

**Taking Stock of the Progress in the LAISR Initiative and  
Structural Policies in APEC Economies**

Report by the Economic Committee

November 2010

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## EXECUTIVE SUMMARY

### ***Structural Reform in APEC***

Structural reform refers to measures to improve market efficiency, such as improvements to regulatory systems, competition frameworks and governance structures. APEC's momentum towards structural reform has been supported by ministerial and leaders' mandates since the inauguration of the *Leaders' Agenda to Implement Structural Reform* (LAISR) in 2004, which comprises five priority areas, i.e. regulatory reform, competition policy, corporate governance, public sector governance and strengthening economic and legal infrastructures. The Economic Committee (EC) was charged with responsibility for leading the agenda, and its internal structure has evolved over time to facilitate this initiative. The global financial crisis has attached renewed importance to the structural reform agenda, such as the need to foster inclusive growth. This stock-take of the LAISR initiative has been conducted following an instruction by the *APEC Ministerial Meeting on Structural Reform* held in 2008.

### ***A wide range of structural reform activities conducted under clear objectives***

Under the LAISR initiative, EC has overseen a large number of seminars and workshops to facilitate capacity building for structural reform in the five priority areas. In addition to these traditional approaches in APEC, the EC has also employed new approaches such as developing checklists/guidelines, holding a ministerial meeting and introducing a process of voluntary reviews of institutional frameworks to facilitate the LAISR initiative. EC has also produced an annual *APEC Economic Policy Report* each year on one of the five priority areas, which has been serving as an important source of information on key structural reform issues in the APEC region and has been one of the most frequently accessed publications on the APEC website.

### ***Member economies have also worked hard to facilitate structural reforms***

The value of the LAISR initiative has been demonstrated by the efforts of APEC economies to undertake structural reform. Among the five LAISR areas, a number of economies cited *regulatory reform* as the area in which they had made the most significant progress. Economies are making efforts to creating business-friendly environments through regulatory reform. Initiatives have been taken to enhance the effectiveness of *competition policy*, in which economies often face similar challenges in setting up competition regimes. Member economies are increasingly aware of the importance of applying *good corporate governance*, although the diversity among APEC economies has necessitated a flexible approach when implementing international principles. Various efforts have been made in member economies to improve

*public sector governance* to address similar challenges inherent in the public sector. *Economic and legal infrastructure* has also been upgraded in many member economies. In achieving these successful reforms, leadership has been identified as the key element to ensuring success, along with effective communication and consultation with stakeholders. Institutional frameworks and use of independent experts and analysis are also considered to be important.

### ***Structural reforms produce significant economic benefits***

Studies undertaken in some member economies have estimated significant economic gains from structural reforms. In addition, a new study by the APEC Policy Support Unit (PSU) has found that structural reforms in key infrastructure industries in member economies have resulted in lower prices, differentiation of services and other service improvements. It also estimated that the introduction of more competition in these industries could lead to gains that would be almost twice as big as the gains from further liberalisation of trade.

### ***APEC's work on structural reform should be reenergised, building upon the progress in LAISR.***

The LAISR initiative has made significant progress and the choice of the five areas seems to have been appropriate. Given that structural reform takes time to produce concrete results and that APEC is faced with new challenges, structural reform should remain as a key priority agenda for APEC beyond 2010. The five LAISR priority areas continue to remain relevant, however some necessary modifications will be made to the scope of the topics to build on lessons learnt and reflect the priorities of members. Going forward, capacity building programmes can be further strengthened by developing methods for better dissemination and strengthening collaboration with other fora. The success of the new APEC Ease of Doing Business (EoDB) initiative will depend on the active contributions by the champion economies, close cooperation between relevant groups and businesses, and high-level leadership. Some flexibility would be needed in implementing the initiative to allow for the diverse nature of economies, while maintaining sufficient momentum. Taking an approach which combines cross-cutting themes as pursued under LAISR and sectoral themes will be important in addressing new challenges such as facilitating inclusive growth. As a forerunner in inter-regional cooperation on structural reform, APEC, in particular the EC, is well placed to further pursue this policy agenda, while also collaborating with other international fora as appropriate.

