service sectors'.<sup>90</sup>

6.67 It is now working on a directory of requirements for the provision of professional services in accountancy, engineering and architecture as part of a collective action to study and carry out work on the development and adoption of common professional standards. To date, a number of presentations have been held on services sectors and training seminars conducted on trade in services to promote understanding of such trade amongst public sector officials.<sup>91</sup>

6.68 The CTI in its 1999 report suggested that the services area 'needs an overarching policy framework which should tie in, and drive, services related work in all APEC fora'.<sup>92</sup> Clearly APEC has much work to do in this area.

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87 DIST, submission no. 41, p. 5.

88 *ibid.*

89 ABAC, 1997 ABAC Report to Economic Leaders 'APEC Means Business: ABAC's Call to Action', APEC, 1997, <http://www.apecsec.org.sg/abacrpt97/abac97-recomm.html>.

90 APEC, CTI 1997 Collective Action Plans (CAPs), Report submitted to ministers, <http://www.apecsec.org.sg/cti/ipart1.html> (27 November 1997).

91 Convenor's Summary Report on Services, CTI Annual Report to Ministers, 1998.

92 APEC, 1999 CTI Annual Reports to Ministers, 1999, p. 212.

*Investment—Non-Binding Investment Policy*

6.69 The Non-Binding Investment Policy (NBIP) has also been criticised for lacking teeth. In 1994, in the interests of creating an environment conducive to the free flow of investment, APEC economies, in a landmark decision, agreed to a set of non-binding investment principles. The Eminent Persons Group welcomed this progress on developing investment principles and noted the NBIP as the first specific action in a substantive policy area undertaken by APEC. Even so, it stated:

Our assessment of the ten specific principles included in the NBIP leads us to conclude that five of them are at (or even above) international standards. However, five fall short of meeting the need to provide an adequate investment environment: those relating to transfers of funds, capital movements, national treatment and right of establishment, performance requirements and investment incentives.<sup>93</sup>

It wanted the NBIP strengthened and progressively applied in practice.<sup>94</sup>

6.70 Although the Pacific Basin Economic Council acknowledged the NBIP as a useful step in codifying the criteria for the regulation of investment in the region, it was concerned about the vagueness of the language and the non-specificity of certain clauses.<sup>95</sup>

6.71 The Committee notes in particular the phrase which reads that APEC members ‘aspire’ to the non-binding principles set down in their policy statement on investment.

6.72 Looking at the commitments given by APEC economies in their IAPs on investment facilitation, ABAC could find no evidence of a determined effort to push ahead in this area. Overall, ABAC summarised the IAPs in 1997 as containing ‘few initiatives pertaining to finance and investment, and most economies need to go beyond the commitment to “review” existing investment regimes. All economies still have to post a timetable for the removal of investment barriers.’<sup>96</sup>

6.73 The United States APEC Coordinator, Ambassador Wolf, concluded in December 1997:

We are still mired down talking about the 1994 non-binding investment principles, and countries are busy asking, ‘What’s it going to take to get more foreign direct investment to reopen the foreign direct investment tap?’

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93 APEC Eminent Persons Group, *Implementing the APEC Vision*, Third Report of the Eminent Persons Group, APEC, August 1995, p. 23.

94 *ibid.*, pp. 23–24.

95 PBEC, *Business Issues for APEC*, October 1995, p. 2. See Appendix 3 for the APEC Non-Binding Investment Principles.

96 ABAC, 1997 ABAC Report, <http://www.apecsec.org.sg/abacrpt97/abac97-recomm.html>.

I think the answer is out there. It's greater transparency, and improved investor protections...we still have a lot of work to do.<sup>97</sup>

6.74 To further facilitate investment flows in the region, APEC established an Investment Experts Group (IEG) in 1994 to provide advice to the CTI on investment issues. Its aim was to increase, in the short term, the transparency of APEC investment regimes by updating the APEC guidebook on investment regimes; improving the state of statistical reporting and data collection; and increasing understanding among members on investment policy-making issues. It was also its aim to promote, in the short term, dialogue with the APEC business community on ways to improve the APEC investment environment. IEG's new collective actions appeared less than adequate and certainly lacked a sense of urgency considering the financial crisis in the region and the urgent call for reform in the financial system especially in economic and financial sector management.

6.75 In 1997, ABAC, in assessing the Individual Action Plans (IAPs), reported that some APEC members met and exceeded the NBIP standards, but noted that others could 'make more aggressive, voluntary action to move towards them'.<sup>98</sup> A year later, ABAC recommended that the Economic Leaders endorse the rapid implementation of the NBIP as the best way to encourage and facilitate the flow of capital, especially long-term capital, back into the region.<sup>99</sup>

6.76 During 1998, the IEG formulated a menu of options intended as a reference tool that economies could consult when updating their IAPs to assist them in identifying policy measures that would help them move toward the creation of a free and open investment regime.<sup>100</sup> ABAC fully endorsed this menu of options but insisted that whatever options are chosen must be included in the IAPs, together with a timetable for their implementation. It concluded:

Vaguely worded promises, like adhering to 'non-binding' principles, will not sway investors.<sup>101</sup>

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97 USIA, transcript, Ambassador Wolf, Worldnet on Vancouver APEC results, 10 December 1997.

