



Pacific Economic Cooperation Council
Trade Policy Forum

Assessing APEC Individual Action Plans and their contribution to APEC's goals

A PECC Report to APEC

This independent Assessment of APEC Individual Action Plans (IAPs) was commissioned by APEC Senior Officials in January this year following a request by APEC Ministers in Kuala Lumpur in November 1998 to review overall progress in IAPs.

It has been carried out under the auspices of the Pacific Economic Cooperation Council (PECC) Trade Policy Forum.

PECC was asked by APEC senior officials to provide a review of APEC's overall progress in each of the 15 policy areas of the Osaka Action Agenda rather than assess the actions of individual APEC economies. This independent PECC assessment complements the other review and assessment processes which have been carried out by APEC this year.

A considerable number of people from throughout the Asia Pacific region contributed to the assessment. They included experts from the research community, representatives of business, and officials in their individual and private capacity.

Teams in Manila working with the PECC Trade Policy Forum Secretariat prepared basic information tables from all of the Individual Action Plans as the foundation reference for the assessment.

Following preliminary examination of those information tables, the PECC Trade Policy Forum convened a special weekend meeting in Manila in July to discuss and finalize the assessment. More than 30 representatives from a wide spectrum of APEC economies participated in that meeting.

This group included many PECC experts who had already developed considerable experience in assessing APEC action plans through PECC's own assessment of the Manila Action Plan for APEC in 1996 and through PECC's assessment work carried out as background for the APEC Business Advisory Council.

PECC is grateful to the experts who took part in the Manila meeting and particularly to those who contributed to writing drafts and commenting upon the written work. Many served in their individual and private capacity. The team thanks Christopher Findlay, the Chair of PECC's Coordinating Group, for chairing the Manila meeting and for guiding the group through an arduous two-day meeting. The participants in and contributors to the Manila included:

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Table of Contents

Assessing APEC Individual Action Plans and their contribution to APEC's goals	1
A PECC Report to APEC	2
OVERVIEW	7
KEY ISSUES AND SUMMARY ASSESSMENT OF INDIVIDUAL POLICY AREAS	11
SUMMARY	12
IAPS IN BRIEF	12
SOME GENERAL THEMES	13
HEADLINES OF INDIVIDUAL POLICY AREAS.....	15
ASSESSMENT OF INDIVIDUAL POLICY AREAS.....	25
TARIFFS.....	26
Summary	26
Assessment	27
Next steps	29
NON-TARIFF MEASURES	31
Summary	31
Commentary	32
Assessment	35
Next Steps	38
SERVICES.....	43
Summary	43
Assessment	44
Next Steps	53
INVESTMENT	54
Summary	54
Assessment	55

Next Steps	59
STANDARDS AND CONFORMANCE	61
Summary	62
Assessment	62
Next Steps	63
CUSTOMS PROCEDURES	66
Summary	66
Assessment	67
Next Steps	68
INTELLECTUAL PROPERTY RIGHTS.....	69
Summary	69
Assessment	70
Next Steps	71
COMPETITION POLICY	72
Summary	72
Assessment	73
Next Steps	74
GOVERNMENT PROCUREMENT	77
Summary	77
Assessment	78
Next Steps	79
DEREGULATION	80
Summary	80
Assessment	81
Next Steps	83
RULES OF ORIGIN.....	85
Summary	86
Assessment	86

Next Steps	88
DISPUTE MEDIATION.....	89
Summary	90
Assessment	90
Next Steps	91
MOBILITY OF BUSINESS PEOPLE	92
Summary	92
Assessment	93
Next Steps	94
IMPLEMENTATION OF THE URUGUAY ROUND OUTCOMES	96
Summary	96
Assessment	97
Next Steps	98
INFORMATION GATHERING AND ANALYSIS (GROUNDWORK).....	100
Assessment	100

OVERVIEW

APEC is a unique process with a bold vision

The Bogor Declaration and the Osaka Action Agenda make the APEC process unique in international economic cooperation.

The Bogor Declaration lays down a clear long term goal for the Asia Pacific region unprecedented in any other part of the world. It is not based on formal rules but rather on the common resolve the region's economies hold for the wider vision embodied in the Bogor goal.

The vision is an open and inclusive one. It sees the region acting together as part of the international economy in a market-led process of deepening interdependence that will bring about rising living standards for the people of the region.

The Osaka Action Agenda sets out how the goal will be implemented. It is rooted in the same common resolve, and relies on principles, objectives and guidelines rather than legalism and negotiations.

The Bogor Declaration and the Osaka Action Agenda are based on voluntarism and a concerted unilateral approach to liberalisation. Voluntarism encourages innovation in developing the role of the market and at the same time gives due recognition to the considerable diversity among the region's economies. The reliance on concerted unilateral liberalisation indicates an economic approach rather than a legal one. It recognizes that benefits accrue to an economy which liberalizes and that benefits will be greater if liberalisation is carried out together with other economies.

The concept of defining a vision with a long range goal and an agenda for implementation is bold. It takes the region beyond an ad hoc approach to change toward one which is forward-looking and which has the potential to shape future thinking.

Individual Action Plans are its central vehicle

APEC's ability to shape and implement the vision depends on its Action Plans. Given APEC's defining features, it is the Individual Action Plans of each member economy which are the central vehicle for the achievement of APEC's Bogor goals.

The Individual Action Plans should be far reaching enough to give confidence and predictability to the region's business community, its consumers, its innovators and its investors. They should also be challenging enough to the marketplace to reflect APEC's determination to achieve the Bogor goal.

The Individual Action Plans should be practical and tangible. They should contain measures to facilitate international transactions by business and consumers and should provide clear and adequate information about policy change and regulation.

More widely, the Individual Action Plans are the means to show the rest of the world that the APEC economies will not only pursue a path of openness but also provide leadership within the multilateral trading system. These twin elements in the strategy for achieving the Bogor goals have been laid out by APEC Economic Leaders in their series of Statements.

A package approach is required to meet the challenges

Developing Individual Action Plans to fulfill these functions is a major political and economic challenge.

APEC has equipped itself to meet this challenge by adopting a package approach which also includes collective actions and economic and technical cooperation. This package approach reflects APEC's fundamental purpose of achieving higher living standards and greater opportunities for all of the people of the region.

Collective actions can help APEC define a practical common purpose in very specific areas. Programs of economic and technical cooperation can enable all APEC economies to better manage and facilitate the process of change. To complement the Individual Actions Plans effectively, these additional parts of the package must be carefully defined and integrated into the overall APEC agenda.

While collective actions can help to facilitate the sometimes difficult changes which must be made domestically, ultimately, the necessary development and implementation of policy must be carried out in each individual economy.

PECC's independent assessment

The Pacific Economic Cooperation Council (PECC) has carried out this independent assessment of APEC Individual Action Plans and their contribution to the Bogor goal in the context of these unique characteristics.

PECC was asked by APEC senior officials to provide a review of APEC's overall progress in each of the 15 policy areas of the Osaka Action Agenda rather than assess the actions of individual APEC economies. This independent PECC assessment complements the other review and assessment processes which have been carried out by APEC this year.

Key results

The key results are the following.

- APEC member economies have generally taken significant steps toward the Bogor goal since the Osaka Action Agenda was agreed in 1995.
- However, progress varies across the policy areas.
- In overall terms it can be determined that in some policy areas APEC is on track toward the Bogor goal but that in these same areas considerable challenges remain at the economy and sectoral level.

- Generally, the Individual Action Plans lack detail, or do not shed sufficient light on the medium and longer-term policy development. Progress is more significant in policy areas where APEC has focused collective actions. This indicates that APEC has not yet derived the full potential from its package approach and APEC should continue to focus on defining and integrating its collective actions and economic and technical cooperation programs.
- In a wider range of cases, the Individual Action Plans do not reflect the real progress many APEC economies have made toward the Bogor goals because their commitments and policies are not reported in the Individual Action Plans. This lack of information is not limited to those economies which are still undergoing policy change as a result of the economic crisis and may not have finalized policies for incorporation into action plans.
- PECC has also found that, although APEC has put considerable resources into presenting and publicizing its collective actions, it can do more to make the Individual Action Plans user-friendly and accessible documents for the wider community.

Market place appeal matters

Unless the factors identified above are addressed by APEC members, they will tend to undermine the credibility and perceived resolve of APEC in the eyes of actors in the market place, who are critical participants in the process of shaping and implementing the Bogor vision.

KEY ISSUES AND SUMMARY ASSESSMENT OF INDIVIDUAL POLICY AREAS

SUMMARY

IAPS IN BRIEF

The process of reporting through the IAPs has achieved some significant outcomes. The quality of the contribution of IAPs, however, varies across the 15 policy areas and in several of the policy areas there are considerable shortcomings. The assessment shows that outcomes are more likely to be significant when:

- the objectives in the OAA are well-defined
- the guidelines for implementation specify some timelines, and
- actions in a policy area are effectively supported by collective action plans (CAPs).

Box 1 summarizes our assessment of the outcomes in each of the policy areas.

Box 1: IAP ‘takeaways’

Tariffs – on track but not all the progress is reported in IAPs

NTMs – not much progress recorded in IAPs, perhaps because the targets for this area are inadequately defined

Services – mixed performance, due in part to the fact that reporting does not meet the ambitious guidelines

Investment – substantial progress on establishment issues, but treatment of performance requirements is missing

Standards and Conformance – mixed progress toward the highly specified goals; bilateral and CAP processes work better, but there is insufficient reporting in the IAPs

Customs – on one level a showpiece because OAA guidelines are nearly met but more work is to be done at the ‘doing business’ level

Intellectual Property – solid but not universal progress on TRIPS; advances in transparency and administrative procedures; substantial commitment to non-WTO, and multilateral protocols.

Competition Policy – adoption of a set of APEC “Competition Principles” will build on a successful learning process and set the stage for more specific policy implementation.

Government Procurement – little evidence on liberalization of procurement operations; limited APEC-member economy participation in WTO GPA; IAPs not well linked to CAPs.

Deregulation – an initial focus on trade and investment distortion has broadened to encompass the role of regulatory reform in improving competition/efficiency as well as international competitiveness.

Rules of Origin – almost all economies committed to align their non-preferential ROO with internationally harmonized ROO of the WTO/WCO.

Dispute Mediation – transparency has increased but the private sector still has inadequate mechanisms for settling disputes with governments

Mobility of Business People – a subset of members is moving on facilitating movement of a subset of travelers, but, overall, greater transparency has been achieved

Uruguay Round Outcomes – significant reporting of implementation of WTO commitments by all APEC WTO members; many economies reported voluntary acceleration of WTO commitments.

Information Gathering and Analysis – main action takes place at a collective level

SOME GENERAL THEMES

Transparency and commitment

As well as acting as repositories of information thereby contributing to transparency, the IAPs are intended to document member economies' commitment to change. This is becoming an ambitious task and the irony is that, in attempting to serve both objectives, the IAPs are not managing to accomplish either goal effectively.

Transparency is valuable in its own right. Publication of the detail of policy draws attention and leads to more effective critical assessment of its effects, which in turn contributes to the pressure for reform where required.

Transparency of policy also helps establish the significance of the commitments to policy change reported in the IAPs. It adds to their credibility (based on past performance in terms of implementation) and their impact (based on the starting levels of impediments which are being removed). Business will invest in a reforming economy, even though the policy environment is changing, if the direction and pace of change is reasonably predictable.

For these reasons there is value in complementing detail of commitments to change with detail of previous change, and in ensuring that the starting positions are adequately documented.

It is a challenge to report all relevant information on commitments without making the IAPs unreadable because of the volume of material. Already, the IAPs are large documents which are not easily accessible. IAPs which are even bulkier will further obscure the detail of commitment to change.

Decision-making with respect to this issue is likely to be easier with the injection of new technology into the IAP process. We offer further comment on this approach in the following discussion.

Starting positions can be documented separately from the IAPs. In a number of areas, the CAPs specify appropriate initiatives to document starting or current positions. Some of these have been completed but others, including some of the most important, have not.

Omissions

The review also examined other types of actions which are missing from the IAPs.

The first are those actions which according to the OAA should be reported in the IAPs but which are not. Specific examples are given in many of the policy areas assessments. Among them are omissions about the outcomes of bilateral negotiations, or regional trading arrangements and commitments to WTO processes.

Reporting all these actions is useful for the purpose of completing the picture of reform in each member economy and of reporting its trajectory towards the Bogor goals. The Leaders' statements over a number of years have recognized the benefits of the interaction between the APEC process and the work continuing in other forums. The overall goal has always been to reach the end point, rather than to specify the contributions of each mechanism. The hope is that the APEC process would make each individual economy's input into other forums more productive. It can lower the costs of

reaching agreement in these forums and raise the likelihood of agreements being successfully implemented. This indirect contribution is in addition to APEC economies' own direct contributions to reform and openness. The overall concern was that the mechanisms for reform should complement each other.

In some areas there is clear evidence from other sources of government information which suggests that significantly better progress is being made toward the OAA objectives than is recorded in the IAPs. Failure to record the full extent of progress in the IAPs can lead to an undermining of confidence both in the IAP process and in APEC itself.

The constraint is that reporting all the relevant detail can also overwhelm the IAPs.

Out of order?

Another set of actions are those recorded in the IAPs, and contributing to Bogor goals, but not identified in the OAA. There are many such entries in the IAPs.

Some other entries could also be interpreted in this way – for example, in many instances economies record entries which are clearly related to the Bogor goals but which are not linked to any specific commitments or earlier planned actions.

The treatment of these types of entries deserves more attention. They clearly contribute to the APEC process but assessment of their contribution is difficult without clear reference to earlier commitments or to objectives and guidelines. The number of these entries, which to some degree make IAPs a catch-all, might also reflect the lack of clarity about which of the OAA activities members are expected to report.

The IAP - CAP connection

The IAPs are expected to include individual economy commitments made to selected CAP programs (as indicated in the OAA format guidelines). In many cases, this has not occurred. The overall relationship between IAPs and CAPs is important. It could be more clearly defined so that the linkages and commitments are clear and the wide ranging programs of APEC are better connected.

The assessment reveals that areas with comprehensive or specific CAPs as part of the work programs are more likely to show better reporting in the IAP. This is especially true in cases where APEC is working towards the implementation of a set of principles and/or where those principles are being adopted. In the latter instance, the challenge is to make the transition to the second phase of implementation.

Goals and milestones

In some cases, the OAA guidelines are very specific, especially those relating to CAPs which the OAA format guidelines specify should be included in the IAPs. Some are becoming outdated and/or have nearly been achieved. It would have been useful to separate the long term goal, which remains constant, from the milestones and the implementation guidelines, which must be developed over time.

The OAA Objectives and Guidelines are often not well enough connected or related. Sometimes the Guidelines refer to specific initiatives that must be undertaken to reach the objectives; at other times they could be interpreted as new sets of objectives. A further review of each policy area with respect to the links between the vision, or long term goal, and the guidelines for implementation and reporting, would be worthwhile. The objective would be to identify:

- where the APEC process should proceed;
- some necessary initiatives to reach the OAA objectives; and
- how to project APEC's efforts effectively to the wider community.

One IAP or many?

APEC economies have steadily improved the presentation and formatting of the IAPs since 1996 by using agreed IAP format guidelines and including short summaries, highlights of improvements and records of implementation along with the main document. They are placed on the APEC Home Page in a timely way for public access.

However, IAPs are now large documents and in most cases more than 100 pages. The APEC Home Page includes three sets of IAPs for 1996, 1997 and 1998. It is not clear whether the latest IAP for each economy is a consolidated document incorporating all of the commitments since 1996 or whether it is necessary to examine the IAP of each year to gain a complete knowledge of actions. Attempts to verify this with APEC officials showed that some IAPs are consolidated and some are not.

As commitments and records of implementation expand year by year it will be important to have a single consolidated set of documents for each economy which is updated as changes are made; that is, there should be one IAP for each economy.

The use of new technology

APEC has placed significant resources into its publications and the APEC Home Page based on professional advice for design and layout. However, the IAPs are still presented in word processed documents and the only navigation guide is a table of contents. It is important that IAPs are much more professionally handled and presented and given at least the same treatment as other APEC publications.

IAPs could be presented in Portable Document Format (PDF) so that navigation is made easier and on-line viewing is possible. A PDF presentation would allow for the addition of hyperlinks not only to other sections of an IAP but also to associated reporting of CAPs, of commitments in other fora and of the detail of current policy. The use of this technology can ease the trade off between the value of transparency and the goal of reporting commitments. As we also noted above, cross-referencing between APEC activities is vital given that much of the CAP work is relevant to business and is not directly included or referenced in the IAPs.

An example of what could be done using this technology is the Interactive Guide to the WTO entitled *Trading into the Future* which can be downloaded for ongoing reference.

HEADLINES OF INDIVIDUAL POLICY AREAS

TARIFFS

Progressive reduction of tariffs but peaks remain

APEC members continue to make overall progress in reducing tariffs and generally remain on track towards achieving the Bogor goal in this area. It needs to be borne in mind that the assessment covers three years during which APEC's WTO members were implementing their Uruguay Round commitments. The assessment shows that a number of tariff peaks remain in the agricultural, automotive, textile, clothing and footwear sectors.

Need greater transparency

However, the good news about progress is not apparent from the information in the IAPs due to a lack of comparable and comprehensive information. The information provided in the IAPs is not based on a common format and less than half the economies provide information about the medium run. There is lack of clarity about what is included in the calculation of average tariffs, in particular as to whether tariff quotas are included or not. There is also a lack of detail on specific actions such as:

- treatment of non ad valorem tariffs and how to convert them to tariff equivalents
- justification for adding new measures and how they should be treated, especially with regard to phase out

Next Steps

There is a lot of potential to improve the IAPs through improving the reported information. To this end an improved data base could be used for the purpose of monitoring and evaluation, and also to ensure it is comparable and comprehensive. The improvements could be through the APEC Tariff Database or UNCTAD TRAINS. There is also software available that can be further developed to measure progress and ensure transparency.

NON TARIFF MEASURES

Coverage modest

The extent and coverage of actions recorded in the IAPs is very modest. The overall impression is of a small number of scattered, isolated actions by individual economies, usually restricted to a limited range of commodities. There may be genuine “highlights” included among these actions, but no indication of their significance is provided in the IAPs. Overall, the modest progress recorded in the IAPs contrasts with the widespread perception that non-tariff measures constitute a serious impediment to trade in the APEC region as elsewhere.

A key problem identified by PECC is the lack of clarity as to what measures are covered in this area of the OAA. The number of NTMs identified by trade policy analysts is extremely large, with even the list of “core NTMs” provided by UNCTAD containing some 64 measures. By contrast, the OAA provides an illustrative list containing nine measures.

Part of the apparent disparity is explained by the fact that some important NTMs on lists such as UNCTAD’s are covered in other areas of the OAA, for example standards and conformance and customs procedures, where APEC is performing creditably. APEC needs to communicate better both its successes in the latter areas and also the point that the “NTM” area is thus not intended to cover “all NTMs” but rather all those NTMs that are not already identified elsewhere in the OAA. Nevertheless, it seems likely that a significant number of NTMs which belong in the “NTM” area on this basis have not been identified specifically.

NTMs are heterogeneous as well as numerous. In some cases they take the form of a barrier which needs to be removed, while in other cases they arise when a legitimate measure is misused. Appropriate outcomes which take account of these differing characteristics need to be specified for each type of NTM.

PECC considers that little progress is likely in this area unless each type of NTM to be covered is identified individually and addressed – simultaneously giving a more complete definition of the scope of the area and breaking it down into distinct and manageable components for analysis and action. This will lead to improved transparency as well as an improved focus for individual actions in the area. This approach could lead to the creation of new OAA policy areas for each type of NTM, or alternatively to the establishment of sub-headings for each type within the existing area.

PECC is aware of other evidence suggesting more progress in reducing NTMs than is evident in the IAPs. If IAPs are to be credible it is important that all relevant actions are reported in them.

Conversely, PECC is also aware of anecdotal evidence suggesting increased use of some forms of NTMs in the aftermath of the Asian economic crisis. Rapid technological progress can also give rise to new flashpoints in trade policy. It is important that the IAP structure is sufficiently robust to allow for the recognition of such problems and for the development of additional individual and collective actions to address them.

Regional arrangements

The OAA Guidelines for both tariffs and NTMs encourage member economies to consider extending measures undertaken in sub-regional agreements to all APEC economies. PECC is aware of circumstances in which this has occurred (in ASEAN in particular), but it is unable to find an accounting of these events in the IAPs.

SERVICES

Difficulties Meeting the Vision

The OAA states that member economies should progressively reduce restrictions on market access, provide for MFN and for national treatment. The OAA Guidelines ask members to contribute to the WTO agenda, expand GATS commitments, and undertake further action to ‘facilitate supply’.

The IAP format guidelines indicate that all of this should be reported in considerable detail with supporting lists of exemptions and restrictions, plus details of the steps leading to their removal.

Not surprisingly these guidelines are not being met. There are many examples of economies not making any commitments. Where commitments are made, the detail provided is often not sufficient making them impossible to monitor. There are also inconsistencies over time in the IAPs. It is difficult to link statements of implementation with earlier statements of intent. There is little reporting of efforts to ‘facilitate supply’, which we interpret to mean economic and technical cooperation. There are also examples of commitments to services liberalization which contribute to the OAA goals but which are not being recorded in the IAPs.

Overall the IAPs for services contain a lot of detail but their usefulness is far less significant than their volume.

The scope of the task

One explanation for the disappointing results in the services area could be the enormous amount of detail required to meet the specifications of the OAA and its guidelines. Members are being asked by the guidelines to provide a full negative list. This was beyond the capacity of the WTO process. While PECC itself has argued for the value of a negative list approach, the lack of detail in the IAPs may reflect the difficulties of achieving that goal.

The difficulties can be highlighted by considering some responses. One is to undertake collective actions to specify templates for recording the current situation as well as commitments to change in selected service sectors. Consistent with APEC principles, not all economies may wish to list commitments in this sector, but if they do so, then the agreement would be that the agreed format would be followed. This effort could complement efforts of this type in the WTO where nomination of a sector in the GATS subsequently requires a negative list approach to the documentation of impediments, and where in some cases templates have also been discussed. Work in APEC along these lines could provide strong support for the WTO process in this area.