## **PART I**

# **PROGRESS IN APEC AND MEMBER ECONOMIES**

## **Section 1: Introduction**

### ***1.1 A brief overview of the LAISR initiative***

Since its inception, APEC's economic focus has been on trade and investment liberalisation and facilitation. As tariffs, quotas and other trade barriers at the border have diminished in the APEC region, the focus of APEC has naturally shifted to the structural and regulatory obstacles that inhibit cross-border trade by creating “behind-the-border” barriers to improving business performance (see also the *Report on Assessment of Achievement of the Bogor Goals* prepared for the AMM/AELM in November 2010).<sup>1</sup>

In 2004, APEC Leaders endorsed an ambitious work programme called the *Leaders' Agenda to Implement Structural Reform* (LAISR). The Economic Committee (EC) was subsequently charged with responsibility for leading APEC's structural reform work programme and implementing the LAISR. Leaders indicated that structural reform should be promoted in the areas of regulatory reform, strengthening economic and legal infrastructures, competition policy, corporate governance, and public sector management (later renamed as public sector governance). In 2005, the EC established the *APEC Work Plan on LAISR towards 2010* (LAISR 2010) to set out a roadmap to address structural reform issues across APEC over the 2005-2010 period.

In 2006, APEC Ministers instructed the EC, drawing on LAISR 2010, to develop a detailed and ambitious work programme outlining how APEC's structural reform agenda will be progressed in a clear and consistent manner. This report, referred to as the *EC Forward Work Programme for LAISR* (FWP), provided a high-level overview of how the EC would progress APEC's structural reform agenda across the five LAISR priority areas through until 2010.<sup>2</sup>

### ***1.2 Global financial crisis has reaffirmed the importance of structural reform***

While the member economies and APEC were working hard to push forward structural reform policies (see Sections 2 and 3), a global financial crisis hit the region in 2008, which highlighted

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<sup>1</sup> Such a shift in focus would also reflect the APEC Leaders' recognition in the late 1990s: “As Leaders, we accept responsibility for ... addressing structural and regulatory weaknesses that contributed to the economic downturn from 1997.” (*APEC Leaders' Declaration: The Auckland Challenge*, September 1999).

<sup>2</sup> According to the FWP, “Structural reforms refer to measures to improve market efficiency, such as improvements to regulatory systems, competition frameworks and governance structures. By domestic economies increasing their efficiency, flexibility and resilience through structural reform, the Asia-Pacific is stronger as a region.”



weaknesses in some economies' regulatory and institutional settings. Against such a backdrop, APEC Leaders agreed in November 2009 to formulate a comprehensive long-term growth strategy in APEC.<sup>3</sup> Particular attention was paid to fostering inclusive growth, i.e. to broaden access to opportunities created by growth and to spread the benefits of growth more widely so that consensus for free and open trade and investment would be strengthened. As an input into APEC's development of an agenda on inclusive growth issues, the EC submitted a report to APEC Ministers through Senior Officials in 2009 which explored the concept of inclusive growth and its various components.<sup>4</sup> One of the report's key conclusions is that inclusive growth is consistent with APEC's structural reform agenda.

Meanwhile, the APEC Finance Ministers discussed in November 2009 how structural reforms that improve economic flexibility, raise productive potential, develop financial markets and increase private demand could contribute to raising potential output in the medium- to long-term and narrowing development imbalances and reducing poverty, and called upon APEC economies to leverage on each others' expertise in structural reforms in specific areas. They also encouraged the EC to intensify its efforts to promote structural reform, particularly noting the importance of its work on competition policy and regulatory reform.

G20 also recognises the importance of structural reform. At their Toronto Summit in June 2010, G20 Leaders recognised that structural reforms could have a substantial impact on economic growth and global welfare across all G20 members and declared their intention to implement measures that would enhance the growth potential of member economies in a manner that paid particular attention to the most vulnerable.

### ***1.3 Ministerial mandate to conduct LAISR stocktaking***

This year marks a turning point for APEC's structural reform agenda as it is the final year of the LAISR initiative and it is also the year to take stock of APEC's progress on structural reform. At the *APEC Ministerial Meeting on Structural Reform* (SRMM) held in Melbourne, Australia in August 2008, the EC was asked to report back to APEC Leaders on:

- progress in implementing the LAISR 2010 forward work programme; and

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<sup>3</sup> "We will put in place next year a comprehensive long-term growth strategy that supports more balanced growth within and across economies, achieves greater inclusiveness in our societies, sustains our environment, and which seeks to raise our growth potential through innovation and a knowledge-based economy" (The APEC Economic Leaders' Meeting Statement, Singapore, November 2009).

<sup>4</sup> See *APEC's Inclusive Growth Agenda - Senior Officials' Report to APEC Ministerial Meeting 2009* (2009/AMM/R/004).