98 ABAC, 1997 ABAC Report to Economic Leaders, *APEC Means Business: ABC's Call to Action*.

99 A long-term goal is to assess the merits of developing an APEC-wide discipline on investment in the light of APEC's own progress through the medium-term as well as developments in other international fora. Letter from the APEC Business Advisory Council to the Economic Leaders. The 1998 ABAC Report to the Economic Leaders.

100 Known as 'Options for Investment Liberalization and Business Facilitation to Strengthen the APEC Economies—for Voluntary Inclusion in Individual Action Plans'. See: From the Desk of Chairman APEC-IEG, 9 April 1999, in ABAC, 1999 Report to APEC Economic Leaders, APEC, 1999, [http://www.apecsec.org.sg/ABAC/reports/rtael99\\_invst.html](http://www.apecsec.org.sg/ABAC/reports/rtael99_invst.html) (26 August 1999); Action Plan Monitoring Committee, in ABAC, 1999 Report to APEC Economic Leaders, APEC, 1999, [http://www.apecsec.org.sg/ABAC/reports/rtael99\\_apmc.html](http://www.apecsec.org.sg/ABAC/reports/rtael99_apmc.html) (26 August 1999).

101 Action Plan Monitoring Committee, in ABAC, 1999 Report to APEC Economic Leaders, APEC, 1999, [http://www.apecsec.org.sg/ABAC/reports/rtael99\\_apmc.html](http://www.apecsec.org.sg/ABAC/reports/rtael99_apmc.html) (26 August 1999).



*Financial sector*

6.77 The economic crisis certainly highlighted the need for financial sector reform in the APEC region. It encouraged economists, business leaders and politicians to turn their minds to finding solutions not only to the immediate problems but to longer-term measures that would secure local markets.

6.78 The Australian Government, in recognition of the need to support financial markets in the region, commissioned a survey of economic governance capacity building which focused on Indonesia, Thailand, the Philippines, Vietnam and Korea. This report clearly established that APEC had a constructive and valuable role in improving economic governance in the region. It noted that the development of non-binding principles had been an important product of APEC cooperation but that the crisis had placed a premium on translating principles into practice. The range of economic governance building currently underway in the APEC region is considerable but as pointed out in this chapter progress is slow in areas such as competition policy, government procurement and intellectual property and that APEC's commitment to agreed investment principles lacks depth.<sup>102</sup> APEC has a major role in laying the foundations for strong and open markets in the region by starting with concrete steps that would: promote transparency and accountability in business transactions; see the introduction of appropriate reporting and disclosure standards; improve regulation and management of financial services; and generate reliable economic data.

6.79 As a means to encourage reform, Australia strengthened its leadership role in November 1998 by putting in place a \$50 million initiative covering the next three years to assist economies in the region. It intends to implement practical measures to strengthen financial and economic management and to build sound supervisory and prudential institutions, such as the training of central bank officials and providing technical assistance for prudential supervision programs.<sup>103</sup> The Australian Government deepened its involvement in this area with the funding of a Symposium on Corporate Governance in APEC in December 1998.<sup>104</sup>

6.80 Australia was only one of a number of prominent voices urging APEC economies to improve financial markets in the region especially through the adoption of internationally acceptable accounting standards and adequate disclosure practices, the alignment of standards and the mutual recognition of qualifications. The Chairman of the PECC Financial Markets Development Project Group asserted that developments in financial markets since mid-1997 had driven home the 'imperative for some communication and occasional coordination'. He suggested that Asian

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102 Centre for International Economics, *APEC economic governance capacity building survey: An Australian initiative as part of APEC's response to the East Asian financial crisis*, a report prepared for the Australian Government, Canberra, 30 October 1998.

103 Press Release, Prime Minister John Howard, 'Economic and Financial Management Initiative, 16 November 1998, <http://www.ausaid.gov.au/apec/media.html>.