Another response is to streamline the treatment of services within the IAPs. A number of policy areas are relevant to services. For example, establishment issues might be handled in the investment policy area, and competition policy issues or regulatory issues might be covered by commitments in those two areas. Removal of these parts of the policy area from the services section would leave it to specialize in issues associated with modes of supply other than establishment. The selection between these routes for economizing on reporting is a topic for discussion in the collective action program.

The review of services also illustrates a point made in the overview about the value of new systems of reporting. The IAPs could serve as an entry point for data on services commitments and could be associated with a web site where that economy's GATS and other regional commitments were laid out in a data base.

INVESTMENT

This review reveals commitments to liberalization in many economies. There are now far fewer economies in APEC which can be defined as having relatively closed investment regimes. The distribution of policy positions according to information in the IAPs (from the 1996 to 1998 editions) has shifted significantly towards a greater degree of openness.

The most significant changes have been reported in the areas of market access, approval procedures and facilitation. There is relatively less change in the area of performance requirements.

PECC's assessment is that there is still substantial variation in performance between economies in terms of the openness of their investment regimes. Some in the middle range of openness in 1996 have achieved significant change since that time. The bulk have achieved reasonable changes. Others have done little if anything at all, according to the IAPs, and this is not simply the consequence of already having relatively open regimes.

Another point to emerge from the assessment is that the gap between developing and developed members in terms of openness has narrowed, and that commitments in this area are generally in the category of 'WTO-plus'.

One concern about this assessment, which is based only on IAP information, is that it excludes a number of significant policy changes. However, some of these, which occurred during and since 1998, may start to appear in later IAPs.

Another concern is that contributions to collective action plans are even more variable than in the IAPs. Further work linking IAPs to CAPs is likely to add to the effectiveness of work on the IAPs in the investment policy area.

STANDARDS AND CONFORMANCE

The vision

The OAA sets out specific goals with respect to transparency, alignment, mutual recognition and cooperation. The OAA requires members to undertake collective effort in these four areas (and the IAP guidelines ask for reporting to be done under these four headings).

The OAA Guidelines are even more specific with respect to the four priority areas, a number of specific agreements or treaties and specific pilot projects. This part of the OAA is then a mixture of 'vision' and 'strategy'. This mixture means that the OAA will not have a long life with respect to standards and conformance, a point which is made in more general terms above.

A further problem (in contrast to customs procedures for instance – see below) is that there are no time lines on these objectives.

Commitments

Despite the specificity of the objectives and goals outlined in the OAA, the extent of the commitments and the progress towards meeting them is mixed.

Transparency

The IAPs are an inadequate source of information. Given the focus on collective actions, the full effort in this area can only be discovered by inspecting the sub-committee report. Clearly members think that once the convenor's report is released their IAP commitments are also fulfilled. But this is not the case. As noted in the IAP format guidelines, the IAPs are supposed to record unilateral and relevant collective actions. It may be unrealistic to expect the IAPs to reproduce the detail of the sub-committee report (and also unnecessary in terms of our analysis of the role of the IAP) but at least some cross referencing is required. This cross referencing would be facilitated by our suggestion above that each IAP be presented as a 'linked document'.

Actions not reported

Our understanding is that substantial efforts that contribute to Bogor goals are undertaken by member economies but are not reported. There is, for example, substantial effort going into bilateral MRAs. We presume this reflects business interests in each economy. If so, further work could unravel the extent of this effort. The challenge for APEC (as in the case of NTMs) would be to apply some discipline to the process. Could these bilateral agreements, for example, be extended to other APEC members? Should APEC

members who negotiate a bilateral MRA be obliged to make access available to other members (there is a precedent for this in the GATS)?

Issues for the guidelines

The action taking place outside the IAPs, and our earlier commentary on the progress towards the very specific goals of the OAA, suggests that a review of the specific vision for APEC in this area might be worthwhile. Even rewording might help direct attention to these long term issues. Adopting a set of principles (for example, based on those in the WTO about the openness of mutual recognition) would facilitate the documentation of commitments.

CUSTOMS PROCEDURES

Progress

The overall progress is excellent. The vast majority of the collective actions are complete and before schedule. The specificity and the time bound nature of the actions may have contributed to this result. It appears that there are no substantial activities which go unreported. However, there are deficiencies in some of the IAPs where reporting on a member's steps towards meeting unfinished objectives is either sparse or absent.

Challenges

There are several challenges in this area. The extent to which the 1998 IAPs followed the format guidelines is uneven. At least a third of the IAPs did not align well with the CAP objectives. Improvement in this area is not difficult to attain and would go a long way in demonstrating the considerable progress that had been made on this TILF priority. Preliminary results of a PECC poll of business people on their views of major impediments still focus on customs procedures as a priority issue.

Second, because the current collective action program is basically complete, if business expectations are to be met then new work will have to be developed.

Some analysis of the apparent contradiction between the completion of the collective action program and the business views would be worthwhile. One hypothesis is that while the collective actions have designed a new system and made senior managers in each economy aware of the options, their implementation is still to be completed. If correct, this suggests there is value in further economic and technical cooperation in implementing new processes at docks or airports. This activity could also involve an assessment process (e.g. a full copy of the IAP of each member economy is shipped by sea freight to each other and various aspects of performance are recorded en route!).

INTELLECTUAL PROPERTY RIGHTS

Although it is inherently difficult to clearly and succinctly represent highly technical and multifaceted IPR regimes in any one document, the IAPs provide a wealth of useful information and a clear impression of improvement in IPR legal and procedural systems, although they are much more vague regarding the actual effectiveness of these systems.

PECC's review of the IAPs notes that all but five of the APEC economies report full or approaching compliance with the WTO Agreement on Intellectual Property Rights (TRIPS), with a number of economies noting accelerated implementation. Several of the other five noted improvements in their IPR systems. Significant WTO-Plus contributions include, in addition to the acceleration of TRIP commitments, that one non-WTO member of APEC reports full compliance with TRIPS and others report improving IPR systems. Almost every economy reports substantial actions taken to improve civil and administrative procedures, but it is difficult in most cases to assess credibly whether the procedures are expeditious, the remedies are adequate, or the enforcement effective.

Almost all APEC economies have committed to various non-WTO multilateral IPR agreements. At least as reported in the IAPs, implementation of commitments for bilateral technical cooperation appear to be lagging. Furthermore, stronger commitments to bilateral technical assistance may be needed to help developing economies improve their IPR systems. The IAPs rarely mention contributions made by the IPR Expert's Group, through Collective Actions, or through ECOTECH activities. Lastly, the IAPs provide little evidence concerning how successfully IPR regulations have actually been implemented and enforced in the APEC economies, although the Collective Actions mention (IAPs do not mention) a program led by Mexico that aims to survey the effectiveness of implementation throughout the region.

COMPETITION POLICY

Assessment

Activity to date has largely represented a major learning phase, involving information sharing and dialogue on domestic policies and their interrelationships, and considerable development in understanding the range of policies that impact upon the competitive process and market efficiency. APEC is now taking a much broader approach to the scope and role of Competition Policy than it did at the outset. Work on competition principles has progressed in the past year although this is not reflected in the IAPs. A successful outcome in terms of 'APEC's competition principles' will be an important step in consolidating and building on the initial success in this area. The purpose of a set of competition principles is to guide the development of a competition-driven policy framework for APEC economies. Further work will be needed to build understanding of the linkages between the competition principles and a range of other IAP policy areas, and to address the design and implementation of appropriate policy measures and institutional structures to give practical effect to the principles.

OAA vision

The OAA objective in this area remains relevant, but the developments contemplated in the preceding paragraph will necessitate a review and re-specification of the IAP guidelines and of the collective actions pertaining to principles.

GOVERNMENT PROCUREMENT

In general, most APEC members have improved the transparency of government procurement regimes by increasing the availability of relevant information. APEC's major contribution in this area is the publication of an Annual Report on Government Procurement by most APEC economies. However, this is not well reported in the IAPs.

The IAPs, however, say little about contributions toward liberalization. The IAPs do not mention, for example, that “Non-Binding Principles on Government Procurement” have been endorsed although this may be more fully outlined in future IAPs. At the time of the assessment, these included four key components: transparency; value for money and open and effective competition; fair dealing; and accountability and due process. A fifth principle on non-discrimination has since been added. In addition, there is no reporting on how economies are abiding by these Principles. A major improvement in the IAPs can be expected if and when economies start reporting according to these Principles.

Lastly, since only six APEC economies have reported signing the WTO Government Procurement Agreement, almost all of these contributions can be considered to be WTO-Plus.

DEREGULATION

Most economies appear to recognize the importance of transparency, both from an international and domestic viewpoint. A large number make commitments to transparency. A large number also mention specifically the objective of eliminating trade and investment distortions.

In addition, the commitments on deregulation go beyond those specified in the OAA. The members' actions have diverged beyond remedying trade and investment distortions that have international ramifications toward a focus on deregulation, presumably because of the domestic benefits. The emphasis in the commitments is in two areas: the reduction of government intervention in running the economy; and the reduction or elimination of regulations to cut the cost of doing business. Where significant privatization has already occurred, the emphasis is on further reducing regulation. In other economies, the focus is on privatization.

There is little mention in the IAPs of studies of best practice or of dialogue with business.

OAA goals

There has been some shift in the IAPs from the initial focus on deregulation in response to trade and investment distortion, towards the role of regulatory reform in improving competition/efficiency as well as international competitiveness. The Deregulation policy area (preferably re-named Regulatory Reform) would better serve these goals if its objectives were brought into line with the Competition Policy area.

RULES OF ORIGIN

There is a high level of commitment among APEC economies to aligning rules of origin with the internationally harmonized rules being worked out in the WTO/WCO. Implementation is stalled pending the conclusion of a final agreement in the WTO/WCO on the form of these harmonized rules.

The WTO/WCO process relates to non-preferential rules of origin. PECC considers that APEC should also give attention to preferential rules of origin. It is important that preferential rules of origin do not constitute unnecessary barriers to trade within the region. This issue takes on added importance because of the apparent proliferation of regional trading arrangements among APEC members.

DISPUTE MEDIATION

APEC has not been able to encourage members to develop a cooperative procedure for resolving disputes among its members, while efforts have been made to develop procedures for resolving disputes involving the private sector and there has been an increase in transparency in relevant laws and regulations.

MOBILITY OF BUSINESS PEOPLE

Almost all APEC member economies are explicitly committed to an action plan that would facilitate the mobility of business people. The nature of the commitments, however, varies a great deal across member economies. Action in the IAPs towards facilitating MBP is mostly through visa arrangements and processing. Nearly all economies have committed to and implemented collective action aimed at streamlining and accelerating through visa processing and temporary residency arrangements for business people. A large number issue Multiple Entry Visas for business people and some are considering offering them. Most offer visa-free entry to some APEC economies; 6 economies participate in the APEC Business Travel Card while 2 are considering joining. Individually, most APEC economies in one way or another enhance MBP by continuously reviewing and improving visa arrangements and entry procedures.

Many of the activities in this area lie in collective action and participation in this mode may not often be reflected in the IAPs. As a result, there is likely to be more progress in this area than the IAPs reveal. Reporting the results of collective actions in the IAPs would improve this situation.

IMPLEMENTATION OF URUGUAY ROUND OUTCOMES

Virtually all those APEC economies that are members of the WTO have made explicit commitments in their IAPs to implement their UR obligations. However, the real progress in this area can only be determined by detailed indications of implementation.

The IAP format guidelines call for such reports with details of specific measures and timelines. The IAPs, however, lack such specificity. As a consequence, it is difficult to assess real progress in this area.

Reporting on implementation would be improved greatly if the information was presented in a common format using an agreed template. The template could include such key items as notifications and tariff binding targets. Establishing a common format for reporting would:

- enable proper assessment and monitoring; and
- give credibility to APEC's aim to provide leadership in the multilateral trading system.

INFORMATION GATHERING AND ANALYSIS

The information gathering and analysis work of APEC is a one of its success stories. As implied by the format guidelines, this work has largely been carried out through collective actions. The IAPs generally show endorsement for this work.

The challenge for APEC is to ensure that its limited resources are used effectively, especially in these time and resource intensive exercises. It therefore remains important for APEC to avoid duplication. The need for information should be driven by policy imperatives and goals rather than for its own sake. APEC working groups should periodically assess the relevance and necessity of each information gathering exercise to ensure that it serves these policy goals. The information should also be useful for the non-government sector.

ASSESSMENT OF INDIVIDUAL POLICY AREAS

TARIFFS

OBJECTIVE

APEC economies will achieve free and open trade in the Asia-Pacific region by:

- a. progressively reducing tariffs; and
- b. ensuring the transparency of APEC economies' respective tariff regimes.

GUIDELINES

Each APEC economy will:

- a. take into account, in the process of progressive reduction of tariffs, intra-APEC trade trends, economic interests and sectors or products related to industries in which this process may have positive impact on trade and on economic growth in the Asia-Pacific region;
- b. ensure that the progressive reduction of tariffs is not undermined by the application of unjustifiable measures; and
- c. consider extending, on a voluntary basis, to all APEC economies the benefits of tariff reductions and elimination derived from sub-regional arrangements.

IAP FORMAT GUIDELINES

A common format which could provide the basis for reporting on import tariffs is attached (Annex A, 1 and 2). This comprises a twin-page summary, to which supplementary detail could be attached in narrative form. This could elaborate on particular features (eg level of disaggregation at which averages are calculated, specific products to which tariff peaks and tariff quotas apply, in-quota versus out-quota tariff rates, the effect of tariff quotas and specific rates on the calculation of average tariffs, the basis of calculation of tariff "spikes" etc). Two twin-page summaries could be completed where possible, one for the current year and one for the near term (members may want to consider the Year 2000). Progress in the medium and long term could be covered in the Heading Statement outline in paragraph 2. Members could complete also an additional summary sheet providing information on any export tariffs which apply. A common format is attached (Annex B), which could be supplemented by a narrative statement containing further details along similar lines to those listed above. Annex C contains explanatory notes to assist in completing the tables both for tariffs and non-tariff measures (see below)

Summary

APEC members continue to make overall progress in reducing tariffs and generally remain on track towards achieving the Bogor goal in this area. It needs to be borne in mind that the assessment covers three years during which APEC's WTO members were implementing their Uruguay Round commitments. The assessment shows that a number of tariff peaks remain in the agricultural, automotive, textile, clothing and footwear sectors.

However, the good news about progress is not apparent from the IAPs due to a lack of comparable and comprehensive information. The information provided in the IAPs is not

based on a common format and less than half the economies provide information about the medium run. It is not clear what has been included in the calculation of average tariffs, in particular, whether tariff quotas are included or not.

There remains a lot of potential to improve the IAPs through improving the reported information. To this end an improved data base could be used for monitoring and evaluation, and to help evaluate comparability and comprehensiveness. The improvements could be made through the APEC tariff database or UNCTAD TRAINS. There is also software available that can be further developed to measure progress and ensure transparency.

Assessment

APEC average tariffs and standard deviations have come down over 1995 and 1998 according to analysis by PECC using the UNCTAD TRAINS database (see attached figures)¹. However, this database only includes ad valorem tariffs and does not take account of specific tariffs which in some cases have risen.

This same analysis cannot be drawn from the IAPs; the information contained in them cannot be consolidated in a comprehensive way to provide the base data to extract such a story.

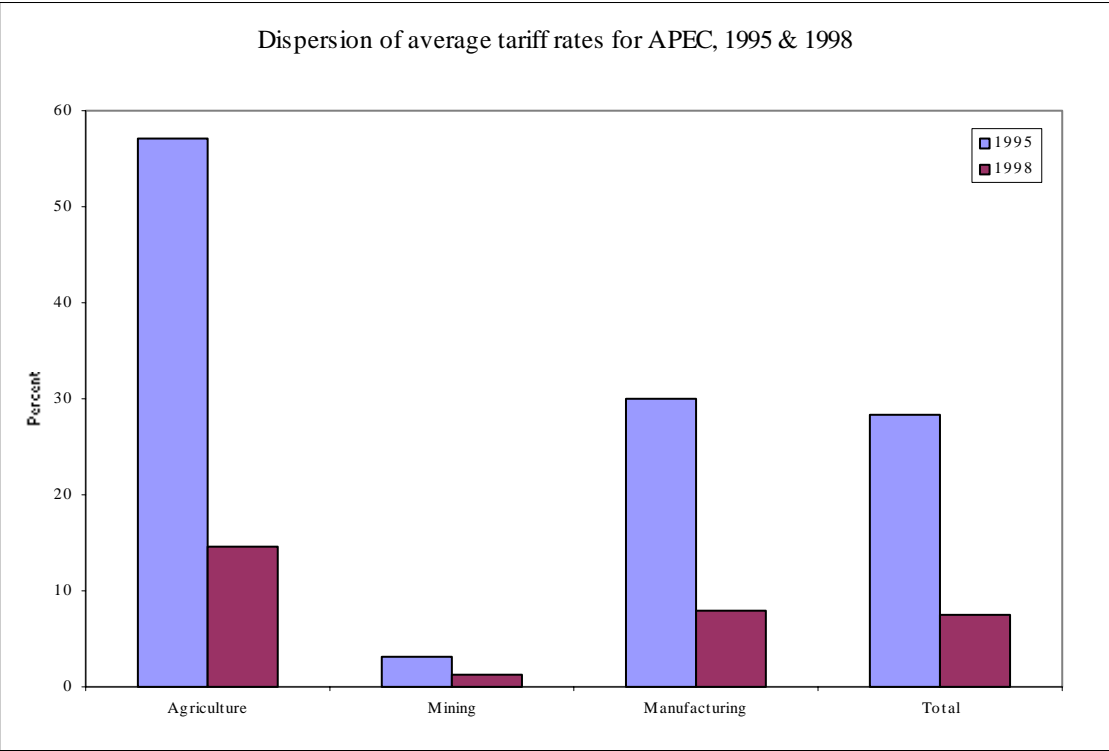
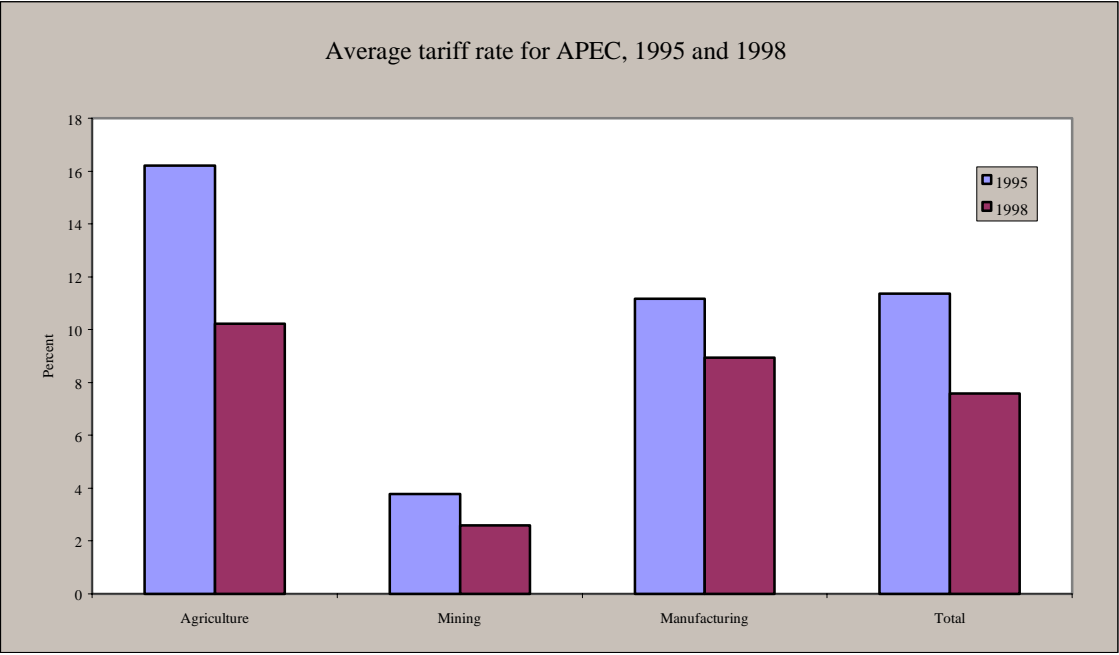
It is also difficult to determine from the IAPs whether the good news story will continue as only six economies have provided forward-looking tables to the year 2000 and one to the year 2004. Almost all of the other economies provided narrative on short, medium and long term commitments but it is difficult to draw any consistent overall story from this information.

However, from this information it can be determined that simple average tariffs will move down from 8.8 per cent in 1998 to 7.6 per cent in the year 2000, and that corresponding standard deviations will move from 11.1 per cent to 10.8 per cent.

The 1998 figures from all economies that provided the 1998 table in their IAPs show simple average tariffs at 8.5 percent with a standard deviation of 7.4 percent. This may indicate a slightly greater proportion of higher tariff economies in the group that provided forward looking tables. It is difficult to determine whether this is the case as a number of economies are not specific about what tariffs have been included in the calculated averages.

Despite these difficulties, it can be concluded that tariffs would fall to zero shortly after 2010 if they continued declining at the same rate as projected between 1998 and 2000.

¹ Agricultural-related tariffs went up between 1993 and 1995 which may have been a consequence of tariffication.



Transparency

The IAP format guidelines for tariffs are relatively clear. A common format is provided for reporting and suggestions on supplementary details and timelines are given. However, several problems are apparent in reporting in accordance with the format guidelines.

First, as already noted, only a subset of members are submitting the information in a common format and with sufficient forward-looking information.

Second, economies report only average tariff levels; more specific information is necessary if a more detailed analysis on progress is to be provided.

Third, more clarity is needed to show how key variables (such as simple average tariffs) have been derived. Without clear identification of how the tariff averages are determined, their value is diminished; for instance, it should be noted whether tariff quotas and specific tariffs are included. Generally, these are omitted from the calculation of average tariffs, and this can be very significant if their ad valorem equivalents are high. Widespread use of specific tariffs greatly detracts from the transparency of tariff schedules. In some IAPs, the chosen methodology to determine average tariffs is a key determinant in the apparent change in average tariffs.

Comprehensiveness and Comparability in IAPs

As is evident from the table below, two thirds of economies have provided the required basic information (as distinct from the suggested information), including information at a sectoral level. This level of comprehensiveness is a marked improvement from earlier years.