- progress by economies in pursuing domestic structural reforms

at the end of the FWP. The task was confirmed at the *APEC Leaders Meeting* in November 2009.<sup>5</sup>

Since 2009, the EC has carried out a stock-take of structural reform programmes via various activities as summarised in Box 1. They include i) the LAISR Stock-take Survey of EC members, ii) the EC Seminar on “*Impacts of Structural Reform and LAISR Stock-take*” in which an outline of the study on impacts and benefits of structural reforms conducted by the APEC Policy Support Unit (PSU) was also discussed, and iii) discussions at the EC plenary meetings. This Stock-take Report has been prepared based on the outcomes of these activities.

There are some basic viewpoints that were considered when conducting the stock-take exercise.

*First*, given the diverse background and development stages of APEC economies and the APEC’s cooperative, non-binding and consensus-based tradition, this report does not attempt to provide one-size-fits-all type conclusions and recommendations for adoption by member economies. Rather, it aims to draw lessons from the past experiences to be shared with member economies as well as to inform the audience of the importance of structural reform in general.

*Second*, since structural reform often takes time to produce concrete results, this exercise does not exclude reform initiatives undertaken before LAISR. Some earlier reform policies which the EC members consider relevant in the current context have been included in the report.

**Box 1. Outline of the activities carried out by the EC on the LAISR stock-take**

Against the backdrop of the global financial crisis, the EC1 meeting held in Singapore in February 2009 included a round table discussion on the implications of the crisis, where members reaffirmed the importance of continuing structural reform efforts, not only for overcoming the crisis but also for enhancing the potential of long-term growth.

A Brain-storming Session for Restoring Growth and Post-LAISR Agenda was held at the EC2 meeting in Singapore in July 2009. The session was aimed at discussing the structural policy for addressing the crisis and rebuilding the basis for sustainable growth, with a view to initiating a discussion on the post-LAISR agenda beyond 2010. The issues for discussion included possible new priority reform areas for resuming

<sup>5</sup> The APEC Leaders stated “We look forward to the progress stock-take in implementing the LAISR forward work programme in 2010, and instruct our Ministers and officials to strategise the next phase of the LAISR, including in the context of supporting our new growth strategies.”

growth and issues related to inclusive growth, reflecting the discussion at the APEC Ministers Responsible for Trade (MRT) meeting.

The EC Chair conducted a LAISR Stock-take survey in late 2009 and received responses from the five FotC Coordinators, the CPLG Convenor and all of the 21 member economies (hereinafter referred to as the *Stock-take Survey*). An outline of the stock-take report including a preliminary summary of the responses to the Stock-take Survey was tabled at the LAISR Stock-take Seminar (see below) and the EC1 meeting in February 2010 (2010/SOM1/EC/011).

The EC Seminar on "*Impacts of Structural Reform and LAISR Stock-take*" (hereinafter referred to as the *Stock-take Seminar*) held in the margins of the EC1 meeting in February 2010 comprised discussions focused on structural reforms in the telecommunications, transport and energy sectors in APEC, and presentations on an outline of the ongoing *PSU Study* (see below) and stock-take of progress made on LAISR. The importance of structural reform in the post-financial crisis was a recurring message in the seminar. It attracted around 70 to 80 participants including presenters from academia, international organisations and businesses.

At the EC1 meeting held in Hiroshima, Japan in February 2010, a round table discussion on the post-LAISR agenda including its relationship with the Growth Strategy was held based on two issues papers prepared by the EC Chair (2010/SOM1/EC/018 and 2010/SOM1/EC/019) as well as a concept note jointly prepared by the US, Australia, New Zealand and Singapore (2010/SOM1/EC/020).

Following the EC1 meeting, the EC Chair carried out a quick survey of the EC members on possible new priorities for structural reform (hereinafter referred to as the *Quick Survey*), their effective implementation mechanisms and the role of the EC. Based on the *Quick Survey* results and the discussion at the EC1, the EC Chair made a presentation on the EC's discussion on the Post-LAISR structural reform agenda at the Extraordinary SOM held in Tokyo in April 2010 (2010/ESOM/006, see Attachment 1).

Following a request by one of the Senior Officials, the EC Chair gave a presentation on an interim report on the LAISR stock-take at the SOM2 held in Sapporo, Japan in June 2010 (2010/SOM2/R/011). APEC Ministers Responsible for Trade consequently welcomed the progress in the five LAISR areas and encouraged senior officials to develop a new structural reform agenda beyond 2010.