104 Australian APEC Study Centre, *Corporate Governance in APEC: Rebuilding Asian Growth*, Symposium Report, December 1998.



economies could ‘work towards coherence and eventual convergence of banking supervision practices’ and pointed out that rules, standards and norms could be aligned with those already adopted internationally. He drew attention to a number of long-term initiatives starting with the harmonisation of financial disclosure and accounting standards and adoption of measures leading toward greater integration of financial markets.<sup>105</sup>

6.81 ABAC stated that it would be working to see the strengthening of the legal, regulatory and accounting framework within which the local markets operate.<sup>106</sup>

6.82 In May 1999, APEC Finance Ministers acknowledged that sound financial systems, corporate governance and improved accounting, transparency and disclosure standards were central to restoring the confidence of domestic and international investors and the return of capital flows. They noted the progress had been made in developing a voluntary action plan to support freer and more stable capital flows in the region. The Ministers urged APEC economies where relevant to move towards the adoption of auditing and accounting standards that meet or exceed international standards.<sup>107</sup>

6.83 Clearly, as stated by the chair of the PECC Financial Markets Development Project Group, ‘the principle of free and open financial flows within the APEC community can be held up as an ideal towards which individual economies progress at their own discretion and pace’.<sup>108</sup> A promising step toward a concerted effort by APEC to ensure improvement in the functioning of the financial sector was taken by New Zealand in adopting the theme, ‘strengthening markets’, as one of its key signatures for APEC 99. Much work remains to be done in this area.

### **Expanding opportunities**

6.84 APEC made a promising start in 1999 in placing a fire under the process of trade and investment facilitation. Trade Ministers meeting in June 1999 identified issues that called for close attention including many of the key areas in which steady if slow progress has already been made—APEC Business Travel Card Scheme; compliance costs associated with trade; customs procedures across the region; harmonisation of qualifications and the mutual recognition of skills; and the

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105 Jesus P. Estanislao, Statement to APEC Finance Ministers on behalf of PECC FMD, Langkawi, Malaysia, 15 May 1999; Jesus P. Estanislao, ‘New Cooperation in East Asia: Peer Assistance and Review, *Issues—PECC*, 15 May 1999.

106 APEC Business Advisory Council Strategy for September Meeting with Economic Leaders, APEC Secretariat Press Release 30/99.

107 Joint Ministerial Statement, Sixth APEC Finance Ministers Meeting, Langkawi, Malaysia, 15–16 May 1999, APEC Secretariat Press Release 29/99, [http://.apccsec.org.sg/whatsnew/press/rel26\\_99.html](http://.apccsec.org.sg/whatsnew/press/rel26_99.html).

108 Dr Jesus Estanislao, ‘New Cooperation in East Asia: Peer Assistance and Review, *Issues—PECC*, 15 May 1999.

complexity and inconsistency of tax systems. They also recognised the growing need to address e-commerce.<sup>109</sup>

6.85 Indeed, New Zealand, as Chair of APEC 99, signalled its intention to reinvigorate the process of facilitation by adopting the theme ‘expanding opportunities for doing business throughout the region’ to underline its commitment to promote the unencumbered flow of goods and services in the region. Put simply by Trade Ministers the work aims ‘to make business easier throughout the region, particularly for small and medium enterprises, through the elimination of red tape’.<sup>110</sup>

6.86 Ministers were pleased with progress to date on Collective Action Plans, including in the areas of customs procedures, mutual recognition of standards and conformity assessment procedures, mobility of business persons, government procurement, and professional services. Such measures are critical to boosting trade and investment flows through lowering the transaction costs of business. Ministers instructed officials to develop a package of concrete measures in September.<sup>111</sup>

6.87 ABAC strengthened this theme by calling for trade facilitation work in APEC to be given ‘new urgency’.<sup>112</sup> Ministers in Auckland praised APEC’s progress:

APEC’s trade and investment facilitation work has played a critical role in improving conditions for business in the APEC region. It has helped save time and money. It has responded to business’ calls for less paperwork, simplified procedures and easier access to information. Improved facilitation has provided internet access to essential market information and introduced greater consistency and certainty in legal and regulatory frameworks in the region.

Nonetheless, they also pressed for an intensification of effort in trade facilitation, with a focus on tangible outcomes for business and APEC. Leaders further underlined this message. They instructed their Ministers to give priority to trade facilitation during the coming year.<sup>113</sup> Trade and investment facilitation in APEC has become a dominant theme.

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109 See Appendix 4, The SOM I meeting in February 1999 formally established the APEC Electronic Commerce Steering Group which is to coordinate the APEC E-Commerce activities. Summary Conclusions of the First APEC Senior Officials Meeting (SOM) for the Eleventh Ministerial Meeting, Wellington, 8–9 February 1999.

110 Statement of the Chair, Meeting of APEC Ministers Responsible for Trade, Auckland, 29–30 June 1999.

111 *ibid.*

112 ABAC, ABAC Capacity Building Task Force, Recommendations, 1999 Report to APEC Economic Leaders, APEC 1999, [http://www.apecseco.org.sg/ABAC/reports/rtael99\\_cbtf.html](http://www.apecseco.org.sg/ABAC/reports/rtael99_cbtf.html) (26 August 1999).

113 Leaders’ Declaration—New Zealand, ‘The Auckland Challenge’, APEC, APEC Economic Leaders’ Declaration, Auckland, New Zealand, 13 September 1999; Joint Statement, APEC, Eleventh APEC Ministerial Meeting, Auckland, New Zealand, 9–10 September 1999.