Available Tariff Tables

Number of economies providing current table	14
Number of economies providing forward looking table	7

As noted above, there is still a lack of comparable treatment between economies in areas such as non ad valorem tariffs where it is not clear whether they are included or not. If they are included, it is unclear whether their ad valorem values have been estimated and included.

Comparability is difficult to achieve given different start dates outlined in the narratives supplementing the basic tables. The starting point for some economies is in the 1980s while others is in the 1990s. From the information provided, it is difficult to compare time lines for commitments to future liberalization.

Next steps

Concerns from the business community

Narrative supplementing the tables of a few economies referred to and commented on ABAC recommendations. Business' interest in tariffs goes beyond the actual tariff at the 9

digit level for the product they are dealing in. There is also an interest in general trends and the overall environment.

Recommendations from ABAC relate to:

- IAPs providing an annual opportunity to assess how tariffs are to be reduced or eliminated, including peak tariffs; and
- IAPs illustrating, at a minimum, intended tariff reductions over the coming 5-year period on an industry basis and details of sectors not covered in this timeframe, with an explanation of this and a plan for future reductions.

Tables with specific supplementary narrative would satisfy these recommendations but this information should also be presented in a way more suited to business such as a newsletter.

Improving the reporting guidelines

Reporting on tariffs would improve with clearer guidelines. There should be clear basic information on details like starting points, time lines, forward-looking programs, and common definitions and the inclusion of information on average tariffs. The ABAC recommendation for a five year period on an industry basis provides a useful approach.

Providing specific actions on tariff peaks, the treatment of tariff quotas and temporary protection measures at a sectoral level would add much greater credibility to APEC's reporting process.

Finally, improved reporting on actions in subregional arrangements and any extension of these arrangements is also important.

All of these factors would clarify what unilateral and regional actions on tariffs are being taken beyond the commitments made in the Uruguay Round.

Cooperation in data management and measurement

Training on data collection, verification and the use of software is an important area which could benefit from cooperation. A focused ECOTECH program would go a long way in clarifying the progress that has been made in tariff reduction.

Software is available to manipulate basic data in order to provide more useful and detailed information, such as tariff equivalents and tariff schedules as they appear in the APEC Tariff Database. This could be developed further in order to enable consistent estimates from a common format of base data.

NON-TARIFF MEASURES

OBJECTIVE

APEC economies will achieve free and open trade in the Asia-Pacific region by:

- a. progressively reducing non-tariff measures; and
- b. ensuring the transparency of APEC economies' respective non-tariff measures.

GUIDELINES

Each APEC economy will:

- a. take into account, in the process of progressive reduction of non-tariff measures, intra-APEC trade trends, economic interests and sectors or products related to industries in which this process may have positive impact on trade and on economic growth in the Asia-Pacific region;
- b. ensure that the progressive reduction of non-tariff measures is not undermined by the application of unjustifiable measures; and
- c. consider extending, on a voluntary basis, to all APEC economies the benefits of reductions and elimination of non-tariff measures derived from sub-regional arrangements.

IAP FORMAT GUIDELINES

A single page common summary format for reporting on NTMs is attached (Annex D), to which supplementary detail could be attached in narrative form. This could provide details of the NTMs reported in the summary and the goods to which they apply, list regulatory requirements such as prior import/export approvals and the goods affected by them, state the justification for each measure in terms of international obligations and/or domestic policies, where relevant, and specify any steps which are being taken to review and/or remove it. For 1998, the reporting format could list inter alia all NTMs to which the Osaka Action Agenda refers. After 1998, members could adopt the list to be defined by the CTI as an agreed Collective Action.

Summary

Coverage modest

The extent and coverage of actions recorded in the IAPs is very modest. The overall impression is of a small number of scattered, isolated actions by individual economies, usually restricted to a limited range of commodities. There may be genuine "highlights" included among these actions, but no indication of their significance is provided in the IAPs. Overall, the modest progress recorded in the IAPs contrasts with the widespread perception that non-tariff measures constitute a serious impediment to trade in the APEC region as elsewhere.

A key problem identified by PECC is the lack of clarity as to what measures are covered in this area of the OAA. The number of NTMs identified by trade policy analysts is

extremely large, with even the list of “core NTMs” provided by UNCTAD containing some 64 measures. By contrast, the OAA provides an illustrative list containing nine measures.

Part of the apparent disparity is explained by the fact that some important NTMs on lists such as UNCTAD’s are covered in other areas of the OAA, for example standards and conformance and customs procedures, where APEC is performing creditably. APEC needs to communicate better both its successes in the latter areas and also the point that the “NTM” area is thus not intended to cover “all NTMs” but rather all those NTMs that are not already identified elsewhere in the OAA. Nevertheless, it seems likely that a significant number of NTMs which belong in the “NTM” area on this basis have not been identified specifically.

NTMs are heterogeneous as well as numerous. In some cases they take the form of a barrier which needs to be removed, while in other cases they arise when a legitimate measure is misused. Appropriate outcomes which take account of these differing characteristics need to be specified for each type of NTM.

PECC considers that little progress is likely in this area unless each type of NTM to be covered is identified individually and addressed – simultaneously giving a more complete definition of the scope of the area and breaking it down into distinct and manageable components for analysis and action. This will lead to improved transparency as well as an improved focus for individual actions in the area. This approach could lead to the creation of new OAA policy areas for each type of NTM, or alternatively to the establishment of sub-headings for each type within the existing area.

PECC is aware of other evidence suggesting more progress in reducing NTMs than is evident in the IAPs. If IAPs are to be credible it is important that all relevant actions are reported in them.

Conversely, PECC is also aware of anecdotal evidence suggesting increased use of some forms of NTMs in the aftermath of the Asian economic crisis. Rapid technological progress can also give rise to new flashpoints in trade policy. It is important that the IAP structure is sufficiently robust to allow for the recognition of such problems and for the development of additional individual and collective actions to address them.

Regional arrangements

The OAA Guidelines for both tariffs and NTMs encourage member economies to consider extending measures undertaken in sub-regional agreements to all APEC economies. PECC is aware of circumstances in which this has occurred (in ASEAN in particular), but it is unable to find an accounting of these events in the IAPs.

Commentary

Definition of NTMs to be covered

While in principle the category of NTMs is open-ended, including all trade-restricting measures other than tariffs, in practice multilateral efforts to eliminate or reduce NTMs are unlikely to be successful unless there is agreement as to which measures should be the subject of this effort. Thus all such international efforts face the problem of defining which measures should be included within the category of NTMs.

Attempts to list all NTMs have come up with lists of more than 100 different measures. It may be more practical to limit attention to a smaller group of “core NTMs”. Lists of “core NTMs” can be extensive; UNCTAD for example has identified as many as 64 “core NTMs”.

In the OAA, some measures which are commonly included in lists of “core NTMs” have been included within other action areas rather than the NTM area. For example:

- Standards, technical regulations and sanitary and phytosanitary (SPS) measures are covered under Standards and Conformance
- Customs procedures is a separate area within the OAA
- Measures involving government procurement practices are included under Government Procurement.

Restrictive business practices and government regulations that impede trade may also be addressed within the areas of Competition Policy and Deregulation, respectively. Foreign investment restrictions affecting the establishment of distribution channels are often cited by business as a trade-restricting NTM, but these are covered in the OAA under the area of Investment. It seems reasonable to conclude that the area entitled “Non-Tariff Measures” is not intended to capture “all NTMs,” but rather all NTMs that are not already identified elsewhere in the OAA.

The OAA specifically mentions that the following are to be included under the heading of NTMs:

1. Quantitative import restrictions or prohibitions
2. Quantitative export restrictions or prohibitions
3. Import levies
4. Export levies
5. Minimum import prices
6. Discretionary import licensing
7. Discretionary export licensing
8. Voluntary export restraints
9. Export subsidies

Tariff rate quotas (TRQs) operated under the current and minimum access provisions of the Uruguay Round Agreement on Agriculture often have the force of quantitative restrictions because the out-of-quota tariff rates are prohibitive. The OAA however stipulates that (TRQs) are to be covered under the Tariff area.

While there is no suggestion in the OAA that this list of NTMs is intended to be exhaustive, member economies have generally limited themselves to these measures in their efforts to “compile a list of measures recognized as non-tariff impediments and a list of products affected by these impediments”, as specified under the Collective Action Plan on tariffs and NTMs.

There are a number of NTMs not specifically mentioned in the OAA which are commonly cited by business as significant impediments to trade, most recently in a “flash poll” undertaken by the PECC Trade Policy Forum Secretariat. These include:

1. State trading practices
2. Restrictions applied to distribution channels
3. Discriminatory indirect taxes
4. Subsidies to competing domestic producers
5. Anti-dumping measures

Business also gives considerable weight to the NTMs that are dealt with in the OAA under the areas of Standards and Conformance, Customs Procedures and Government Procurement.

PECC considers that part of the confusion arises because the sort of NTMs identified by business and independent analysts are addressed most effectively by trade facilitation initiatives, whereas the measures specifically listed in the “Non-Tariff Measures” section of the OAA are restricted to those requiring a “liberalization” solution – even though it is explicitly stated in the OAA that “liberalization” and “facilitation” are to be treated together due to their “inseparable nature”. Measures requiring a “facilitation” solution are scattered through other areas of the OAA, but this coverage tends to be random rather than systematic. The confusion is likely to be compounded if APEC embarks on further work programs in trade facilitation without recognizing that many of the obstacles to trade addressed by such programs are in fact classified as “NTMs” by business and by independent analysts.

In the case of anti-dumping measures and other trade remedies there is no consensus within APEC as to whether they are appropriately classified as NTMs.

The Asian economic crisis has also seen the emergence (or resurgence) of further measures which are commonly cited as NTMs, but which have not been addressed explicitly in the OAA (such as anti-import campaigns). Anecdotal evidence also suggests an intensification of administrative controls on trade in some APEC economies as a response to the economic crisis, although this has not been systematically documented.

Specification of desired outcomes

NTMs are heterogeneous as well as numerous. Thus there are also considerable differences among them in terms of the outcome which liberalization efforts should be designed to achieve, and this in turn means that there is no common objective standard applicable to all NTMs against which APEC members can gauge their progress in this area. In some cases, such as quotas, complete removal of unjustifiable barriers is clearly the appropriate target. In other cases, such as quarantine controls, some restriction or regulation is clearly legitimate and the aim is to establish disciplines or procedures which prevent these measures from being used for illegitimate protectionist purposes. The distinction being made here corresponds broadly to the distinction between NTMs which require a “liberalization” solution and those which require a “facilitation” solution.

The illustrative list of NTMs provided in the OAA consists largely of measures for which complete removal is in principle feasible, while measures of the second type have been placed in separate policy areas such as Standards and Conformance and Customs Procedures. However, a further list of commonly cited NTMs not specifically identified in the OAA (but which fall under the rubric of NTMs) would include measures in both categories.

Many measures identified as NTMs are subject to the provisions of various WTO agreements, such as the agreements on Agriculture, Sanitary and Phytosanitary Measures, Textiles, Technical Barriers to Trade, Trade Related Aspects of Investment Measures, Implementation of Article VI (Anti-Dumping), and Import Licensing Procedures. The OAA principle of WTO-consistency implies that the ongoing use of such measures by APEC economies should conform with their WTO obligations. However, there is no suggestion in the OAA that the WTO should be used as the benchmark and that APEC's objectives in this area should be limited to achieving WTO-conformity. Liberalization beyond the requirements of WTO obligations is clearly desirable. Furthermore, it is not

difficult to identify cases where trade and investment could be facilitated through individual and collective actions that are not specifically mandated in WTO agreements or articles - areas where APEC can take the lead and, in doing so, strengthen its credibility.

Assessment

Identification and Measurement of NTMs

In addition to an agreed definition of the types of NTMs to be covered, a successful plan to reduce NTMs also needs to be supported by clear identification of the specific measures in each economy which fall within the definition. Measurement of the extent and impact of NTMs is also desirable, both to allow progress to be assessed and to assist in establishing priorities for early action. However, identification and measurement of NTMs presents considerable difficulty in the OAA context.

The majority of APEC economies have followed the IAP format guidelines in providing lists of NTMs which they acknowledge still exist in their economies and the product categories to which they apply. A table based on these lists accompanies this assessment. As noted above, these lists generally cover only the types of NTMs specifically mentioned in the OAA. They also refer to product categories at quite a high level of aggregation. In line with the IAP format guidelines, member economies justify these measures in terms of domestic policy imperatives and/or other international commitments. In particular APEC economies generally claim that their remaining NTMs are justifiable under WTO rules. There is no independent verification of the completeness of the lists or of the justifications provided. In some cases, where an independent check is possible, the lists are clearly incomplete; for example, seven APEC economies have acknowledged the use of export subsidies in their schedules annexed to the WTO Agreement on Agriculture but only one economy has reflected this in the tables provided with the IAPs. Thus these lists do not really provide a useful guide to the further actions APEC economies might take to achieve further reductions in NTMs.

The UNCTAD TRAINS database also identifies the existence of specific NTMs affecting particular products in individual APEC economies. The TRAINS data for each country is based on information supplied by the government of that country, which again is not subject to independent verification. Thus, while the TRAINS data suggests that some APEC economies continue to make extensive use of NTMs, doubts have been raised over the completeness of the coverage of NTMs in TRAINS. There has also been controversy over the inclusion or non-inclusion of some specific measures, such as anti-dumping. Therefore, the TRAINS database is also limited in terms of its ability to act as a guide to future action.

In light of these problems, it is disappointing that the APEC the Market Access Group (MAG) has not yet collected relevant information for an APEC NTM database.

The difficulties of measuring the impact of NTMs are well-known and are not confined to APEC's OAA and IAPs. On a comprehensive basis, the only measures available for APEC economies have been frequency counts and import coverage ratios, based on the information in the UNCTAD TRAINS database. These measures do not provide an indication of the economic impact or severity of the barriers.

Since these difficulties are not likely to be overcome in the near future, more creative approaches will be needed. One approach adopted by both PECC and PBEC has been

to survey directly the perceptions of businesses as to the severity of the various NTMs which they face.

Relation Between Collective and Individual Actions

PECC considers that, although some of the collective actions are useful, there is room for improvement in the way they are recorded in the IAPs. Additional collective action will also be necessary as a prerequisite to more effective individual action in this area.

The first of the collective actions is certainly appropriate. However, it needs to be supplemented by additional collective actions meant to ensure that the various NTMs to be addressed are identified clearly. Moreover, this must be accompanied by a clear specification of the appropriate individual actions to be undertaken by APEC member economies in each case.

The second listed collective action has also been pursued through the MAG, and a database (PECC's AIMS database) has been established which can support further efforts along the lines indicated. The priority to be given to this collective action in the future may depend on the extent to which APEC decides to maintain an emphasis on sector-specific liberalization. Nonetheless, APEC economies may find it useful to maintain their ability to analyze the impact of NTM reductions proposed in particular industries or sectors on trade and growth in the APEC region. The way in which this collective action is described is strange. One would expect that all reductions in NTMs would have a positive impact on trade and economic growth.

It is not clear to PECC why reductions of export subsidies and abolition of export prohibitions have been included as collective actions, as they appear to require unilateral initiative. Actions relating to these measures are grouped with other individual actions in the table attached to this assessment.

The attached tables summarize the actions recorded in the IAPs in the area of NTMs.

In general the impression is of a small number of scattered, isolated actions by individual economies, usually restricted to a limited range of commodities.

In terms of the number of economies, the most frequently reported actions relate to "reporting and reviewing", individual initiatives to improve transparency, and "pursuing incorporation of information into a future APEC database." As noted above, however, implementation of the latter action has been insufficient to allow the MAG to complete its task.

In relation to the objective of "progressively reducing non-tariff barriers", the number of reported actions is small and a substantial proportion of these relate to the implementation of specific WTO commitments. Overall, the number, extent and coverage of recorded commitments contributing to this objective can only be described as extremely modest.

Given the lack of information on the extent and seriousness of the impact of NTMs in APEC economies, it is impossible to assess the significance of the actions which have been reported. It is likely that some actions, for example the removal by one economy of import and marketing controls on a number of major agricultural commodities, have been of considerable significance and could warrant being labeled as "highlights". It is impossible, however, to assess this from the information provided in the IAPs. In any case the number of highly significant actions of this kind appears to be small.

There are examples of commitments that are too vague to be meaningful. For example, some economies have committed:

- “to identify and relax NTMs”;
- “to liberalize NTMs on agricultural commodities”; and
- to remove all NTMs by 2010.

One economy claims to have eliminated all NTMs. In the absence both of an agreed definition of NTMs and more detailed information on the extent and severity of the barriers which have been removed, assessing the significance of this claim is problematic. These uncertainties illustrate the very real possibility that inadequacies in the IAP reporting framework may inhibit the featuring of genuine “highlights”.

It is striking that the 1999 updates of the IAPs do not appear to contain references to actions agreed by APEC economies relating to NTMs in the sectors specified under the EVSL initiative. This is particularly surprising in the light of the OAA guideline which encourages among other things a focus on industries where reductions in NTMs may have a positive impact on trade and economic growth in the region

No economies appear to have responded to the OAA Guidelines for NTMs which state that economies should consider extending measures undertaken in sub-regional agreements to all APEC economies. PECC is aware that this has occurred (in ASEAN in particular), but it is unable to find references in the IAPs.

Overall assessment in this area is badly hampered by the lack of an adequate agreed definition of NTMs and by the inadequacy of information on the incidence and severity of NTMs in APEC economies. As a result it is not possible to make a definitive statement as to the seriousness of the problem posed by NTMs in APEC economies, and there is no clear objective standard against which APEC's performance in this area can be judged. It is also likely that the lack of a clear objective standard for assessing performance has contributed to the lack of focus apparent in the activities in this area.

With respect to the scale of the problem, it could be suggested that the low level of commitment and implementation in this area indicates that NTMs do not pose serious problems in the APEC economies. Such an assessment however is completely contradicted by the emphasis which business representatives regularly place on the seriousness of the impediments created by NTMs in the APEC region and on the need for APEC economies to take more effective action in confronting the NTM problem. As noted above, the UNCTAD TRAINS data also suggests extensive continued use of NTMs by some APEC economies. It will be important for APEC's credibility in the business sector to resolve this gap in perceptions.

Judged against business assessments of the scale of the problem, APEC's performance in the NTM area as recorded in the IAPs must be regarded as inadequate. The possibility remains however that the IAPs are not telling the full story. As the attached Chart indicates, the 1998 release of the UNCTAD TRAINS data shows a substantial fall in the frequency of NTM use in APEC economies across all sectors since the earlier 1995 release, although this must be qualified by noting that the UNCTAD data extends only to 1997 for two APEC economies, to 1996 for three more, to 1995 for another two and in one case only to 1992. The picture revealed by the UNCTAD data is not consistent with the story being told by the IAPs, but more information would be needed to come to any definite conclusions on this point. Such inconsistency would be surprising in view of the fact that the UNCTAD TRAINS data, like the IAPs, is based on information supplied by the respective governments. If all relevant actions are not recorded in the IAPs, their

credibility will suffer and APEC may lose the opportunity to highlight areas where significant progress is being made.

PECC experts working on this assessment have also been concerned by suggestions that in some areas new NTMs not accounted for in the IAPs may be emerging or that the use of some traditional NTMs may be on the increase. Again, without an adequate definitional and measurement framework it is difficult to assess the existence or extent of any trends of this nature. Pressures for such developments certainly exist. The adjustment pressures attendant on East Asian economies as they recover from the crisis, the rapid growth in import penetration in developed APEC economies, and the balance of payments difficulties facing some economies all generate incentives for the use of NTMs. Rapid technological changes may also lead to the emergence of new issues which are beyond the reach of existing trade disciplines. It is important that the overall IAP structure be made sufficiently robust to cope with these developments and, in particular, to highlight the emergence of any unfavorable trends at an early stage.

Next Steps

PECC considers that a substantial amount of further collective action is needed as a prerequisite for improved performance in NTMs. This collective action is needed to arrive at a common view of:

- the full range of measures to be covered in this area,
- the nature and scale of the problem they pose for APEC economies, and
- the appropriate outcome to be sought by APEC in relation to each type of measure.

In the process the perspectives of business and government might become more closely aligned.

A useful first step would be to delineate more clearly the “boundaries” because when business people or researchers focus on the “NTM problem”, they generally have in mind a definition which is broader than that used in the OAA. This broader definition includes measures within the OAA areas of Standards and Conformance, Customs Procedures and Government Procurement, all areas in which APEC has been relatively effective. APEC needs to communicate better that these elements on the conventional “NTM agenda” are being handled relatively effectively in separate policy areas.

In principle the “NTM area” covers all NTMs not identified in other areas of the OAA. Little progress is likely unless each type of NTM to be covered is identified and individually addressed. NTMs can be addressed through better “facilitation” as well as “liberalisation”. If the NTM area is to be reserved for the latter type of measure, APEC must ensure that “facilitation” type measures are systematically covered elsewhere in the OAA.

APEC should agree upon a list of NTMs to be targeted for individual action in this area, and this list can then be broken down into “types of NTMs”, based on

- identifying common characteristics,
- problems and
- solutions or desired outcomes for each “type”.

APEC should draw on a range of information sources to compile the list, including business, in order to ensure that no NTM identified as a significant barrier to trade is omitted. The list should also be accompanied by enough data to form a common understanding of where these NTMs are found, the commodities to which they apply, and

if possible the seriousness of their effects. This involves a continuation of the existing collective action being pursued through the Market Access Group, extended where necessary to ensure that all NTMs targeted for action in this area are covered.

It will also be necessary to identify the appropriate individual actions in relation to each type of NTM. For some NTMs this will require further development of conceptual frameworks. The target should be complete elimination of many NTMs perhaps with certain clearly-defined exceptions (for example import prohibitions and export subsidies). In other cases, an NTM concern arises when a legitimate measure or practice (for example state trading) is used to unjustifiably restrict competition through trade. In these cases the aim is to discourage and if possible eliminate its unjustifiable use. This is an area requiring careful analysis of thresholds and of disciplines. Relevant WTO disciplines can provide useful guidance, but APEC should not limit its ambition to the achievement of WTO compliance. It is in some of these cases, too, that government and business may disagree. In many cases the application of competition principles will provide useful guidance in identifying the precise nature of the problem and the disciplines that should be applied to address it.