At the EC2 meeting held in Sendai, Japan in September 2010, the EC members discussed the draft LAISR stock-take report prepared by the EC Chair as well as the future directions of the EC's structural reform work, including the reformulation of the LAISR areas.

## **Section 2: Progress in Implementing the LAISR 2010 Forward Work Programme**

This section reviews the progress in implementing the LAISR initiative including an overview of activities conducted mainly by the EC and their key outcomes, followed by an overall evaluation.

### ***2.1 EC's institutional framework has evolved to facilitate the LAISR initiative***

APEC's momentum towards structural reform has been supported by ministerial and leaders' mandates as explained above. Presumably, such high-level commitments should have encouraged an active participation of member economies in carrying out various structural reform programmes. Meanwhile, the fact that the EC was appointed as the driving force of the LAISR initiative essentially resulted in a greater focus on cross-cutting approaches. To accomplish this task, the EC's internal structure and the implementation mechanism have needed to evolve over time by making the best use of resources available.

**Table 1. The five FotC Coordinators and the CPLG Convenor**

Areas/group	FotC Coordinators/CPLG Convenor (as of September 2010)
Regulatory Reform	Australia
Competition Policy	Hong Kong, China
Public Sector Governance	New Zealand
Corporate Governance	The United States
Strengthening Economic and Legal Infrastructure (SELI)	Japan
Competition Policy and Law Group (CPLG)	Japan

Five "Friends of the Chair" (FotC) groups for the LAISR priorities were set up in 2007. The FotC mechanism was designed to ensure that the work programme of the EC reflects the priorities of member economies and guides the work of the EC through until 2010. The reporting lines of Strengthening Economic and Legal Infrastructure (SELI) and the Competition Policy and Deregulation Group (CPDG) were transferred from CTI to EC in 2008, while the CPDG was later renamed as the Competition Policy and Law Group (CPLG) to reflect the group's focus on competition policy and law. Discussions within the FotCs and the CPLG

including the bi-annual revision of the FWP have been led by the five FotC Coordinators and the CPLG Convenor (see Table 1 and Attachment 2). The FotC system has worked well as it has allowed economies to commit themselves to one or two LAISR areas and invest resources into these areas.

## ***2.2 A wide range of activities have been conducted***

The diversity of APEC economies provides member economies with a greater chance to learn from each other. Sharing information on best practices and lessons learned have been the main instruments in driving APEC's structural reform programmes. The *APEC Economic Policy Report* (AEPR), the main publication of the EC since 2006, has been serving as an important source of information for government officials, academics, and other stakeholders on the key structural reform issues in the APEC region. This annual report is designed to focus on one of the key themes of LAISR (see Box 2). The AEPR has been one of the most frequently accessed publications on the APEC website – e.g. the 2009 AEPR has to date been the second most accessed publication in 2010.

### **Box 2. Main themes of the past AEPRs**

The 2006 AEPR, prepared by Canada, New Zealand and Viet Nam, provided a high-level overview of the structural reform mandate given to the EC. It started with a brief summary of the work that APEC undertook on structural reform and its policy implications, examined sustainable development issues with an emphasis on the role of structural reform, and reviewed individual economies' domestic structural reform activities over the past 10 years.

The 2007 AEPR, prepared by New Zealand and Australia, focused on public sector governance. It established a range of generalised high-level principles for good public governance and identified key tensions in public sector governance and the processes that had evolved to overcome these challenges. It also focused on domestic institutions to support reform.