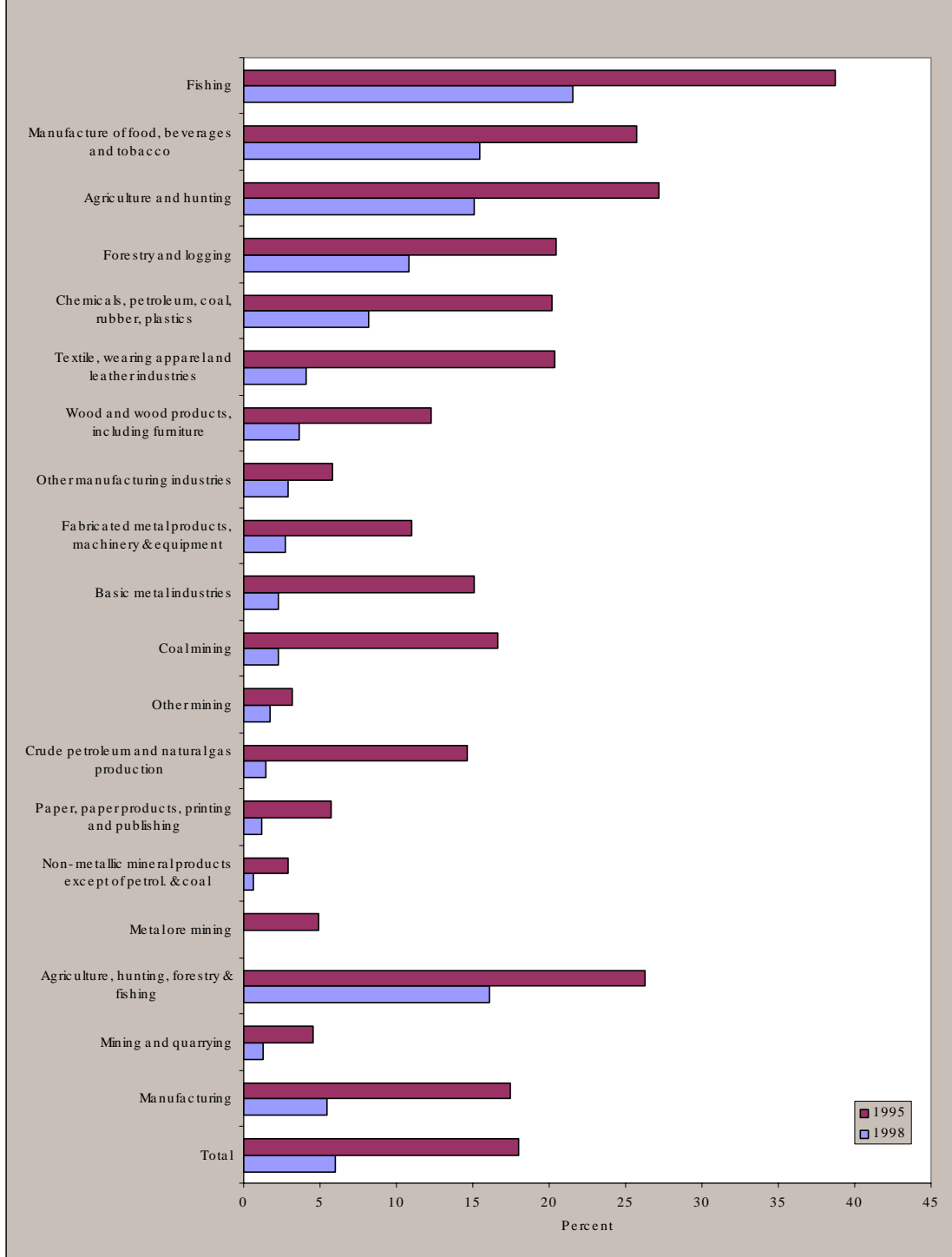
PECC appreciates that there are disagreements among APEC economies as to whether certain measures, such as anti-dumping measures, should be treated as NTMs. PECC suggests that APEC undertake further collective action to find an appropriate conceptual framework within which these measures should be considered, in the context of APEC's overall welfare goals.

Where it is determined that it is not appropriate for the NTM policy area to cover particular measures regarded as "NTMs" by business and independent analysts, then steps must also be taken to ensure that these measures are explicitly covered elsewhere in the OAA.

This could lead to the need for new OAA policy areas. Alternatively, different types of NTM could be included as separate subheadings within the NTM policy area, in the same way that different types of services are included as subheadings in the Services area.

In summary, PECC argues that design and implementation of a further round of effective collective action is urgently needed if meaningful progress is to be made in this important area. This collective action will in turn need to be followed by an enhanced level of performance among individual APEC member economies, both in implementing individual actions and in ensuring that all relevant commitments and implementations are recorded in their IAPs.

Frequency of Core NTBs in APEC Economies: 1995 and 1998



Tables Summarizing Action in the Area of Non-Tariff Measures

The following tables summarize the efforts taken by APEC member economies in reducing their NTMs. Initiatives described in the column entitled "Measure" are drawn directly from the 1998 IAPs. Reports on commitment and implementation reflect information available in 1998 IAPs and, where available, reports on scheduled improvements for 1999.

Measure	Commitment		Implementation	
	Number of Economies	Number of Product Categories	Number of Economies	Number of Product Categories
Ensuring Transparency of Non-Tariff Measures.	4 (1 initiative each)		0	
	1	All		
Take into account intra-APEC trade trends, economic interests and sectors or products in which this process may have a positive impact on trends and on economic growth in the Asia-Pacific region.	0		0	
Ensure that progressive liberalization of NTMs is not undermined by application of unjustifiable measures.	1		0	
Consider extending (on a voluntary basis) the benefits of reductions and elimination of NTMs derived from sub-regional arrangements to all APEC members.	0		0	
Pursue incorporation of information on NTMs into a future version of an APEC Tariff Database.	7		0	
Reporting and Reviewing	9	All (all measures)		
Review of NTMs	1	1 (1 measure only)		
Report Progress on Eliminating NTMs via Report on Deregulation and Liberalization Progress	3			
Annual Update on NTMs	1			

Progressively Reduce Non-Tariff Measures

Measure	Commitment		Implementation	
	Number of Economies	Number of Product Categories	Number of Economies	Number of Product Categories
Abolish or Relax Import Controls, Monitoring, Licensing and other Regulations over Imports.	1	All (except one product)	1	6
	1	4		
	2	3		
Abolish or Relax Export Controls or Export Licensing Requirements.	1	6	1	8
	1	1	1	2
	1	1 (1 market only)	1	1
Phase Out Export Subsidies.	1	1		
Phase Out Production Subsidies.	1	5		
Abolish Minimum Customs Valuation.	1			
Abolish Simplified Tax Refund System.	1		1	
Relax Retail Distribution Restrictions.			1	1
Eliminate NTMs Inconsistent with WTO.	4	All	1	13
	2	1	1	1
Eliminate or Relax all NTMs.	1	All	1	All
			1	17
Tariffy NTMs.	1	All		
Eliminate TRIMs as per WTO Obligations.	1	1		
Identify and Relax NTMs.	1			
Liberalize NTMs on Agricultural Commodities.	1			
Implement WTO Obligations under TBT Agreement.	1			
Simplify Documentation Procedures.	1			
Expressed Willingness (without commitment) to Remove all NTMs by 2010.	1			

SERVICES

OBJECTIVE

APEC economies will achieve free and open trade and investment in the Asia-Pacific region by:

- a. progressively reducing restrictions on market access for trade in services; and
- b. progressively providing for inter-alia most favored nation (MFN) treatment and national treatment for trade in services.

GUIDELINES

Each APEC economy will:

- a. contribute positively to the WTO negotiations on trade in services;
- b. expand commitments under the General Agreement on Trade in Services (GATS) on market access and national treatment and eliminate MFN exemptions where appropriate; and
- c. consider undertaking further actions to facilitate supply of services.

IAP FORMAT GUIDELINES

Members could include in the Heading Statement for the issue area inter alia a report on any regulatory measures (eg investment, movement of natural persons) which have a general horizontal effect across services sectors, and any steps proposed to change or remove them. They could also include a report on any actions being taken to facilitate or improve the supply of services. In their detailed reports, members could report by exception against the GATS Services Sectoral Classification List (attached as Annex E, supplemented under "Other Services" with Energy Services and other services sectors) with respect to:

- a. exceptions or restrictions by sector with respect to market access, MFN or National Treatment as defined by GATS standards, and any steps proposed to reduce or eliminate them;
- b. exceptions or restrictions by sector at levels below that of central governments (eg regional and local governments), and any steps proposed to reduce or eliminate them; and
- c. GATS commitments by sector, and an indication of any measures in the IAP which exceed GATS commitments, including through accelerated implementation.

Summary

The OAA states that member economies should progressively reduce restrictions on market access, provide for MFN and national treatment. The OAA Guidelines ask members to contribute to the WTO agenda, expand GATS commitments, and undertake further action to 'facilitate supply'.

The IAP format guidelines indicate that all of this should be reported in considerable detail with supporting lists of exemptions and restrictions, plus details of the steps leading to their removal.

Not surprisingly these guidelines are not being met. There are many examples of economies not making any commitments. Where commitments are made, the detail provided is often not sufficient making them impossible to monitor. There are also inconsistencies over time in the IAPs. It is difficult to link statements of implementation with earlier statements of intent. There is little reporting of efforts to 'facilitate supply', which we interpret to mean economic and technical cooperation. There are also examples of commitments to services liberalization which contribute to the OAA goals but which are not being recorded in the IAPs.

Overall the IAPs for services contain a lot of detail but their usefulness is far less significant than their volume.

Assessment

Summary tables

The tables below summarize activity recorded in the IAPs with respect to services between 1996 and 1998.

In the standard format, the tables show the number of commitments in the areas listed in the first column. This does not mean commitments are made for complete openness with respect to the issue in the first column. It only means commitments are made with some reference to that issue. The next three columns report aspects of implementation. The commitment made is either recorded as being achieved, being subject to on-going work or else there is no information. The sum of the numbers in these three columns is equal to the number of economies listed in the commitments column. The last column is headed 'without (w/o) commitment' and it reports a count of references to activities listed in the first column of the table but without any previous reference to commitments in that area.

This is the most common table format. In some cases there is no need to report the column w/o commitment. In other service sectors, there is insufficient information in the IAPs to construct a table of this type and other formats are used.

In two cases (financial services and distribution services) an extensive comparison between IAP commitments with those in the GATS and those in regional trading commitments has been undertaken. The results of these comparisons are reported in the relevant sections.

Communication Services

The biggest achievement of APEC economies with respect to the communications sector is the liberalization of basic services. The summary table shows that most of the commitments involve basic services, including opening market access and relaxing the ownership cap on foreign equity. Even economies which do not specify a commitment to liberalize in their IAPs have pursued actions consistent with these objectives. It should be noted, however, that the degree and nature of the commitments to liberalization vary.

Commitments to liberalize other telecommunications services are also recorded. Access to markets for value added services have been relatively open from the start. Compared to basic services, fewer commitments and fewer implementation activities are recorded.

Four economies have indicated their willingness to privatize state-owned basic carriers, but three have indicated their unwillingness to follow this trend since they still consider the sector to be critical to their national security. It is significant that only five APEC economies have indicated commitments to ensuring interconnection of networks notwithstanding its importance in creating effective competition. Furthermore, the extent to which these commitments on market access are associated with those on national treatment is generally not clear.

In the medium and long term, the shape of market reforms is not clear for most economies since few reveal their forward plans.

Communication Services

Commitments related to:	Committed	Implementation			
		Achieved	On-going	No information	W/o commitment
Short-term:					
Basic services/network infrastructure					
➤ market access	11	10		1	7
➤ national treatment	8	6		2	5
Privatization of state-owned utility	3	1		2	1
Reforms through multilateral negotiations	1			1	2
Ensuring interconnection	2	1		1	3
Privatization of postal services	1			1	2
MRA on telecom eqpt	2			2	2
Increasing market access	2	1		1	5
➤ VANS	2	1		1	
➤ audio-visual	1	1			2
➤ int'l services	1	1			
➤ other telecom services	2	1		1	2
➤ television/broadcast	1	1			
➤ cable					
Amend telecom law	4			4	
ECOTECH	2	2			1
Regulatory institution	1			1	1
Medium-term:					
Increasing market access	2			2	
➤ basic services	2			2	
➤ international services					
National treatment on basic services	1			1	
Long-term:					

Market access on international services	1			1	
MRA on telecom eqpt	1			1	

Financial Services

Financial services commitments vary significantly across APEC member economies. Some have made specific commitments, others have made broad commitments and a few have made none. One factor that determines the extent of commitments is the starting points of liberalization.

Many of the recorded commitments are sufficiently broad to give member economies substantial flexibility in their implementation. For example, a member economy may commit to 'progress financial services liberalization' but not give specific information about which services are to be liberalized, how it is to be done or at what pace. Many commitments refer to activities involving a 'review' or 'consideration' rather than action.

The summary table shows that APEC economies made a total of 89 commitments between 1996 and 1997 of which 26 are reported as being achieved and 36 are ongoing. That is, nearly 70% of the commitments have been implemented or are in the process of being implemented. In the context of the recovery from the financial crisis, a longer term work plan in this area leading to new commitments would be worthwhile.

The status of the remaining 27 commitments is not known from the information provided in the IAPs.

Five economies have made no commitments at all in financial services.

APEC members have also made commitments to financial services reform in the GATS and in relation to IMF standby credit facilities. Our assessment is that these commitments are generally more extensive than those recorded in the IAPs and, given the guidelines, they should be recorded in the IAPs. At least, it would be beneficial if readers of the IAPs could also obtain access to these commitments efficiently.

Financial Services

<i>Short, medium or long term commitment</i>	<i>Number of commitments where implementation has been achieved</i>	<i>Number of commitments where implementation is ongoing</i>	<i>Number of commitments where status of implementation is unknown</i>	<i>Total number of commitments</i>
Short term	14	10	17	41
Medium term	4	7	3	14
Long term	3	0	0	3
Short to medium term	1	0	2	3
Short to long term	1	6	0	7
Medium to long term	3	13	5	21
Total	26	36	27	89

Distribution Services

APEC member economies made only 21 commitments in distribution services of which two are reported as being achieved and 19 as on-going. Two economies accounted for over half of the commitments and 16 economies made no commitments at all.

Most of the commitments are short term and, as noted above, only a few have been implemented. None of the medium to long term commitments have been implemented.

In the case of distribution services, the commitments made in the IAPs are roughly consistent with those made in other international forums. There are, however, some economies that made GATS commitments which are not reported in the IAPs.

Distribution Services

<i>Short, medium or long term commitment</i>	<i>Number of commitments where implementation has been achieved</i>	<i>Number of commitments where implementation is ongoing</i>	<i>Total number of commitments</i>
Short term	2	8	10
Medium term	0	5	5
Long term	0	1	1
Short to medium term	0	2	2
Medium to long term	0	3	3
Total	2	19	21

Transport Services

The summary table for this sector divides commitments between sub-sectors and within sub-sectors. The table makes further divisions between time frames and issues, such as market access and national treatment.

A striking result from the summary table is the lack of commitments recorded with respect to transport services. The highest number of total commitments is 5. The most frequently recorded score is one.

Occasional comments are made without reference to commitments (mainly short term air transport developments, such as the negotiation of new bilateral arrangements).

A total of 46 commitments are summarized in the table. The IAPs provide no information about implementation in 20 of these cases.

Transport Services

Commitment related to:	Committed	Implementation			
		Achieved	On-going	No information	w/o commitment
AVIATION					
Short-term:					
Market access	2	1	1		4
National treatment	5	3		2	1
Privatization	1	1			2
Tariff deregulation	1			1	

Aircraft repair & maintenance					1
aviation safety reqt	1	1			
ownership of airport	2	2			1
capacity entitlement, expansion of route rights	1	1			
MRA on sale of aviation goods					1
charter policy	2	1		1	
Deregulation					1
air freight handling services	1			1	
Medium-term:					
CRS access	2	1		1	
MARITIME					
Short-term:					
Market access	1		1		1
National treatment/MFN	4	1		3	1
MRA	1	1			
Privatization of maritime transport	2	1		1	
Review of existing laws	3	3			
Cabotage protection	2	1		1	
Maritime services	1			1	1
Privatization of port services	1	1			
Medium-term:					
Market access	2			2	
Long-term:					
Market access	2			2	
LAND					
Short-term:					
MRA on auto standards	3	1		2	
Deregulation of road transport services	1		1		2
Medium-term:					
Market access	1			1	1
Long-term:					
National treatment	1		1		
RAIL					
Privatization	1	1			1
Consistency of rail regulations	2	1		1	
Deregulation					2
National treatment					1

Business Services

In the context of recovery from the financial crisis, the lack of new commitments in business services is a disappointment. It would be expected that APEC members value more highly the capacity building measures which business service providers can offer.

The most frequently mentioned sector is legal services, and in many cases the reference confirms that restrictions on trade and investment exist in that sector (often as an exception to a higher degree of openness in other sub-sectors). However, there is also a relatively large number of commitments to reform the regulation of the legal services sub-sector. Other sub-sectors often mentioned include engineering, computing, and accounting.

The commitments made in this area highlight the importance of provincial regulation. The difficulty that governments in some economies face in arranging commitments in cooperation with lower level governments might explain the lack of detail reported.

There is also a lack of consistency in reporting detail; for example, some economies report detail of participation in (and leadership of) economic and technical cooperation projects whereas others make no mention of those same projects; this is the case in the development of mutual recognition of professional qualifications in engineering services which is a flagship project of APEC. The small number of remarks in relation to accounting services is also surprising given the progress on that sector in the WTO.

Business Services

	SERVICES				
	Legal	Engineering	Computer	Accounting	Others
Economies with existing restrictions*	4	3	1	2	3
Committed to remove restrictions in:					
➤ short-term	5			4	1
➤ medium-term	4				
Has removed restrictions	2				
Currently removing restrictions	1				
With MRA	2				

*market access and/or national treatment

Educational and Environmental Services

APEC members have given little attention to both educational and environmental services. For this reason, we do not provide summary tables of commitments. Only 8 references to some aspect of trade and investment liberalization in each of these sub-sectors is given. The lack of reporting on environmental services is particularly interesting given the attention it received in the EVSL process. Apparently, members consider that information on collective actions is readily available from other sources.

Energy Services

The energy sector has attracted a relatively large number of references in the IAPs. Of the 61 references to issues in this sector (mainly by 6 economies), only 4 are recorded as achieved, there is no information about another 16 and the remainder are on-going.

The IAPs record detail about the terms of market access but often the implications for national treatment are not clear. Also the relatively vague wording of some commitments makes it difficult to monitor their implementation. These two features indicate that this sector is another example of where some agreement on a standard approach to reporting impediments would be helpful.

Energy Services

		Implementation			
	Committed	Achieved	On-going	No infor	w/o comm
Introduce a competitive electricity market	10		9	1	
Introduce open access based on free and fair trade.	3	1	3		1
Remove regulatory and legislative barriers to inter- and intra-state energy trade	3	1	1	1	
Implement consistent legislative approaches to underpin energy market reforms.	7	1	5	1	

Institute national competition legislation, e.g., downstream energy program, opening up of power sector.	8	1	7		
Structural separation of monopoly and competitive elements of transmission and distribution to promote greater competition.	3		3		
Facilitate the inter-connection of systems	2		2		
Institute a common competitive market approach to emerging issues such as deregulation, industry convergence and privatization, BOT, etc.	10		5	5	
Remove/review tariff and wholesale price control	5		2	3	
Remove policy and regulatory impediments to retail competition.	7		4	3	
Privatization of national energy service firm	3		1	2	

Health Services and Recreation Services

There are no commitments to action in either of these areas. Some economies have documented the openness of these two areas and others have noted the restrictions which continue. Recreation services has attracted 8 comments. Most of these announce that the sector is open with the exception of the components listed. In the case of health services, 8 economies mention the sub-sector and many of those that do so also note the horizontal measures that apply.

Tourism Services

This sector attracted a significant number of commitments. One problem, however, is the lack of comparability of commitments. For example, 5 commitments to remove restrictions with respect to specific activities within the tourism sector, 8 references to a 'liberalized tourism sector' and 3 to 'greater openness in international tourism services'. This variation in wording makes assessment difficult.

Of the 29 commitments reported, the IAPs record reports by members that 11 have been achieved. However, the accuracy of this ratio is also difficult to assess given the lack of information on time lines associated with the commitments recorded.

Tourism Services

OBJECTIVES/COMMITMENT	Commitment		Implementation		
	Yes	None	Achieved	On-going	No Info
Market restrictions on hotels, restaurants, travel agencies, tour operators.	5	4	2	1	2
Establishment of Tourism Boards	1		1		
Identification of tourism sites	3			1	2
Production of tourism-quality promo materials	1			1	
Complement and add value to region-wide tourism efforts	1			1	

Greater openness in international tourism services	3		3		
Liberalized tourism sector	8	1	3		5
Conform to MFN treatment	1			1	
Free visa to APEC member economies	3		1	1	1
Lifting of market restriction on casinos to foreign nationals	1		1		

Horizontal Commitments

This section of the services area also attracted a substantial number of comments. These measures relate to approval of foreign investment proposals, and issuing of short term and long term visas.

Horizontal Measures affecting all Services

OBJECTIVES/COMMITMENT	Commitment		Implementation		
	Yes	None	Achieved	On-going	No Info
Foreign investment subject to notification and examination reqts. Automatic approval granted unless national interest arise	4	1	3	1	
Short term visas allowed	6		5	1	
Longer term visas for executives, entrepreneurs, etc.	6		5	1	
GATS modes of supply market access limitations	2	1		1	1
Maintain MFN exemption under GATS Art. II	1	2		1	
Identify market access restrictions and discriminatory treatments in certain areas;	3			3	
Consider further measures to liberalize trade in services	4			4	
Further align existing regulations to GATS	1			1	

1999 Updates

This review of the services elements of the IAPs relied on information reported in the 1996 to 1998 issues. PECC has also reviewed the preliminary IAPs for 1999 which indicate only where IAPs might be extended or revised.

With respect to new commitments in the preliminary 1999 IAPs, telecommunications and finance have attracted the most attention (referenced by 5 economies), followed by transport (3), business services (2), energy (1), and distribution (1).

With respect to implementation, 5 economies provide updates on financial services, 4 on telecommunications, 2 on business services and one each on transport, energy, distribution and tourism.

This material does not alter the assessment based on the 1996-1998 issues. Indeed, the vague wording in the preliminary 1999 IAPs underscores some of the challenges for the reporting system. For example, with respect to financial services (a key area for attention following the financial crisis), one economy says that it will abolish specific regulations at particular points in time, another says that it will conduct a review of a specific regulatory structure and another says it will endeavor to eliminate restrictions where appropriate.

Next Steps

One explanation for the disappointing results in the services area could be the enormous amount of detail required to meet the specifications of the OAA and its guidelines. Members are being asked by the guidelines to provide a full negative list. This was beyond the capacity of the WTO process. While PECC itself has argued for the value of a negative list approach, the lack of detail in the IAPs may reflect the difficulties of achieving that goal.

The difficulties can be highlighted by considering some responses. One is to undertake collective actions to specify templates for recording the current situation as well as commitments to change in selected service sectors. Consistent with APEC principles, not all economies may wish to list commitments in this sector, but if they do so, then the agreement would be that the agreed format would be followed. This effort could complement efforts of this type in the WTO where nomination of a sector in the GATS subsequently requires a negative list approach to the documentation of impediments, and where in some cases templates have also been discussed. Work in APEC along these lines could provide strong support for the WTO process in this area.

Another response is to streamline the treatment of services within the IAPs. A number of policy areas are relevant to services. For example, establishment issues might be handled in the investment policy area, and competition policy issues or regulatory issues might be covered by commitments in those two areas. Removal of these parts of the policy area from the services section would leave it to specialize in issues associated with modes of supply other than establishment. The selection between these routes for economizing on reporting is a topic for discussion in the collective action program.

The review of services also illustrates a point made in the overview about the value of new systems of reporting. The IAPs could serve as an entry point for data on services commitments and could be associated with a web site where that economy's GATS and other regional commitments were laid out in a data base.

INVESTMENT

OBJECTIVES

APEC economies will achieve free and open investment in the Asia-Pacific region by:

- a. liberalizing their respective investment regimes and the overall APEC investment environment by, inter-alia, progressively providing for MFN treatment and national treatment and ensuring transparency; and
- b. facilitating investment activities through, inter-alia, technical assistance and cooperation.

GUIDELINES

Each APEC economy will:

- a. progressively reduce or eliminate exceptions and restrictions to achieve the above objective, using as an initial framework the WTO Agreement, the APEC Non-Binding Investment Principles, any other international agreements relevant to that economy, and any commonly agreed guidelines developed in APEC; and
- b. explore expansion of APEC's network of bilateral investment agreements.

IAP FORMAT GUIDELINES

The current position of APEC members is contained in the Guide to the Investment Regimes of APEC Member Economies. Members could respond to ABAC's recommendation on investment by providing a report on progress towards implementing the APEC Non-Binding Investment Principles and other international agreements relevant to that economy:

Members could outline, where applicable, any steps they intend to take with respect to exceptions and reservations, and to fulfil the Osaka Action Agenda commitment to progressively provide for MFN treatment and national treatment and ensure transparency, and the time frames within which they intend to take them. Members could also outline any steps they intend to take to facilitate investment activity through technical assistance and cooperation.

Summary

This review reveals commitments to liberalization in many economies. There are now far fewer economies in APEC which can be defined as having relatively closed investment regimes. The distribution of policy positions according to information in the IAPs (from the 1996 to 1998 editions) has shifted significantly towards a greater degree of openness.

The most significant changes have been reported in the areas of market access, approval procedures and facilitation. There is relatively less change in the area of performance requirements.

PECC's assessment is that there is still a substantial variation in performance between economies in terms of the openness of their investment regimes. Some in the middle range of openness in 1996 have achieved significant change since that time. The bulk

have achieved reasonable changes. Others have done little if anything at all, according to the IAPs, and this is not simply the consequence of already having relatively open regimes.

Another point to emerge from the assessment is that the gap between developing and developed members in terms of openness has narrowed, and that commitments to this area are generally in the category of 'WTO-plus'.

One concern about this assessment, which is based only on IAP information, is that it excludes a number of significant policy changes. However, some of these, which occurred during and since 1998, may start to appear in later IAPs.

Another concern is that contributions to collective action plans are even more variable than in the IAPs. Further work to link IAPs with CAPs is likely to add to the effectiveness of work on the IAPs in the investment policy area.

Assessment

The IAP format guidelines in the area of investment are clear and unambiguous. They ask that members use the framework of the WTO and the APEC Non-Binding Investment Principles (NBIP). Both instruments have clear language with respect to government policy as it relates to investment.

Our review of the changes in investment policy is based on the 1996 APEC Investment Guidebook and on the subsequent revisions to policy in the IAPs. The only changes to policy accounted for in this assessment are those documented over this period of time in the IAPs, and the changes are evaluated relative to the starting situation as laid out in the Guidebook. (For this reason, our assessment of the performance of the IAPs concentrates on those economies that were members of APEC in 1996).

Using the detail recorded in the Guidebook, our research team developed an indicator of openness of investment policy. This indicator takes into account

- right of establishments
- screening and examination
- most-favored nation treatment
- profit repatriation
- work permits
- taxation
- performance requirements
- protection of investors
- dispute settlement
- incentives
- capital exports

Our research team developed this indicator for each member economy included in the 1996 Guidebook then updated the indicator using policy changes documented in the IAPs for each economy for the following years. Details of this methodology, which is based on assessments of policy in each economy, will be available in a forthcoming report from PECC where the interpretation of these data and alternative presentations will be discussed more carefully.

Using this approach, and bearing in mind the qualifications to the data, we are able to summarize the policy situation in broad terms in 1998 compared with that in 1996.

Figure 1 shows the first results. In this figure we plot for each economy the 1996 value of the indicator (maximum value is 100) against the value in 1998. A point lying on the 45 degree line means that, in our assessment, policy has not changed in that economy, at least according to IAP information. There are 6 economies in that category.

All the other economies lie above the 45 degree line, meaning that their policy indicator suggests a greater degree of openness in investment policy.

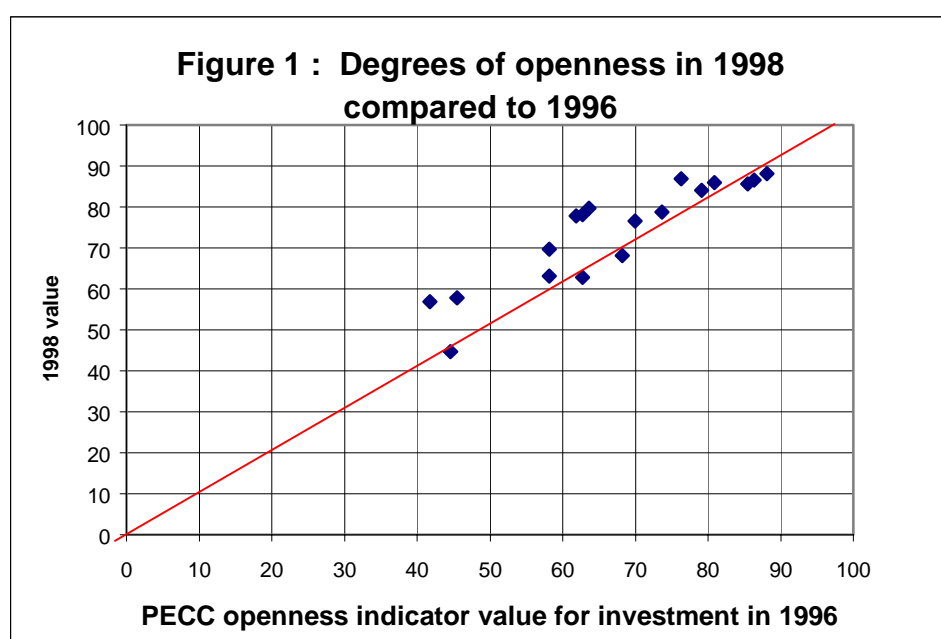


Figure 2 summarizes this information in another format. This figure shows the distribution of economies by the range of indicator scores. It shows the number of economies located in each 10 point range in 1996 compared to 1998. According to this figure, there were three economies in the 40-50 point range in 1996 but this group fell to one economy in 1998. All the other economies had indicators over 60 and the distribution within this group has shifted to the right; that is, a far higher proportion are not just located on the 60 plus range but the concentration in the higher ranges has also increased. The average value rose from 67 to 74.

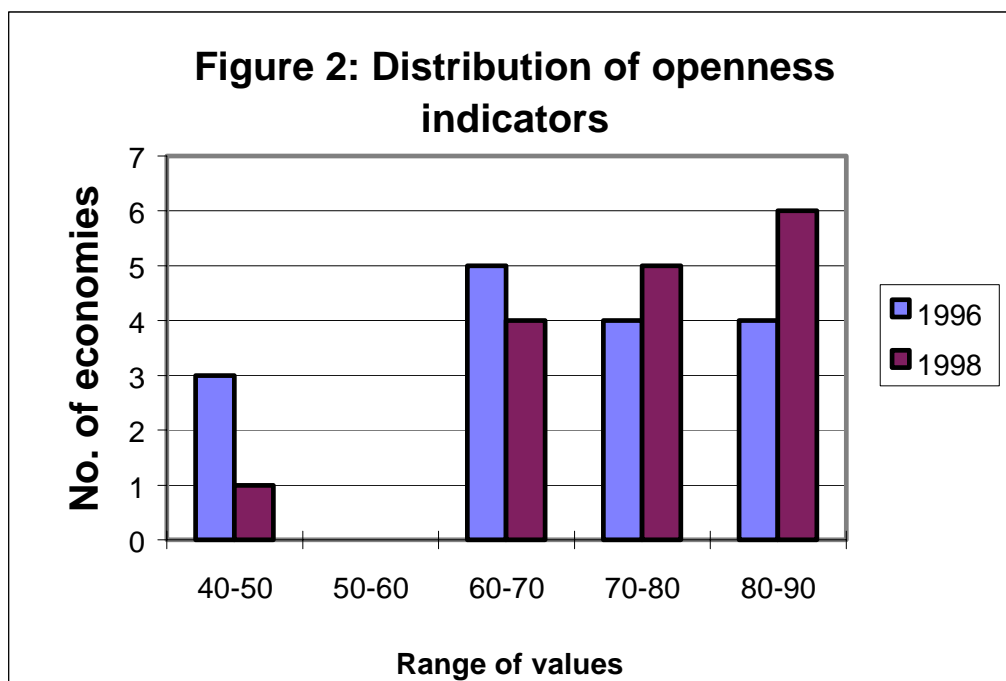
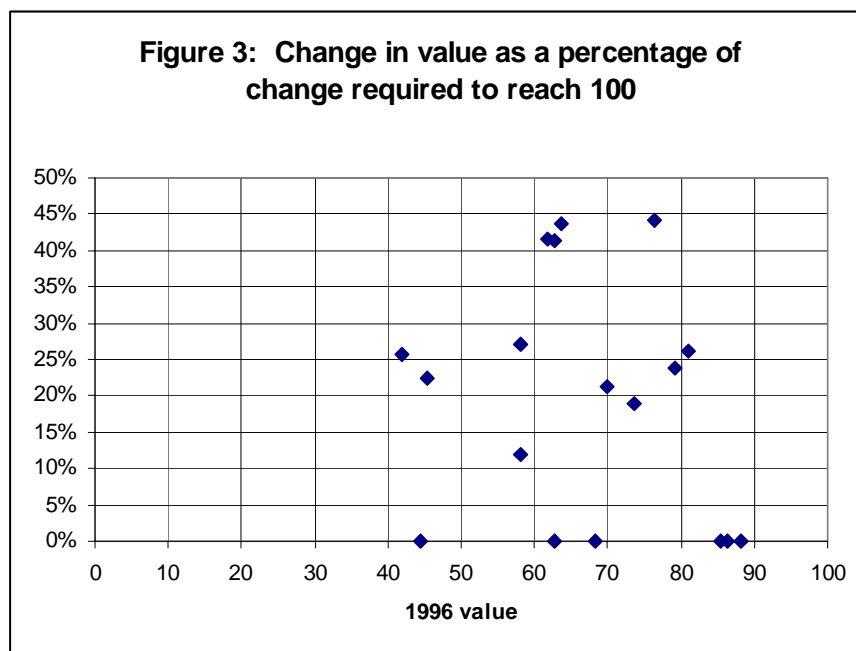


Figure 3 reports on the extent of change according to opening indicator values. This figure plots the actual change in value between 1996 and 1998 compared to the change required to reach the maximum value of 100. For example, if the value of the indicator increased by 10 points, but 20 points were required to reach 100, then the recorded value on the percentage axis would be 50.

Figure 3 illustrates a number of interesting features in the liberalization process for investment in APEC, according to information contained in the IAPs. First, there appear to be three groups of economies. There are 4 economies whose indicator values changed by 40% of the amount required to reach the maximum value over this period. This is a significant change in a short period of time. All these economies were in the 60-80 range.

There is a second group (8 in number) of economies who achieved 20-30% of the amount required to get to 100.

The remaining economies achieved relatively small changes. One economy achieved just over 10% of the required change and, as noted already, 6 economies did not achieve anything at all. This last group of 6 is widely spread in terms of starting values. (Note that in this figure even a small absolute change in policy would have achieved a high percentage for those with low starting values).



The indicators show a variation in performance between economies, but also suggests that there have been some significant changes, particularly among economies with reasonably open investment regimes.

What accounts for these changes? Closer inspection of the raw data indicates that the bulk of the change is due to amendments to policy on rights of establishment. There are very few commitments or activities in the other policy areas. In the 1997 IAPs, nine members had commitments in the establishment area, followed by 8 members in 1998. Commitments were also recorded in screening where 4 members notified in 1997 and 2 in 1998.

PECC's assessment is that progress made on FDI liberalization by APEC member economies has been consistent with WTO rules. In many cases, members have gone much further than the liberalization implemented under the WTO framework, since there is the TRIMs agreement that stipulates the rules concerning FDI. The TRIMs agreement concerns only those measures related to trade, such as local content requirements, but not those more fundamental to FDI, such as market access. APEC member economies have, therefore, made substantial progress on market access and other fundamental aspects of FDI liberalization.

Inspection of the IAPs also reveals a significant difference in outcomes between economies at different levels of development. There have been considerable commitments to FDI liberalization, especially by developing member economies. As a consequence the gap in the level of openness in FDI regimes among APEC member economies narrowed from 1996 to 1998.

With respect to collective activities, the performance of economies is even more variable. We developed a similar indicator to gauge contributions to collective activities each year and, out of a

possible 100 points, the average value recorded is about 30 (and the standard deviation is very high at about 20).

Next Steps

This assessment is based on evidence of policy change documented in the IAPs. PECC's concern is that IAP commitments in this area do not reflect many of the initiatives that they have taken unilaterally and regionally to enhance investment. In particular, liberalizing market access measures such as privatization, reduction of sector restrictions and ownership restrictions have been quite common throughout the APEC region.

One reason for this problem could be a lack of the clarity about what the task requires. However, as indicated above, the UR Agreements and the NBIP are relatively clear. Provision of a matrix table to be completed by member economies would facilitate the preparation of the IAPs. This involves further work to clarify reporting under the UR Agreements and under the NBIPs because each has specific requirements. We offer a template (Figure 4) that might be used to record commitments.

Possible Matrix for Preparation of IAPs on Investment

Policy Area *	Current Policy	Commitments (with dates)	Implementation (with dates)
National Treatment			
Market Access			
Screening process			
MFN treatment			
Profit repatriation			
Work permit			
Taxation			
Performance requirements <ul style="list-style-type: none"> • Local content requirement • Export requirements • Trade balancing • Technology transfer requirements • Etc 			
Protection of investors			
Dispute settlement			
Incentives			
Capital control			
Investment Facilitation Measures			
Others			

* PECC will offer more detailed suggestions about sub-categories under each Policy Area heading in its updated survey on *Impediments to Trade and Investments*.

There is still some resistance to investment liberalization due to the sensitivity of national interests. It might be useful for APEC members to consider some further cases to illustrate the

positive impact of investment liberalization. One of the most important research topics is the impact of FDI liberalization on FDI flows. Although it is assumed that such an impact exists, it is not clear that it really happens. Furthermore, it is important to discern the impact of different restrictive measures on FDI flows in order to formulate effective FDI policies.

IAPs would benefit from a closer linkage with the work being done in the CAPs. One good example may be the use of technical assistance as indicated in the CAPs. Specifically, improving the capacity of the public sector to administer FDI regimes and strengthening corporate governance in the private sector, which may be promoted through technical cooperation under CAPs, is necessary for realizing FDI liberalization.

There are other areas where the guidelines could be improved. First, the policy instruments mentioned above do not make a distinction between liberalization and facilitation. The Uruguay Round Agreements, especially the Agreement on Trade Related Investment Measures (TRIMs) and the General Agreement on Trade in Services (GATS), relate only to specific national treatment issues. They do not account for investment facilitation measures except as they relate to transparency. Investment facilitation and promotion measures form an important part of any effort to enhance the investment climate of an APEC member economy.

Incentives offered by governments to induce and attract foreign investors are also not part of the UR agreements. Nevertheless, they are an important component of achieving the objective of free and open investment in APEC. A more focussed and effective treatment of incentives would benefit the program of liberalization in the region.

STANDARDS AND CONFORMANCE

OBJECTIVES

APEC economies will, in accordance with the Declaration on APEC Standards and Conformance Framework and with the Agreement on Technical Barriers to Trade (TBT Agreement) and the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) attached to the WTO Agreement:

- a. ensure the transparency of the standards and conformity assessment of APEC economies;
- b. align APEC economies' mandatory and voluntary standards with international standards;
- c. achieve mutual recognition among APEC economies of conformity assessment in regulated and voluntary sectors; and
- d. promote cooperation for technical infrastructure development to facilitate broad participation in mutual recognition arrangements in both regulated and voluntary sectors.

GUIDELINES

Each APEC economy will:

- a. develop, by the end of 1997, the sections of its Action Plan related to alignment with international standards, taking into account the outcomes of the case studies in the four priority areas (electrical and electronic appliances, food labelling, plastic products and rubber products) as well as developments in further priority areas to be considered in 1996;
- b. participate actively in the international standardization activities of international standardizing bodies such as the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC) and the Codex Alimentarius Commission in accordance with the rules and procedures of these organizations;
- c. pursue mutual recognition arrangements in regulated sectors through (i) the development of bilateral, multi-sectoral mutual recognition arrangements, which might at a later stage provide the basis for plurilateral arrangements; and (ii) the development of plurilateral mutual recognition arrangements in particular sectors, endeavoring to complete a pilot project on food products in 1997 and to develop an arrangement on information exchange on toy safety in 1996; and
- d. consider participation in the Treaty of the Metre (La Convention Du Metre) and the Treaty of OIML (La Convention Instituant Une Organisation Internationale De Metrologie Legale) by 2005 in accordance with the rules and procedures of these treaties.

IAP FORMAT GUIDELINES

Members could report progress and intentions against the Objectives and Guidelines of the Osaka Action Agenda, under the headings of:

- a. Alignment with International Standards
- b. Mutual Recognition of Conformity Assessment
- c. Cooperation on Technical Infrastructure Development, and
- d. Transparency

Members could outline actions to be taken, together with time frames.

Summary

Despite the specificity of the objectives and goals outlined in the OAA, the extent of the commitments and the progress towards meeting them is mixed.

The IAPs are an inadequate source of information. Given the focus on collective actions, the full effort in this area can only be discovered by inspecting the sub-committee report. Clearly members think that once the convenor's report is released their IAP commitments are also fulfilled. But this is not the case. As noted in the IAP format guidelines, the IAPs are supposed to record unilateral and relevant collective actions. It may be unrealistic to expect the IAPs to reproduce the detail of the sub-committee report (and also unnecessary in terms of our analysis) but at least some cross referencing is required. This cross referencing would be facilitated by our earlier suggestion that the IAPs should be presented as 'linked documents'.

Assessment

APEC economies have committed, under the OAA, to both individual and collective actions covering the four objectives (alignment with international standards; mutual recognition of conformity assessment; cooperation on technical infrastructure development; and transparency), but the format guidelines do not make a distinction between the two types of actions. The IAPs have therefore tended to list only individual economy actions which are an incomplete picture of the considerable activity that is taking place in this area.

APEC member economies have made extensive and specific commitments under the objective of alignment with international standards covering four areas: electrical and electronic appliances, food labeling, plastic products, and rubber products. Through a series of case studies and consultations with international standards agencies, the Sub-Committee on Standards and Conformance (SCSC) has identified a set of priority items within the four product areas and the corresponding international standards for those items. APEC members began implementation of their alignment efforts on these priority items in 1997, with a target completion date of 2000/2005.

While the groundwork laid in identifying priority areas is impressive, actual progress has been limited. Based on the SCSC convenor's report of 1998, the share of all priority items for which member economies have developed "identical" or "equivalent" standards is 27 percent. For electrical goods, the share is 28 percent; rubber products 42 percent; machinery 7 percent; and food labeling 16 percent. There is a small amount of non-reporting by economies on specific product items, which this assessment has interpreted as neither "identical" nor "equivalent".

In the area of mutual recognition of conformity assessment, a notable success is the mutual recognition agreement (MRA) on telecommunications equipment, which was agreed to by APEC members in 1998. There is also some MRA related work in the areas of food products and toy safety. The specific end points for these two sectors is, however, unclear since the OAA specifies only "a pilot project on food products" by 1997 and "an arrangement on information exchange on toy safety" by 1996. It is therefore difficult to interpret the significance of member economy statements that continue to record their participation in these activities in the 1998 IAPs. Clearer specification of the objectives and next steps in the areas of food products and toy safety would make IAP reporting easier to provide and to interpret.

There is considerable progress reported in the IAPs on bilateral, multi-sectoral mutual recognition arrangements, which is in accordance with the OAA guidelines. Outside of telecoms equipment,

however, progress is yet to be seen on plurilateralising these bilateral MRAs, as the OAA calls for. It is not clear that all economies are reporting their bilateral MRAs in the IAPs and there is also no single source which lists all bilateral MRAs of APEC member economies. The table in the Annex provides such a listing, based only on the information provided in the 1998 IAPs. A stronger requirement for reporting bilateral MRAs, disseminating this information widely, and a more formal mechanism to encourage wider membership in these MRAs will strengthen the IAP process.

Much of the information on the standards alignment objective is found not in the IAPs but in the SCSC Convenor's annual publication -- *Report on Progress of Alignment with International Standards in APEC Priority Areas*. There is no need to repeat this information in the IAPs but some reference to the SCSC report would result in a more accurate reflection of progress towards this objective.

The OAA guidelines allow for a broad range of activities undertaken by member economies that are related to standards and conformance to be listed in the IAPs. Some of this information can be quite useful because they form the basis for identifying areas where further progress can be made, such as the listing of bilateral MRAs (see table below). There is a need for both more comprehensive coverage of such items as well as the transfer of this information into easily accessible formats.

Next Steps

- Clearer specification of the objectives and next steps in the areas of food products and toy safety would make IAP reporting easier to provide and to interpret.
- A stronger requirement for reporting bilateral MRAs, disseminating this information widely, and a more formal mechanism to encourage wider membership in these MRAs will strengthen the IAP process.
- Reference in the IAPs to the SCSC report on alignment with international standards will result in a more accurate reflection of progress towards this objective.

List of Mutual Recognition Agreements Documented in 1998 IAPs² REPORTED IN APEC MEMBERS' IAPS

Economy	Mutual Recognition Agreements (MRA)
Australia	New Zealand – <ul style="list-style-type: none"> • Trans Tasman Mutual Recognition Arrangement (TTMRA) – Goods and Occupations
Canada	Japan <ul style="list-style-type: none"> • Pharmaceuticals • Housing and Construction Korea <ul style="list-style-type: none"> • Telecoms USA <ul style="list-style-type: none"> • ISO 9000 • Legal Metrology With Several APEC Members <ul style="list-style-type: none"> • Fish and Fishery Products Inspection and Control Systems
Chile	Fish Products with USA, Canada and EU. Specific food products with US and Mercosur. Test Results and specifications in the area of fuels and electricity with Japan, USA, Netherlands, Canada, Italy, Germany, France, Austria, Switzerland, England, Denmark, Sweden, Norway and Belgium.
Japan	Building Standards <ul style="list-style-type: none"> • With the US, Canada, Australia and New Zealand. USA <ul style="list-style-type: none"> • Promoting MRA in good manufacturing practices (GMP) in medical devices and pharmaceuticals. Canada <ul style="list-style-type: none"> • Promote MRA in GMP with Canada Raw Edible Oysters MRA with: <ul style="list-style-type: none"> • Australia; • New Zealand; • USA; and, • Korea
Korea	New Zealand <ul style="list-style-type: none"> • By 2000 will establish an MRA in Laboratory Accreditation.
Mexico	USA <ul style="list-style-type: none"> • Tires • Safety Standards on Telecoms equipment
New Zealand	EU <ul style="list-style-type: none"> • Telecoms equipment • Medical devices • Machinery • Pressure equipment • EMC • Low voltage equipment

² Only APEC economies which listed MRAs in their IAPs are recorded in this table. The information in this table is based solely on member economies' IAPs and should not be taken as a comprehensive account of the MRAs that any given economy participates in. More comprehensive listings by all APEC members would, however, be desirable as a step towards addressing the OAA goal of pursuing "mutual recognition arrangements in regulated sectors through the development of bilateral, multi-sectoral mutual recognition arrangements, which might at a later stage provide the basis for plurilateral arrangements. . . ."

Economy	Mutual Recognition Agreements (MRA)
	<ul style="list-style-type: none"> • Pharmaceuticals <p>NZ and Australia have completed an MRA on regulatory requirements for traded goods and occupational qualifications for implementation</p> <p>Canada</p> <ul style="list-style-type: none"> • Fish and shellfish • Trade in live animals and animal products
Philippines	<p>Australia (no further information provided in IAP)</p> <p>Indonesia (no further information provided in IAP)</p>
USA	<p>Canada</p> <ul style="list-style-type: none"> • Have concluded an MRA to avoid duplication of quality system registration
Vietnam	<p>Vietnam has signed an agreement with China on quality assurance of exported and imported goods and on mutual recognition.</p>

Notes: 1. The information in this table is taken directly from member economies' 1998 IAPs.
2. APEC economies that did not report MRAs in their IAPs do not appear in this list.

CUSTOMS PROCEDURES

OBJECTIVE

APEC economies will facilitate trade in the Asia-Pacific region by simplifying and harmonizing customs procedures.

GUIDELINES

Each APEC economy will take actions toward achieving the above objective:

- a. along the lines of the Strategic Direction of the Action Program of the Sub-Committee on Customs Procedures; and
- b. taking fully into consideration the Guiding Principles (FACTS: Facilitation, Accountability, Consistency, Transparency, Simplification) of the above Action Program.

IAP FORMAT GUIDELINES

Members could affirm their commitment to providing timely and current input to the APEC database of applied tariffs, report progress and intentions with respect to implementing the following actions in the Customs Collective Action Plan, and describe the particular contribution of their own economy to agreed outcomes:

- a. Greater public availability of information by 1998
- b. Alignment with UN/EDIFACT international standards for electronic commerce by 1999
- c. Provision of temporary importation facilities by 2000
- d. Implementation of clear appeals provisions by 2000
- e. Alignment with the WTO Valuation Agreement by 2000
- f. Adoption or abiding by the principles of the Kyoto Convention by 1998
- g. Full implementation of the Harmonized System Convention from 1996
- h. Implementation of an advance classification system by 2000, and
- i. Implementation of the TRIPs Agreement by 2000
- j. Development of a compendium of Harmonized Trade Data Elements by 1999
- k. Adoption of systematic risk management techniques
- l. Implementation of WCO guidelines on express consignment clearance

Summary

The overall progress is exceptionally good. The vast majority of the collective actions are complete and before schedule. The combination of specificity and the time bound nature of the actions may have contributed to this result. It appears that there are no substantial activities which go unreported.

There are two challenges in this area:

- Preliminary results of a PECC poll of business people on their views of major impediments still focus on customs procedures as a priority issue.
- Given that the current collective action program is basically complete, if business expectations are to be met then new work will have to be developed.

Assessment

APEC economies were asked to report on each of the 12 objectives set out in the OAA Collective Action Plan. The extent to which the 1998 IAPs followed the format guidelines is uneven. At least a third of the IAPs did not align well with the CAP objectives. Improvement in this area is not difficult to attain and would go a long way in demonstrating the considerable progress that has been made on this TILF priority.

As it is, the best information on APEC's progress is found in the report of the Sub-Committee on Customs Procedures (SCCP) entitled *Blueprint for APEC Customs Modernization 1998*. Some reference to this document in the IAPs would provide a more complete picture of an APEC economy's progress towards the OAA objectives.

Of the 12 CAP objectives, one was to have been achieved by 1996; two by 1998; another two by 1999; six in 2000; and the remaining one in 2002. The specification of clear time lines and targets is a refreshing feature of this sub-committee's work program which bears emulating in other APEC forums.

Overall progress in this area has been excellent. In all APEC economies, more than half of the objectives have already been attained, in many cases ahead of schedule. There are, however, deficiencies in some of the IAPs where reporting on a member economy's steps towards meeting unfinished objectives is either sparse or absent altogether. Considering that most economies have very few objectives left to meet, and that the latest target date for completion is only two years away, more detailed reporting of this sort would be helpful and not difficult to provide.

APEC economies are well on their way to meeting the 12 Customs Procedures CAP objectives. However, there is a widespread perception amongst business people that inefficient customs procedures still pose an important hindrance to trade and investment in the region.

The disconnect between APEC's success in this area and the continued discontent expressed by businesspeople may be due to a variety of factors among which are: i) that the CAP objectives are too modest and do not address some of the more urgent issues that businesspeople are concerned with; ii) that the mere assertion of having achieved the APEC customs procedures objectives does not guarantee successful implementation of that objective at the working level; iii) business expectations continue to rise rapidly, especially as a consequence of the growth of new modes of international business.

By 2001, if APEC economies maintain their track record, only one of the twelve CAP objectives will be left to complete. Hence there is an opportunity for APEC to begin the process of renewing the CAP for Customs Procedures and to come up with a new set of objectives that will more closely address the concerns of business.

In addition, there is a need to pay greater attention to issues of execution and implementation at the economy level, which can be addressed through ECOTECH activities.

Next Steps

- A number of the IAPs do not align well with the CAP objectives. Improvement in this area is not difficult to attain and would go a long way in demonstrating the considerable progress that has been made in customs procedures.
- Reporting on a member economy's steps towards meeting unfinished CAP objectives is missing from some IAPs. Including this information would similarly strengthen the IAP process.
- APEC should begin the process of renewing the CAP for Customs Procedures and to come up with a new set of objectives that will more closely address the concerns of business.
- There is a need to pay greater attention to issues of execution and implementation at the economy level, which can be addressed through ECOTECH activities.

CUSTOMS PROCEDURES: NUMBER OF ECONOMIES REPORTING IN THE IAPs

		Implementation		
		Committed	Achieved	No Information
Greater public availability of information by 1998	18	18		
Alignment with UN/EDIFACT International Standards for Electronic Commerce by 1999	18	9	9	
Provision of temporary importation facilities by 2000	18	12	5	1
Implementation of clear appeals provision by 2000	18	16	2	
Alignment with the WTO valuation agreement by 2000	17*	12	3	2
Adoption or abiding by the principles of the Kyoto Convention by 1998	18	11	7	
Full implementation of the harmonized system convention from 1996	18	17		1
Implementation of an advance classification system by 2000	18	14	3	1
Implementation of the TRIPS agreement by 2000	17*	13	4	
Development of a compendium of harmonized trade data elements by 1999	18		17	1
Adoption of systematic risk management techniques	18	7	10	1
Implementation of WCO guidelines on express consignment clearance	18	8	9	1

*not applicable to Hong Kong, China.

INTELLECTUAL PROPERTY RIGHTS

OBJECTIVE

APEC economies will ensure adequate and effective protection, including legislation, administration and enforcement, of intellectual property rights in the Asia-Pacific region based on the principles of MFN treatment, national treatment and transparency as set out in the TRIPS Agreement and other related agreements.

GUIDELINES

Each APEC economy will:

- a. ensure that intellectual property rights are granted expeditiously;
- b. ensure that adequate and effective civil and administrative procedures and remedies are available against infringement of intellectual property rights; and
- c. provide and expand bilateral technical cooperation in relation to areas such as patent search and examination, computerization and human resources development for the implementation of the TRIPS Agreement and acceleration thereof.

IAP FORMAT GUIDELINES

Members could report on

- a. The steps they need to take to fully implement the TRIPS Agreement by 1 January 2000 and the measures they intend to implement (with timeframes) in order to do so
- b. Any intentions they have to accelerate TRIPS commitments
- c. The steps they are taking to ensure the expeditious granting of intellectual property rights
- d. The availability of effective remedies for the infringement of intellectual property rights, and
- e. Any special contributions they are making towards Collective Actions in this area.

Summary

Over the last several years, IPR laws, administration and enforcement procedures have improved among the APEC economies. Nevertheless, effective enforcement remains a challenge for all involved. Although the complex nature of IPR regimes makes it difficult for any economy to provide a straightforward yet comprehensive report, most economies have provided a wide array of useful information expressing a clear effort to make their IPR systems more effective and transparent.

PECC's review of the IAPs notes that all but five of the APEC economies report full or approaching compliance with the WTO Agreement on Intellectual Property Rights (TRIPS), with a number of economies noting accelerated implementation. Several of the other five did note

improvements in their IPR systems. Significant WTO-Plus contributions include, in addition to the acceleration of TRIP commitments, that one non-WTO member of APEC reports full compliance with TRIPs and others report improving IPR systems. Almost every economy reports substantial actions to improve civil and administrative procedures, but it is difficult in most cases to assess credibly whether the procedures are expeditious, the remedies are adequate, or the enforcement effective.

Almost all APEC economies have committed to various non-WTO multilateral IPR agreements. At least as reported in the IAPs, implementation of commitments for bilateral technical cooperation appear to be lagging. Furthermore, stronger commitments of bilateral technical assistance may be needed to help developing economies improve their IPR systems. The IAPs rarely mention contributions made by the IPR Experts Group, through Collective Actions, or through ECOTECH activities. Lastly, the APEC reports provide little evidence on how successfully IPR regulations have actually been implemented and enforced in the APEC economies, although the Collective Action Plans mention (IAPs do not mention) a program led by Mexico that aims to survey the effectiveness of implementation throughout the region.

Assessment

The OAA objectives are strong and straightforward, emphasizing both appropriate legal frameworks and enforcement. It acknowledges the wide array of international agreements on IPR, centering on satisfaction of the WTO TRIPS Agreement, which is a recognized standard for effective IPR systems.

The IAP format guidelines are solid. They highlight the importance of the TRIPs Agreement as the substantive standard for IPR administration in APEC economies, and emphasize expeditious procedures, adequate and effective enforcement, and the need for technical cooperation, and, in particular, assistance to developing economies given that IPR regimes are quite technical and are new for many developing economies. The guidelines do not provide a recommended common reporting format that would enhance transparency and comparability.

Meeting the OAA Objectives and the IAP Guidelines

Given the breadth and technical detail underpinning multi-functional IPR systems, it is difficult for any economy to provide a comprehensive report on their IPR systems. The IAPs for most economies, nevertheless, should be commended for providing a wealth of useful information for assessing their IPR regimes and how they have been improved over the last several years. The IAP reports by several economies on their IPR systems, however, are quite vague and of little value. The following assesses specific contributions.

- All but five APEC economies, according to material in the IAPs, are either conforming with TRIPS or are in the process of reaching that goal, with many noting accelerated implementation. Of the remaining five, several report improvements in their IPR systems. Several non-WTO members in APEC report in one case full compliance and, in other cases, clear improvements in their IPR regime, representing important WTO-Plus contributions.
- Although most economies report a number of actions taken to improve civil and administrative procedures, it is quite difficult within the current format to confirm specifically whether procedures are expeditious, remedies are adequate, or enforcement effective. Again, this is partly due to the breadth and technical detail that characterize IPR systems. However, the impression is that IPR procedures are effective in a number of economies and improving in many others within the region.

- Almost all economies noted commitments to various non-WTO international IPR agreements, but reporting criteria was not consistent.
- Regarding technical cooperation and assistance, the IAPs show that around 10 economies made commitments to provide or be involved in technical cooperation but did not report any actual activities. Less than 10 economies reported substantive technical cooperation activities, although several reported quite impressive programs. Either economies are not reporting the full extent of their technical cooperation activities in the IAPs, or the implication is that technical cooperation and assistance to developing economies on IPR leaves considerable room for improvement.
- Only a few economies refer directly to participating in the IPR Experts Group, contributing to Collective Actions, or provide references to ECOTECH activity. For example, most APEC economies have provided lists of relevant IPR legislation and regulations as well as agencies responsible for administering the laws and regulations, but these are generally not referenced in the IAPs.
- Finally, there is no meaningful way to judge how effectively the improved IPR procedures in the region are actually being enforced.

Contributions Toward the OAA Objectives Not Reported in the IAPs

The IAPs provide limited cross-referencing to CAP and ECOTECH activities. In particular, this makes it difficult to assess how effectively economies have committed to bilateral cooperation. Unreported in the IAPs, but listed in the Collective Action Plan and the IPR Experts Group Report are additional activities, including reports on each economy's IPR rules and regulations and key IPR government and non-government contract points, a policy framework for technical cooperation and a course on Management of Industrial Property.

Next Steps

The IAPs need a clearer cross-referencing to activities accomplished in the CAP and ECOTECH processes. In addition, a common reporting format would enhance transparency and comparability and could highlight priority actions. It would be helpful if the IAPs could provide a better assessment of the actual implementation of IPR regimes, providing separate on-the-ground assessments if possible among key IPR activities such as patent procedures and copyright and trademark enforcement. In this regard, surveys by regional businesses or business associations, or appropriate legal experts, or analysis of business indicators of the extent of IPR enforcement, would be helpful. The Collective Action on exchange of information on enforcement and the possibility of case studies on enforcement could prove quite useful.

COMPETITION POLICY

OBJECTIVE

APEC economies will enhance the competitive environment in the Asia-Pacific region by introducing or maintaining effective and adequate competition policy and/or laws and associated enforcement policies, ensuring the transparency of the above, and promoting cooperation among APEC economies, thereby maximizing, *inter-alia*, the efficient operation of markets, competition among producers and traders, and consumer benefits.

GUIDELINES

Each APEC economy will:

- a. review its respective competition policy and/or laws and the enforcement thereof in terms of transparency;
- b. implement as appropriate technical assistance in regard to policy development, legislative drafting, and the constitution, powers and functions of appropriate enforcement agencies; and
- c. establish appropriate cooperation arrangements among APEC economies.

IAP FORMAT GUIDELINES

Members could provide:

- a. A description of their competition policy framework, covering policy objectives and instruments for promoting them, including relevant laws and regulations and their intended scope
- b. An outline of any plans for the review of competition policy and/or laws and their enforcement, and
- c. A statement of any plans for implementing the technical assistance and cooperation arrangements envisaged by the Osaka Action Agenda.

Summary

Activity to date has largely represented a major learning phase, involving information sharing and dialogue on domestic policies and their interrelationships, and considerable development in understanding the range of policies that impact upon the competitive process and market efficiency. APEC is now taking a much broader approach to the scope and role of Competition Policy than it did at the outset. Work on competition principles has progressed in the past year although this is not reflected in the IAPs. A successful outcome in terms of 'APEC's competition principles' will be an important step in consolidating and building on the initial success in this area. The purpose of a set of competition principles is to guide the development of a competition-driven policy framework for APEC economies. Further work will be needed to build understanding of the linkages between the competition principles and a range of other IAP policy areas and to address the design and implementation of appropriate policy measures and institutional structures to give practical effect to the principles.

Assessment

The guidelines and collective actions deal almost exclusively with activities and measures designed to prepare the way for and contribute to achieving the objective, but refrain from specifying the measures themselves. This has led to considerable and useful debate on the appropriate scope and role of the Competition Policy area.

While the OAA objectives suggest a broad approach to the promotion of competition and the efficient operation of markets, this is far from being reflected in the IAPs. The actual coverage of the policies, measures and principles referred to hinges on the extent to which APEC economies are prepared to accept competition as a unifying theme in policy development.

The IAPs reflect a mixture of objectives. So far, a predominantly legal approach has been taken to achieve these. This is not surprising given the common association of competition policy with competition law and the lack of consensus on objectives and scope. The exercise has highlighted the link between the related legal/institutional factors and the different stages of development.

Indeed, the lack of consensus in part reflects the wide divergence among APEC economies in their level of development as well as legal, social, political and economic traditions. For many, competition policy, however defined, is a new area. Reaching consensus on an approach which might accommodate this heterogeneity, and at the same time faithfully reflect the OAA objectives, has been a major task which has justified the preparatory and exploratory efforts. The conclusion of this phase of activity is now in sight with the prospect that in 1999 APEC Economic Leaders may adopt a set of non-binding competition principles to guide the future approach of APEC economies to competition issues.

In reviewing the specified actions, PECC sees itself as reviewing the necessary initial phase of a concerted program to lay the foundation for the ultimate fulfillment of the OAA objective on competition policy. Its verdict is that the collective outcomes in this initial phase have been most constructive.

Despite some gaps and deficiencies in IAP reporting, which render a complete assessment difficult, the IAPs have contributed particularly to the policy review and information sharing requirements as well as to the transparency of relevant laws.

Review of Implementation

The accompanying table is structured around the specific OAA guidelines and collective actions. It details the number of economies committed to each and assesses the degree of completeness/coverage and the level of implementation. Summary comments are also provided.

It is important not to read too much into the number of economies committed to each objective/commitment. Just because an economy has not expressed an explicit commitment does not necessarily mean that it is not committed. Conversely, even when an economy makes an express commitment, it is difficult to see how the desired result will logically follow. For example, there is a commitment in one IAP to 'continue implementation and review of policies to achieve greater transparency'. But it is not clear how review and implementation achieve greater transparency. A follow-on step is required. For example: how are transparent policies assured?

It is difficult to assess 'completeness' in the Competition Policy IAPs. These areas are inherently unsuited to specific requirements or measurement. Specific rules or requirements will depend

very much on the particular economic, legal, political and business circumstances of the particular economy.

All economies are committed to competition in a general sense and are keen on increasing dialogue and understanding in these areas. However, their perception of the goals and objectives of the concepts of competition policy (and deregulation) vary markedly, as do the specified means of achieving them. Where a fairness objective means protection for producers, this is generally not helpful either to the cause of trade liberalization or to market efficiency.

Ultimately, an assessment of whether the Competition Policy (and Deregulation) areas of the IAPs are contributing towards achieving APEC's goals requires analysis of the underlying principles and whether or not these are being applied in ways that are compatible with those goals.

It is encouraging that of 17 economies whose possible IAP improvements for 1999 were examined, one made explicit reference to developing a comprehensive competition policy framework (with technical assistance) and one made explicit reference to initiatives for strengthening markets.

Next Steps

The critical task now facing APEC is how to consolidate and build on the success of the initial phase. In PECC's view this will require first and foremost a successful outcome in terms of 'APEC's competition principles', the purpose of which will be to guide progress towards achievement of the OAA objective. On the assumption that these principles reflect *comprehensiveness* as a core element, they will need to connect not only with APEC's interest in regulatory reform, but also with a range of other policy areas relevant to the OAA competition and market efficiency objective.

Building on the initial phase of competition policy development will also necessitate a review and re-specification of the IAP guidelines and of the collective action pertaining to principles.

The purpose of a set of competition principles is to guide the development of a competition-driven policy framework for APEC economies in order to create/maintain those market conditions that will enable and encourage an efficient competitive process to work. In PECC's view, *comprehensiveness* along with *non discrimination*, in the sense of *competitive neutrality*, *transparency* and *accountability*, should comprise the core elements of any competition principles adopted by APEC economies. These are compatible with the general principles on which the OAA is based but have special meaning in the context of a competition framework geared to welfare maximization as distinct from trade maximization. The principle of flexibility also finds expression in the PECC Principles in terms of the transition arrangements which reflect the region's diversity.

Once adopted, the competition principles will need to find expression throughout the IAPs if they are to influence policy development in all APEC economies in relation to all goods and services markets and to all modes of supply. The Collective Action Plan will need to provide the impetus for integrating the Principles in this way. It will also need to encourage explicit links between the progress members are being urged to make in respect of applying the Principles, and the requirements for capacity-building in individual economies.

If the IAPs become a successful vehicle for building a comprehensive competition framework for APEC economies, the phasing out of a separate Competition Policy area may become appropriate. Meanwhile, continued focus on competition issues in globalizing markets, and on the

relevance and role of competition principles, warrants special and continuing attention. Further, questions as to how competition principles apply in different situations, and how technical and other assistance can facilitate their application, will increasingly come to the fore and warrant specialist attention. In short, the importance of consolidating and building on the success of the first phase suggests that abandoning the Competition Policy area would be premature.

Certainly, the linkages between the competition and regulatory areas should continue to be strengthened - both by changing the objective of the latter to conform with the aims attaching to the competition principles and by changing the Deregulation nomenclature to Regulatory Reform. But, the focus on competition principles should not be subsumed by the regulatory reform area. Because of their cross-cutting nature, they need to maintain some stand-alone identity. One of the key challenges in the next phase of the IAP process is to build understanding of the linkages between the competition principles and a range of other IAP policy areas (including services, FDI, trade policy, intellectual property and government procurement).

As the Competition Principles comprehensively permeate the IAP process, they will help break down traditional and artificial policy compartmentalization, thereby enabling greater coherence in the pursuit of APEC's goals. They will also serve as an increasingly useful reference point for both peer and independent reviews of the IAPs.

None of this denies the importance of multiple policy objectives within individual economies. However, competition principles can help inform the policy choices to be made and help ensure that any tradeoffs in terms of market efficiency are transparent.

Competition Policy
Actions Which Have Been Specified In The Osaka Action Agenda Commitments Recorded
In Individual Action Plans

OSAKA ACTION OBJECTIVE	No. Economies Committed	Completeness/ Coverage	Level of Implementation
Guidelines			
Objective 1 - Review respective competition policy and/or laws and their enforcement in terms of transparency.	21	High	High
Objective 2 - Implement as appropriate technical assistance.	11	Medium	Low - ie. not much evidence of technical assistance as yet.
Objective 3 - Establish appropriate co-operation arrangements among APEC economies.	13 - in the sense that co-operation arrangements were specifically mentioned.	Medium	Low to medium. So far not many co-operation arrangements in place, but this is increasing.
Collective Actions			
Short term			
Objective 4 -Gather information and promote dialogue and studies	20	High	High
Medium term			
Objective 5 - Deepen competition policy dialogue between APEC economies and relevant international organizations	12 - i.e., they make express mention of this.	Medium	Medium
Objective 6 - Continue to develop understanding in APEC business community of competition policy and/or laws and administrative procedures.	16	Medium to high	Medium to high
Objective 7 - Encourage co-operation among the competition authorities of APEC economies with regard to information exchange, notification and consultation.	13 - in the sense that co-operation arrangements were specifically mentioned.	Medium	Low to medium - So far not many co-operation arrangements are in place, but this is increasing.
Objective 8 - Contribute to the use of trade and competition laws, policies and measures that promote free and open trade, investment and competition.	19	Medium	Medium
Long term			
Objective 9 - Consider developing non binding principles for competition policy and/or laws in APEC.	0 - No economies expressly mentioned.	Low in terms of recognition in IAPs.	Medium to High

GOVERNMENT PROCUREMENT

OBJECTIVE

APEC economies will:

- a. develop a common understanding on government procurement policies and systems, as well as on each APEC economy's government procurement practices; and
- b. achieve liberalization of government procurement markets throughout the Asia-Pacific region in accordance with the principles and objectives of the Bogor Declaration, contributing in the process to the evolution of work on government procurement in other multilateral fora.

GUIDELINES

Each APEC economy will:

- a. enhance the transparency of its government procurement regimes and its government procurement information; and
- b. establish, where possible, a government procurement information database and provide the information through a common entry point.

IAP FORMAT GUIDELINES

Members could provide:

- a. An overview of their systems and procedures, including where relevant details of current publication arrangements for government procurement opportunities, and highlighting where applicable existing or planned arrangements for enhancing access to government procurement opportunities such as the establishment of a government procurement information database
- b. A description of measures affecting access to government procurement opportunities, including at sub-central government level where relevant
- c. A list of any international government procurement instruments to which they have acceded, and
- d. An outline of their participation in multilateral and/or plurilateral activities for improving transparency in government procurement

Summary

In general, most APEC members have improved the transparency of government procurement regimes by increasing the availability of relevant information. A major contribution of APEC's work in this area is the publication of an Annual Report on Government Procurement by most APEC economies: however, this is not well reported in the IAPs.

The IAPs say little about contributions toward liberalization. The IAPs do not mention, for example, that “Non-Binding Principles on Government Procurement” have been endorsed, although this may be mentioned in future IAPs. At the time of the assessment, these included four key components: transparency; value for money and open and effective competition; fair dealing; and, accountability and due process. A fifth principle on non-discrimination has since been added. In addition, there is no reporting on how economies are abiding by these Principles. A major improvement in the IAPs can be expected if and when economies start reporting according to these principles.

Lastly, since only six APEC economies have reported signing the WTO Agreement on Government Procurement, almost all of these contributions can be considered as WTO-Plus.

Assessment

It is difficult to judge whether economies are meeting the OAA objectives or following the IAP guidelines, since a standard format on the type of information that should be reported is not delineated in the guidelines. In order to assess actions in line with the objectives and guidelines, PECC identified key areas related to government procurement that were common to a wide range of the IAPs. PECC examined whether or not APEC members have undertaken some degree of positive policy action in these areas. The table below is intended to provide a clearer summary of members’ policy actions. It also indicates in which areas economies have not reported the status of their efforts.

The results show some sort of policy action in approximately half of the areas identified. However, many areas remain under-reported. In several areas nothing was reported, although it is likely that some policy change is occurring.

	<i>Progress Indicated</i>	<i>Nothing Reported</i>
Signatory to the WTO-AGP6	6	11
Liberalized, Non-discriminatory, Transparent Procurement Process	18	3
Committed to establish procurement database	15	6
Database accessibility on the Internet	12	6
Absence of support to local suppliers	2	13
Bid challenge system in place	8	12
Minimum threshold requirement	6	15
Completed APEC Survey on GP	4	17
Designated contact office for procurement	15	5
Open bidding and tendering practiced	17	3

While the values in the above table indicate that there have been some constructive efforts in the area of government procurement, they do not indicate the nature nor the depth of commitment and progress. For example, a member economy may commit to developing a database for government procurement but never have any intention to implement. Similarly, the mere presence of a web site does not necessarily guarantee comprehensive information. It is necessary for members to improve their reporting so government procurement markets can be open to firms from throughout the APEC region. By opening government contracts to foreign suppliers, APEC members will contribute significantly to the Bogor goal of free and open trade and investment by 2010/2020. Transparency and the adroit dissemination of information is especially important in the

area of government procurement where timely and accurate information lend considerably to competitive advantage.

Next Steps

The IAPs do not reflect the actual progress that APEC members have made in this area. For example, there is no mention of activities that further the APEC Principles on Government Procurement, or commitments to the WTO agreement, which only 6 APEC members have signed. Further, the guidelines ask members to refer to the many useful contributions reported in the Collective Action Plans (CAPs), which include not only the Principles but also an Annual Report on Government Procurement. Not only would it be useful to provide references and linkages to the CAPs, but explicit links to ECOTECH activities would also be helpful.

Some of the information is simple enough to provide if the reporting member is reminded that such data is required. For example, providing information on the *designated contact office* should not pose a problem and could be monitored easily. A report monitoring process should be able to verify the existence and coverage of internet web sites with a view to further improving the comparability and completeness of data provided. The laws, regulations, rules of entry and exit and challenge and adjudication processes that impact on government procurement can be compiled and posted on the web, not only for reasons of transparency but also to facilitate other related processes—e.g., investment.

Different stages of development are likely to contribute to differences in commitments in this area. Not only are such commitments increasingly vulnerable to the economic problems of member economies, but they also pose new political challenges and pressures to the region's governments. In order to provide some semblance of comparability to the IAP reporting process, a timeline showing percentage of completion would perhaps be more useful in tracking members' progress. The accomplishments should be juxtaposed with commitments in a more rational way that allows for an individual member economies' characteristics.

Government procurement processes cannot be viewed in isolation from the investment and competition policy regimes of member economies. The procurement of goods and services is increasingly subjected to various risks --- commercial/market, sovereign/political and operational risks. Consequently, IAPs should be cross-referenced with other areas with a view to facilitating private business decisions. This becomes possible when the rules of the game become clear, transparent and, to a greater degree, comparable.

Lastly, given the importance of open and fair government procurement procedures to the APEC business community, it may be valuable to initiate an ongoing survey of APEC business perceptions of government procurement procedures in the region (possibly through ABAC).

DEREGULATION

OBJECTIVE

APEC economies will:

- a. promote the transparency of their respective regulatory regimes; and
- b. eliminate trade and investment distortion arising from domestic regulations which not only impede free and open trade and investment in the Asia-Pacific region but also are more trade and/or investment restricting than necessary to fulfill a legitimate objective.

IAP FORMAT GUIDELINES

In the Heading Statement for the issue area, members could provide inter alia an indicator of the extent and coverage of remaining regulations which impede free and open trade and investment. In their detailed reports, members could provide:

- a. A description by sector of deregulation measures have been undertaken already, including in each case the dates of announcement and implementation and the effects of the measure
- b. A list of planned deregulation measures by sector, including in each case the intended effects of the measure and the timeframe for its announcement and implementation

Summary

Most economies appear to recognize the importance of transparency both from an international and domestic viewpoint. A large number make commitments to transparency. A large number also mention specifically the objective of eliminating trade and investment distortions.

In addition, the commitments on deregulation go beyond those specified in the OAA. The members' actions have diverged beyond remedying trade and investment distortions that have international ramifications toward a focus on deregulation, presumably because of the domestic benefits. The emphasis in the commitments is in two areas: the reduction of government intervention in running the economy; and the reduction or elimination of regulations to cut the cost of doing business. Where significant privatization has occurred already, the emphasis is on further reducing regulation. In other economies, the focus is on privatization.

There is little mention in the IAPs of studies of best practice or of dialogue with business.

Assessment

The deregulation or reform part of the OAA objectives focus specifically on the trade and investment effects of domestic regulation.

The agreed collective actions focus on: the publication of annual reports detailing deregulation actions by APEC economies; identifying common priority areas and sectors for deregulation; policy dialogue in relation to 'best practices in deregulation'; and the possibility of establishing APEC guidelines on domestic deregulation. Technical assistance in designing and implementing deregulation measures, and regular dialogue with the business community, are also specified.

The IAP format guidelines call for a list of regulations which impede trade and investment and a description of deregulation initiatives which have been undertaken or which are planned.

Two approaches to the Deregulation area are thus discernible: one emphasizing trade and investment distortions arising from existing regulations; another reflecting a broader perspective to guiding progress on deregulatory measures, the implication being that this has relevance for building a comprehensive regulatory framework.

A linkage between this regulatory framework and competition issues has been emphasized at the operational level in APEC by merging the work program in the two areas of Competition Policy and Deregulation under a single working group. But the objectives of these two areas do not yet synchronize.

The nomenclature is important. 'Regulatory Reform' is a preferable focus to 'Deregulation', which implies an objective of eliminating regulations wherever possible. In fact, it needs to be recognized that efficiency considerations in many cases dictate that markets are appropriately subject to some form of regulatory intervention. Indeed, some APEC economies have found themselves obliged to consider new regulations or re-regulation in markets with inadequate regulatory frameworks. As an example, the issue of how to create the appropriate regulatory environment for privatized former state monopolies is an issue which has been exercising a number of APEC governments. The goal for APEC economies is therefore to achieve optimal regulation rather than the complete elimination of regulation. Efficiency, not trade, criteria are the basis for this optimal regulation.

In PECC's view this wider focus on efficient regulatory practice, rather than trade and investment effects alone, is appropriate. So too is the linkage which has been established between regulatory reform and competition issues. A well-designed regulatory framework, based among other things on sound competition principles, will contribute to the establishment and maintenance of an efficient, well-functioning market system in which all modes of supply can make their optimal contribution to economic growth and welfare.

It is important however to recognize that while the regulatory and competition areas overlap, they are not synonymous. Competition principles are cross-cutting; they provide an integrating framework, or umbrella, covering all markets and all those policies that impact on competition and efficiency in those markets. Thus, this competition-driven framework is relevant to trade and foreign investment issues as well as to domestic regulation.

Regulatory best practice will fully incorporate competition principles, but will also have to take other relevant requirements into account, for example prudential considerations in the case of the financial system.

Review of Implementation

While the overall progress recorded in the Deregulation IAPs is impressive, there tends to be some lack of clarity of focus. This would seem to emanate from the retention of the original Objective coupled with the two approaches described above.

The accompanying table is structured around the specific OAA objectives and collective actions. It details the number of economies committed to each and assesses the degree of completeness/coverage and the level of implementation. Summary comments are also provided.

As with Competition Policy, it is important not to read too much into the number of economies committed to each objective/commitment.

All economies are committed to deregulation in a general sense and are keen on increasing dialogue and understanding in these areas. However, their perception of the goals and objectives of deregulation vary markedly. A large number of economies mention specifically the objective of eliminating trade and investment distortion.

Completeness, insofar as it relates to the proportion of the economy covered by a commitment, may be an inappropriate measure in the Deregulation context since, in some cases, sector-specific intervention may conform with efficiency criteria.

Ultimately, an assessment of whether the Deregulation area is contributing towards achieving APEC's goals requires analysis of the underlying principles and whether or not these are being applied in ways that are compatible with those goals.

Most economies appear to recognize the importance of transparency both from international and domestic viewpoints. A large number of economies make commitments to transparency.

A large number of commitments to specific deregulation initiatives are recorded. These go beyond the trade and investment related objectives of the OAA to focus on deregulation more generally, because of the domestic benefits in terms of competition and efficiency, as well as international competitiveness.

The emphasis in the commitments is in two areas: the reduction of government intervention in running the economy and the reduction or elimination of regulations in order to cut the cost of doing business. In economies where significant privatization has already occurred, the emphasis is on further reducing regulation. In other economies, the focus is on privatization as the first step in the deregulation process.

However, while the IAPs reflect this broader approach to regulatory reform, they make little specific reference to regulatory best practice, policy dialogue or guidelines, despite the CAP references. This could be because of some resistance to any implication that one-size-fits-all given that not all deregulatory successes are readily transferable. Thus, while the volume of deregulation initiatives recorded in the IAPs is impressive, it is not possible to gauge how far these initiatives conform to concepts of regulatory 'best practice', and therefore the extent to which they can be expected to fulfil their objective of contributing to overall economic efficiency.

There is also little mention in the IAPs of dialogue with business. A symposium held in Kuantan in September 1998 is not anywhere mentioned. In 1996 the CTI consolidated deregulation initiatives recorded in IAPs into a single publication, *Deregulation Initiatives of APEC Member Economies*. In doing so the CTI hoped that the publication would 'be of interest to the business community, and that it will be a useful guide to the new opportunities which are arising as APEC members continue to progressively their economies'. If this intention is to be realized the publication will need to be regularly updated in an accessible form. In particular, business would need to be aware of the extent to which the regulatory environment has changed in many APEC economies as a result of reforms following the Asian Economic Crisis.

Next Steps

The requirements for optimal regulation go beyond deregulation. Accordingly this needs to be reflected in the IAP Objectives and Guidelines as well as in a change of nomenclature from Deregulation to Regulatory Reform. Further, the Objectives for Regulatory Reform need to be adjusted to make clear that they are not limited to removing trade and investment distortions.

While understanding of optimal regulation has been considerably enhanced by working group activities, further development of relevant principles is crucial. These principles will serve as a reference point for the future content and direction of the IAPS. But also, agreement on competition and regulatory principles can help inform the development of future reporting and assessment practices.

DEREGULATION POLICY
ACTIONS WHICH HAVE BEEN SPECIFIED IN THE OSAKA ACTION AGENDA
COMMITMENTS RECORDED IN INDIVIDUAL ACTION PLANS

OSAKA ACTION OBJECTIVE	No. Economies Committed	Completeness/ Coverage	Level of Implementation
Guidelines			
Objective 1 - APEC economies will promote the transparency of their respective regulatory regimes.	17 - ie. they specifically mention transparency, other than reciting the OAA objectives.	High	High
Objective 2 - APEC economies will eliminate trade and investment distortion arising from domestic regulation which not only impede free and open trade and investment in the Asia Pacific region, but are also more trade and/or investment restricting than necessary to fulfil a legitimate objective.	19 - ie. they specifically mention in the body of their IAP eliminating trade and investment distortion	Medium	Medium
Collective Action			
Short Term and Ongoing			
Objective 3 - APEC economies will publish annual reports detailing actions taken by APEC economies to deregulate their domestic regulatory regimes.	19	High	High
Long term			
Objective 4 - Development of further action – including policy dialogue on APEC economies experiences in regard to best practices deregulation.	0	Low	Low
Objective 5 - Regular dialogue with business community including a possible symposium.	0	Low	Low

RULES OF ORIGIN

OBJECTIVE

APEC economies will:

- a. ensure full compliance with internationally harmonized rules of origin to be adopted in relevant international fora; and
- b. ensure that their respective rules of origin are prepared and applied in an impartial, transparent and neutral manner.

GUIDELINES

Each APEC economy will:

- a. align its respective rules of origin with internationally harmonized rules of origin to be adopted as a result of the WTO/WCO process; and
- b. ensure predictable and consistent application of rules of origin.

IAP FORMAT GUIDELINES

In the Heading Statement for the issue area, members could provide inter alia details of published sources of information on their ROO_regimes (eg the APEC Compendium on ROO). They could provide also any supplementary information required to:

- a. Specify the type and purpose of ROO applied (i.e. preferential or non-preferential), and describe the nature of the ROO in question
- b. Describe the primary method of calculating origin (eg ad valorem, change of tariff classification, specified process) and, if the primary method is change of tariff classification, specify whether a change to the chapter or to a heading is required to confer origin and the level at which change is required (eg 2/4/6 digit level). If there are exceptions to general rules, members could specify these.

In their detailed reports, members could:

- c. Provide details of any situations where different types of ROO are applied for different policy purposes
- d. Outline steps they are taking to implement the procedural obligations of the WTO Agreement on Rules and, in particular to:
 - define the requirements that importers and exporters must meet under any administrative determinations of general application
 - publish all rules of origin, base them on a positive standard, and not apply them retroactively
 - issue assessments of origin to particular goods as soon as possible, and in no event later than 150 days after receipt of a complete request
 - ensure that non-preferential rules are not used to pursue other trade policy objectives, are non-discriminatory, and do not in themselves distort trade flows
 - maintain the confidentiality of all business information furnished in connection with ROO determinations
- e. Provide details of any existing or planned avenues of independent judicial, arbitral or administrative appeal for ROO determinations, and
- f. Outline details of their participation, if any, in the development of harmonized rules in the WTO/WCO, and undertake to develop and publish an implementation plan to effect alignment with WTO/WCO rules once they are available

Summary

There is a high level of commitment among APEC economies to aligning rules of origin with the internationally harmonized rules being worked out in the WTO/WCO. Implementation is stalled pending the conclusion of a final agreement in the WTO/WCO on the form of these harmonized rules.

The WTO/WCO process relates to non-preferential rules of origin. PECC considers that APEC should also give attention to preferential rules of origin. It is important that preferential rules of origin do not constitute unnecessary barriers to trade within the region. This issue takes on added importance because of the apparent proliferation of regional trading arrangements among APEC members.

Assessment

Table 1 reports the number of economies that have made commitments under different guidelines and collective actions.

It is striking to note that virtually all members made commitments to actively participate in the current WTO talks on harmonized ROO, to ensure compliance with the pending international harmonized ROO, and to apply these rules in an impartial and fair manner. Equally striking is the observation that even APEC members which are not members of the WTO committed themselves to align with the same harmonized ROO once they are adopted internationally.

Among the 17 WTO members of APEC, 16 members declared that they will be complying with the harmonized ROO in the future. This interest is reflected in the participation in collective action. Many economies declared that they are actively engaged in the work associated with the harmonized non-preferential ROO in the WTO/World Customs Organization (WCO).

Since WTO members will in any case be obliged to align their ROOs with the harmonized rules emerging from the WTO/WCO process, a question may be raised as to what value is being added in this area. One dimension of APEC's added value is the confidence-building that derives from a shared commitment to harmonization. A second "WTO-plus" dimension comes from the fact that non-WTO members are also encouraged to commit themselves to realign with the harmonized ROO. In this respect, 3 out of the 4 non-WTO members in APEC have signified their intention to realign their ROO in this way.

The WTO/WCO process is concerned with non-preferential rules of origin. The emphasis on the WTO/WCO process in the IAPs means that they too focus primarily on non-preferential ROO. There is also considerable attention directed to non-preferential ROO issues in the collective actions which are referenced in the 1998 IAPs. Commitments involving preferential ROOs are limited to information dissemination (e.g. as regards rules in AFTA, NAFTA, CER, etc.).

Preferential ROO are of course essential to the operation of preferential regional trading arrangements. These arrangements are sanctioned by the WTO provided the conditions laid down in GATT Article XXIV are met, and several examples of such arrangements

exist in the APEC region. In the longer term the achievement of APEC's goals should see the phasing out of preferential trade in the APEC region, so that preferential ROO should no longer be necessary. In the short term however there is widespread concern in the region that preferential ROO may be applied in ways that are unnecessarily discriminatory and trade-restricting.

APEC could be doing much more to respond to this concern. A useful starting point would be the development of collective actions aimed at building understanding of the ways in which preferential ROOs may inhibit trade and impair economic efficiency, and of ways to design preferential ROOs so as to minimize these negative effects. Application of competition principles may make a useful contribution to development of a sound conceptual framework for dealing with these issues.

Guidelines/Collective Action	Committed <i>Number of economies</i>	Implemented ³ <i>Number of economies</i>	Implemented/ Committed (%)
Rules of Origin			
<i>Guideline A:</i> The economy aligns its respective rules of origin with internationally harmonized rules of origin to be adopted as a result of the WTO/WCO process.	19	0	0
<i>Guideline B:</i> The economy ensures predictable and consistent application of rules of origin.*	11*	11	100%
<i>Collective Action A:</i> The economy gathers information on APEC economies' respective rules of origin, both non-preferential and preferential, and operation thereof without duplicating WTO work in this area, exchange views and develop a compendium of rules of origin for the use of the business/private sector.	8	8	100%
<i>Collective Action B:</i> The economy facilitates, complements, and accelerates, in the short term, WTO/WCO work on harmonization of non-preferential rules of origin.	17	17	88.24
<i>Collective Action C:</i> The economy studies in due course the implication of rules of origin on the free flow of trade and investment, with a view to identifying, in the longer term, both positive and negative aspects and effects of rules of origin related practices.	11	1	10%

* refers only to economies that claim to implement the WTO Agreement on Rules of Origin

The implementation of the guideline on ensuring predictable and consistent application of ROO is fairly high, depending on the interpretation. A strict interpretation would imply adherence to the Principles set out in the WTO Agreement on Rules of Origin such as use of a positive standard, transparency, notification requirements, etc. On this count, 11 APEC members complied. If the criterion can be broadened to count explicit announcements of the non-preferential and preferential ROO regimes, the rate of implementation increases to 15 economies. In any event, the level of commitment and implementation in the provision of information, which enhances predictability and transparency of ROO, is again fairly high.

Implementation of the collective actions is mixed. As mentioned earlier, almost all economies said that they were engaged in the WTO/WCO work on harmonization of non-preferential ROO. Around a third of the members said that they are studying the implication of rules of origin on the free flow of trade and investment. Only a handful of the member economies actually stated in their IAPs that they have conducted seminars or

³ "Implemented" may be taken to mean as an ongoing activity or an action which is already completed.

gathered information of the ROO for use by the business/private sector. It is possible that some member economies did not reflect their actual participation in collective actions in their IAP, on the assumption that implementation of collective action would be covered in the relevant Convenor's Report. If so, the IAPs may understate the rate of implementation of collective actions.

Next Steps

There is also scope for more economic and technical cooperation in this area. Specifically, capacity building activities can be undertaken to assist member economies in the technicalities involved in determining and administering ROOs.

There is still room for improving the presentation of IAPs to fit the requirements of IAP Format guidelines. Many of the ROO entries in the 1998 IAPs, are not detailed enough nor do they refer to specific documents, as called for in the IAP format guidelines. In addition, most IAPs fail to outline the specific steps that are being taken to implement the procedural obligations of the WTO Agreement on Rules of Origin.

DISPUTE MEDIATION

OBJECTIVE

APEC economies will:

- a. encourage members to address disputes cooperatively at an early stage with a view to resolving their differences in a manner which will help avoid confrontation and escalation, without prejudice to rights and obligations under the WTO Agreement and other international agreements and without duplicating or detracting from WTO dispute settlement procedures;
- b. facilitate and encourage the use of procedures for timely and effective resolution of disputes between private entities and governments and disputes between private parties in the Asia-Pacific region; and
- c. ensure increased transparency of government laws, regulations and administrative procedures with a view to reducing and avoiding disputes regarding trade and investment matters in order to promote a secure and predictable business environment.

GUIDELINES

Each APEC economy will:

- a. provide for the mutual and effective enforcement of arbitration agreements and the recognition and enforcement of arbitral awards;
- b. provide adequate measures to make all laws, regulations, administrative guidelines and policies pertaining to trade and investment publicly available in a prompt, transparent and readily accessible manner; and
- c. promote domestic transparency by developing and/or maintaining appropriate and independent review or appeal procedures to expedite review and, where warranted, correction of administrative actions regarding trade and investment.

IAP FORMAT GUIDELINES

In the Heading Statement for the issue area, members could detail inter alia their domestic provisions for dispute mediation and settlement, list the relevant international agreements to which they are signatories or which they are committed to sign, and describe the dispute settlement provisions of their bilateral agreements. In their detailed reports, members could report progress and intentions towards meeting the targets laid down in the Objectives and Guidelines of the Osaka Action Agenda, in particular to:

- a. Facilitate and encourage the use of procedures for the timely and effective resolution of private-government and private-private disputes
- b. Ensure increased transparency of government laws, regulations and administrative procedures
- c. Provide for the mutual and effective enforcement of arbitral agreements and the recognition and enforcement of arbitral awards, and
- d. Develop and/or maintain appropriate and independent review or appeal procedures with respect to administrative actions regarding trade and investment

Summary

APEC has not been able to encourage members to develop a cooperative procedure for resolving disputes, but efforts have been made to develop procedures for resolving disputes involving the private sector and there has been an increase in transparency in relevant laws and regulations.

Assessment

First, 11 economies have implemented their commitment on settling disputes cooperatively at an early stage, to avoid confrontation and escalation. In the 1994 Bogor Declaration, APEC economies proposed a Voluntary Dispute Mediation Service. However it was discarded and APEC economies decided to use the WTO settlement procedures instead. Toward this end, the development of seminar programs under the supervision of the Dispute Mediation Experts' Group has provided the APEC economies greater understanding of the WTO dispute settlement mechanism.

Second, the 1998 IAP indicates that 16 economies have fully implemented their programs on dispute resolutions between private-to-private and private-to-government. Most economies have strengthened their stand to effectively resolve disputes in the domestic arena. The accession of member economies to the International Convention on the Settlement of Investment Disputes (ICSID), the implementation of the New York Convention by 13 member economies, and the successful and timely publication of the *Guide to Arbitration and Dispute Resolution in APEC Member Economies* have led to increased transparency in trade and investment.

Moreover, the Experts Group's campaign for a broader awareness of procedures for the settlement of private-to-private disputes paves the way for more seminars or other means of education and dissemination of information in this area. For example, Thailand proposed a seminar on investment related disputes in March of 1998. It received the unanimous agreement of the Experts Group, won the approval of the CTI, and obtained funding. APEC economies such as Thailand and Japan have pioneered in the establishment of arbitration office which promote and develop services for effective use by interested parties with special emphasis on disputes arising out of trade and investment.

Lastly, 17 economies have implemented their programs on the issue of transparency. The drive to increase transparency of government laws, regulation and administrative procedures strengthens the commitment of member economies to the Osaka Action Agenda. The OAA calls for measures to make all laws, regulations and administrative procedures relating to trade and investment be publicly available in a prompt, transparent and readily accessible manner as a means of dispute avoidance. As such a economy like Singapore has achieved greater transparency with the implementation of LawNet, a computer network that integrates existing system located and operated by various government organizations, and therefore increased access to Singapore's laws and regulations.

Furthermore, proposals to assign a central contact point within each APEC government for businesses employed in trade and investment are being considered by the Experts Group.

The result of the IAP review indicates that most economies have been active in pursuing their commitments. The voluntary acceleration of implementation of commitments by

other economies gives an idea of how serious these economies are in their programs. It is interesting to note that most economies have promoted domestic transparency and are looking for more ways to make their laws transparent to all.

Next Steps

Though the IAP shows improvement yearly, it must be noted that most commitments are vague and do not explain how each economy was able to implement its commitments. Secondly, there remains the challenge of improving the facilitation for the settlement of disputes between government and private sectors. Finally, it is useful to continuously update the *Guide to Arbitration and Dispute Resolution in APEC Economies* and make the Guide more accessible to the private sector in the region.

MOBILITY OF BUSINESS PEOPLE

OBJECTIVE

APEC economies will enhance the mobility of business people engaged in the conduct of trade and investment in the Asia-Pacific region.

GUIDELINES

Each APEC economy will contribute positively to the work on the mobility of business people being undertaken in relevant WTO fora.

IAP FORMAT GUIDELINES

Members could draw on the APEC Business Travel Handbook, and on returns to surveys conducted by the Committee on Trade and Investment, to complete their Heading Statements. In their detailed reports, members could:

- a. specify measures which they are taking or intend to take to facilitate the mobility of business people; and
- b. affirm their intention to contribute positively to the work on business mobility being undertaken within APEC fora

Summary

Almost all of the APEC member economies explicitly committed to an action plan that would facilitate the mobility of business people. The nature of the commitments, however, vary a great deal across the member economies. Action in the IAPs towards facilitating MBP is mostly through visa arrangements and processing. Nearly all economies have committed to and implemented collective action aimed at streamlining and accelerating through visa processing and temporary residency arrangements for business people. A large number issue Multiple Entry Visas for business people and some are considering to offer them. Most offer visa-free entry to some APEC economies and 6 economies participate in the APEC Business Travel Card while 2 are considering joining. Individually, most APEC economies in one way or another enhance MBP by continuously reviewing and improving visa arrangements and entry procedures.

Many of the activities in this area lie in collective action, and participation in this mode may not often be reflected in the IAPs. As result there is likely to be more progress in this area than the IAPs reveal. Reporting the results of collective actions in the IAPs would improve this situation.

Assessment

As indicated in their IAPs, all APEC economies show support for enhancing the mobility of business people (MBP) engaged in the conduct of trade and investment in the Asia-Pacific region (see Table 1). The strength of their commitments is apparent from the relatively high rate of implementation. The IAPs indicate that 19 out of the 21 APEC economies claim to have actually implemented at least one action that facilitates the mobility of business people.

Commitments to enhance mobility of business people can fall under either collective or individual action. An evaluation⁴ of each economy's IAP reveals action towards facilitating MBP is mostly through visa arrangements and processing (in this assessment visa also refers to entry permits where relevant).

- 19 economies have committed and implemented a collective action that examines the possibility of setting the scope for cooperation at a regional level aimed at streamlining and accelerating through visa processing and temporary residency arrangements for business people. APEC economies issue Multiple Entry Visas for businesspeople and 4 more are considering to offer them.
- 13 economies offer visa-free entry to some APEC economies.
- 6 economies participate in the APEC Business Travel Card and 2 are considering joining.
- Individually, most APEC economies in one way or another enhance MBP by continuously reviewing and improving visa arrangements and entry procedures.

Collective actions that entail dialogue among APEC economies seem a less preferred option to the economies. Eleven economies establish and maintain a dialogue on mobility issues with the business community. Six economies exchange information on regulatory regimes in regard to the mobility of business people in the region. In particular, three of them provide updates on business entry requirements for inclusion in the Handbook. Only one reported to have participated in establishing common criteria to facilitate the mobility of business people. On the other hand, 4 economies reported that they had surveyed or participated in a survey of APEC members' regulations and requirements relating to short-term entry for business people. Further, only 2 economies appear to update regularly the internet version of the APEC Business Community of members' short-term business travel requirements.

Finally, 11 economies have explicitly affirmed their intention to (continually) contribute positively to the work on business mobility being undertaken within APEC forums.

⁴ The commitments reported in each economy's IAP 1996 and 1998 were tallied. An economy is considered "committed" to an action when it has expressed its plan towards that particular action. It is considered "implemented" when it has either implemented or in the process of implementing that particular action. Evaluation is strictly limited to the given reports.

Table 1: Rate of Implementation			
Guideline/Collective Action	Committed	Implemented	Implemented/ Committed
	<i>Number of economies</i>		<i>(percent)</i>
<i>Guideline A:</i> The economy enhances the mobility of business people engaged in the conduct of trade and investment in the Asia-Pacific region.	21	19	91
<i>Collective Action A:</i> The economy exchanges information on regulatory regimes in regard to the mobility of business people in the region.	6	4	67
<i>Collective Action B:</i> The economy examines possibility of setting the scope for cooperation at a regional level aimed at streamlining and accelerating through visa processing and temporary residency arrangements for business people.	19	19	100
<i>Collective Action C:</i> The economy establishes and maintains a dialogue on mobility issues with the business community.	11	9	82

As Table 1 appears to indicate progress in the implementation of the commitments of APEC economies in enhancing the mobility of business persons. Almost all economies reported to have worked towards this goal in one way or another. However, it must be noted that the method of tallying the commitments does not take into consideration the 'quality' of the commitment. Also, this method does not distinguish among members that committed and implemented many collective actions from those that have implemented only one. Thus, putting equal weights to the rates of implementation may overstate the general implementation performance.

Next Steps

Many of the activities in this area lie in collective action, and participation in this mode may not often be reflected in the IAPs. As result there is likely to be more progress in this area that the IAPs reveal. Indeed a reading of the convenor's report of the working party in this area indicates more activities and accomplishments than otherwise reported in the IAPs. It is thus recommended that IAPs reflect the participation of members in collective action activities.

Underlying the difficulty of assessing this area is the absence of benchmarks. What could be a benchmark with which to evaluate whether an economy is liberalized 'enough' in terms of mobility of business people? Ideally, if we take into account considerations of value-added APEC process such as concepts of WTO-plus commitments (as referred to in GATS provisions for movement of natural persons, for instance), a better indication of the advancement of this OAA can be reached. Unfortunately, the IAPs, as they stand, do not point out what provision or commitment are considered WTO plus. To gain a better sense of the advancement of the APEC process in this area, the IAPs should be more explicit about what are considered value-added in APEC. It is suggested that as a natural starting point, the IAPs should be very specific about who is included in the category of 'businesspeople.' This can also enhance transparency in the process.

One clear exclusively APEC action in the IAPs is the formation of the APEC Business Travel Card, and the project of the APEC Business Travel Handbook. To advance this OAA item, more members should be encouraged to participate in the APEC Business Travel Card. Perhaps, an evaluation of the experience, which may include performance statistics of this scheme, could be made available in APEC. This area offers many possibilities for capacity building as ECOTECH activities.

Another area for advancing mobility is in extending more widely existing bilateral arrangements made by certain APEC economies (e.g. visa waivers, multiple entry visa requirements) to all APEC economies.

Furthermore, APEC members are encouraged to explore possibilities of harmonizing the duration of stay or visa validity.

Finally, there is wide scope for ECOTECH activities in assistance to train customs/immigration personnel in new technologies and procedures such as INSPASS.

IMPLEMENTATION OF THE URUGUAY ROUND OUTCOMES

OBJECTIVE

APEC economies will ensure full and effective implementation of Uruguay Round outcomes within the agreed time frame in a manner fully consistent with the letter and the spirit of the WTO Agreement.

GUIDELINES

- a. Each APEC economy which is a WTO member will fully and faithfully implement its respective Uruguay Round commitments.
- b. Each APEC economy which is in the process of acceding to the WTO Agreement may participate in APEC Uruguay Round implementation actions through voluntary steps to liberalize its respective trade and investment regimes consistent with the WTO Agreement.
- c. Each APEC economy will, on a voluntary basis, accelerate the implementation of Uruguay Round outcomes and deepen and broaden these.

IAP FORMAT GUIDELINES

Members could:

- a. report in specific terms on progress towards meeting the Osaka Action Agenda objective of ensuring full and effective implementation of Uruguay Round outcomes within the agreed time frame in a manner fully consistent with the letter and spirit of the WTO Agreement, and
- b. specify any measures they intend to take to accelerate, broaden or deepen Uruguay Round commitments

Summary

Virtually all those APEC economies that are members of the WTO have made explicit commitments in their IAPs to implement their UR obligations. However, the real progress in this area can only be determined by detailed indications of implementation.

The IAP format guidelines call for such reports with details of specific measures and timelines. The IAPs lack such specificity. As a consequence, it is difficult to assess real progress in this area.

Reporting on implementation would be greatly improved if the information was presented in a common format using an agreed template. The template could include such key

items as notifications and tariff binding targets. Establishing a common format for reporting would:

- enable proper assessment and monitoring; and
- give credibility to APEC's aim to provide leadership in the multilateral trading system.

Assessment

One framework with which to assess progress in the IAP in this area is to evaluate the rate of implementation of the different commitments. The commitments, in turn, can be classified according to the specific guidelines or collective action, which they address, irrespective of whether the timeframes are short, medium, or long term.

Commitments are considered implemented regardless of whether full implementation has been achieved or where implementation is still ongoing. For example, the IAP commitment of an economy to act on its UR obligations, can be considered "implemented" so long as the economy is on track relative to its schedule. In addition, commitments are considered implemented if there is at least one task reported in the IAP as completed, that contributes, regardless of whether this is deemed 'significant' or otherwise, to the attainment of a commitment. This methodology does not distinguish whether the commitment is considered significant enough or otherwise. For instance, advancing the implementation of the intellectual property rights legislation ahead of the UR timelines, can already be considered as implementing the commitment of accelerating the UR commitments.

The rate of implementation can be gleaned from the Table 1:

Table 1: Rate of Implementation of Commitments			
Guidelines/Collective Action	Committed	Implemented ⁵	Implemented/Committed
	No. of economies	No. of economies	(%)
<i>Guideline A:</i> The economy, which is a member of WTO, fully and faithfully implements its respective Uruguay Round commitments.	17	17	100%
<i>Guideline B:</i> The economy, which is in the process of acceding to the WTO Agreement, participates in APEC Uruguay Round implementation actions through voluntary steps to liberalize its respective trade and investments regimes consistent with the WTO Agreement.	1	1	100%
<i>Guideline C:</i> The economy voluntarily accelerates the implementation of Uruguay Round outcomes and deepens and broadens these implementations.	14	13	93%
<i>Collective A:</i> The economy utilizes on an on-going basis Uruguay Round implementation seminars and other appropriate means to (1) improve APEC economies' understanding of provisions in the WTO Agreement and obligations thereunder; (2) identify operational problems encountered in implementation of the WTO Agreement and areas in which APEC economies may require technical assistance; and (3)	10	7	70%

⁵ "Implemented" may be taken to mean as an ongoing activity or an action which is already completed.

explore cooperative efforts to provide such technical assistance in implementation.			
<i>Collective B:</i> The economy considers implementation of suggestions for follow-on work from Uruguay Round implementation seminars.	2	0	0
<i>Collective C:</i> The economy undertakes technical assistance based on discussion at the above seminars, including cooperative training projects targeted at prevalent implementation problems to be undertaken in conjunction with the WTO Secretariat and other relevant international institutions.	4	4	100%

As table 1 reports, all WTO members of APEC committed to implement their UR commitments. Likewise they also reported in their respective IAPs that their implementing schedules are on track. The high implementation rate is not surprising considering the binding nature of the WTO commitments. On this basis, it is difficult to attribute the implementation of the guidelines as a primary fruit of the APEC process. However, as echoed in the previous discussions, the explicit commitments in the IAPs on guideline 1 can serve to muster confidence-building among the members in the WTO. The fact that member economies remained steadfast in pursuing their WTO commitments in the IAP, despite the financial crisis that afflicted the region, indicate indirectly the support for the multilateral trading arrangement. We suggest that this nuance be highlighted. In addition this is a potentially rich area for ECOTECH initiatives aimed to assist member economies build capacities to implement the UR commitments.

Perhaps the more striking features in the IAP commitments in this area, which can be considered as WTO-plus, are embodied in the second and third guidelines. The second guideline called for voluntary steps, on the part of APEC members which are still in the process of acceding to the WTO, to liberalize their respective trade and investment regimes consistent with the WTO Agreement. Again, the fact that in general, APEC members which are not WTO members commit to implement the UR agreements upon their accession to the WTO, should not be surprising simply because such agreements are binding. In this regard, there is still need for more transparency and detail on the part of APEC members in the process of acceding to the WTO, to spell out specific voluntary initiatives to liberalize their economies. Only one member did so in its 1998 IAP. There is room for improving implementation of this guideline.

The third guideline called for accelerating the implementation of UR outcomes and deepen and broaden these. Obviously there are many overlaps with the other areas: tariffs, services, deregulation, etc. Acceleration of the UR outcomes can have many forms and includes bringing forward the dates of implementation of the UR agreements in tariff bindings, legislation to implement TRIPS, TRIMs, ITA, etc. At least, eight economies implement the guidelines under this modality whereas two economies broadened UR outcomes by exceeding the targets, in say non-tariff barriers removal or tariff bindings called for in the UR. Whether these APEC plus measures were direct results of the APEC process is not very clear. However, at the very least, what can be said is that APEC promotes such measures.

Next Steps

Assessment of progress in this area would improve if the guidelines were to be made more specific. For instance, a listing of the different UR obligations (e.g. notifications, tariff

binding targets, etc.) with their respective timelines, which an APEC member have undertaken, could be incorporated in the IAP. A clear template or agreed common format would greatly improve this process. An assessment of the implementation and extent of acceleration on the part of APEC members could then be easily made by comparing the actual reported status of the members vis-à-vis their listed commitments and timelines. If this enhanced monitoring of WTO commitments was to be pursued in the IAPs, then the APEC process could really be instrumental in supporting and driving forward the multilateral process. Also, the presentation of this monitoring instrument could enhance transparency in the IAP.

While it is recognized that there is wide scope for ECOTECH activities in collective action⁶, the record for commitment and implementation of the collective action points are rather modest. Only four undertook technical assistance for training projects, for instance. Thus, there is still scope for more ECOTECH initiatives in this field for the subsequent IAPs. Furthermore, APEC can highlight the importance of the ECOTECH dimension by demonstrating how the APEC process can assist the few APEC economies that are not yet members of the WTO in adjusting to the demands of the multilateral process.

⁶ Perhaps the modest response could be attributed to non-reporting in the IAP. Because collective action plans are already reported by the different working party convenors, the IAPs may not reflect the accomplishments. In this case, the IAPs could very well be understated. The officials can be reminded to include the accomplishment in their respective collective action plans in the IAP for proper accounting of implementation.

INFORMATION GATHERING AND ANALYSIS (GROUNDWORK)

OBJECTIVE

APEC economies will secure a solid platform for the expansion and improvement of Actions in Specific Areas and APEC economies' respective Action Plans by undertaking *inter-alia* cross-sectoral work.

IAP FORMAT GUIDELINES

Members could endorse the program of Collective Actions being undertaken by APEC, and specify any special measures they are themselves taking to facilitate this issue area

Assessment

The information gathering and analysis work of APEC is a one of its success stories. As implied by the format guidelines this work has largely been carried out through collective actions. IAPs generally show endorsement for this work.

The challenge for APEC is ensure that its limited resources are used most effectively especially in these time and resource intensive exercises. It therefore remains important for APEC to avoid duplication of effort within APEC itself and with other international or regional organizations. The need for information should be driven by policy imperatives and goals rather than for its own sake. APEC working groups should periodically assess the relevance and necessity of each information gathering exercise to ensure that it serves these policy goals.

Given that the non-government sector is a potentially major user of this information, it is vital that APEC is responsive to the needs of outside groups from the business sector and academic institutions in its data gathering exercises.