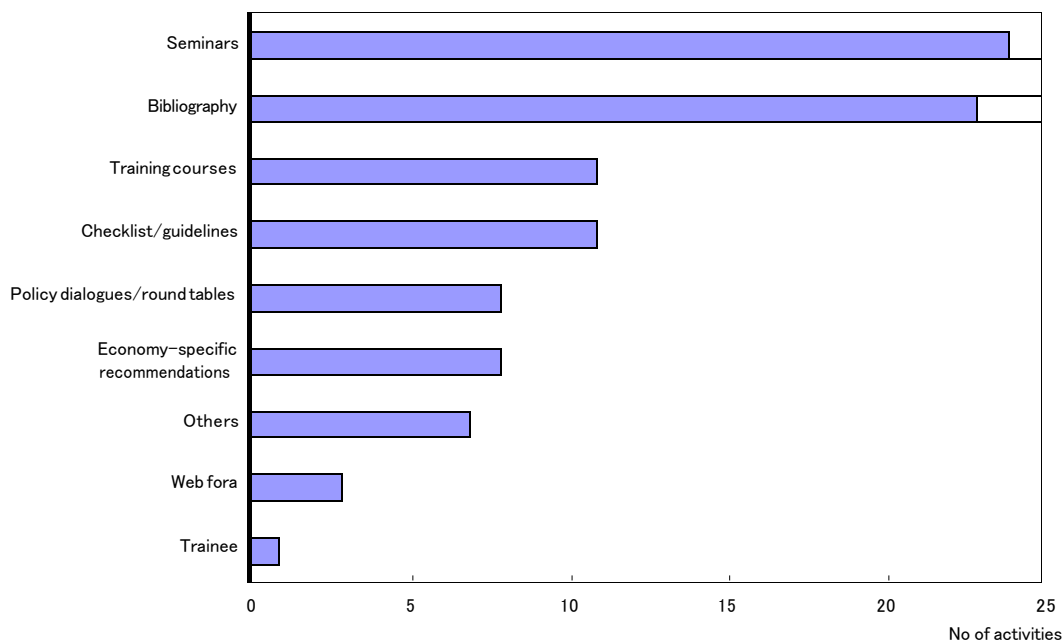
The 2008 AEPR, prepared by Japan and Peru, focused on competition policy. It shared lessons about how APEC economies had adopted and had been enforcing competition policy, highlighted achievements and activities by APEC in competition policy, and helped formulate the focus of future competition policy work.

The 2009 AEPR, prepared by Australia and Singapore, focused on the theme of regulatory reform and outlined key elements of a good regulatory reform framework, measured the regulatory burdens on

business, and reviewed individual economy experiences in implementing regulatory reform. The report provided a useful tool to identify and share good frameworks and best practices to guide regulatory reform of member economies.

The 2010 report, prepared by the United States and Japan on the theme of corporate governance, focused on 1) corporate governance and sustainable economic growth and 2) legal and institutional foundations of corporate governance in APEC economies.

**Figure 1. Capacity building activities by type**



Note: The above table has been prepared by the EC Chair office for indicative purposes by simply aggregating the number of activities reported by the FotC coordinators at the time of the capacity building survey distributed in December 2008.

Meanwhile, a large number of capacity building exercises have been conducted as part of the LAISR initiative. According to a survey conducted in 2008/2009 on the EC capacity building activities (see Section 5), which had asked the FotC coordinators to report activities in each of the five FotC areas according to the contents classification given by the EC Chair, nearly one hundred structural reform-related activities had been conducted mostly during the period between 2006 and 2008.<sup>6</sup> There would also be events that had not been captured in this survey, and the number of capacity building activities conducted in the 2009-2010 period is also

<sup>6</sup> Attention should be paid to the fact that the scope of the survey was not necessarily confined within APEC, but also included reports and activities of other international institutions, governments, academicians, and bilateral scheme etc. As a result, around 30 activities conducted outside of APEC have been included in the survey result.

significant. In terms of the types of activities that were carried out, seminars were found to be most frequently conducted, followed by bibliographies and training courses which are APEC's traditional approaches to capacity building.

In addition to these, the EC has also employed other approaches including i) developing checklists and guidelines, ii) holding a ministerial meeting to facilitate reforms, and iii) introducing a process of voluntary reviews of institutional frameworks and processes.

The *APEC-OECD Integrated Checklist on Regulatory Reform* was developed as a voluntary tool that member economies can use to evaluate their regulatory reform efforts. It outlines principles such as the importance of regulatory quality, competition and the avoidance of unnecessary economic distortions. It also promotes core values such as transparency, non-discrimination and accountability. Six economies (Chinese Taipei; Hong Kong, China; and the United States in 2006; Australia and Korea in 2007; and Japan in 2010) have so far presented the findings from their self-assessment activities to the EC. Through such exercises, the Checklist functions as a repository of APEC and the OECD members' experience, knowledge and best practices leading to further reforms. Such an experience could also be used as a model for cooperation between APEC and other international fora.

The first-ever SRMM was held in Melbourne, Australia in August 2008. This provided an opportunity for Ministers to share experiences on the political challenges of structural reform, strategies to support the reform process, and optimal institutional frameworks. Ministers recognised the benefits of structural reform as it a) provides better quality products and services at lower prices, combined with better choice for citizens, b) expands gains from trade and investment, c) strengthens capacity to respond to changes in the global economy, and d) increases economic stability, competitiveness, overall productivity and sustainable economic growth and ultimately, improving the wellbeing of citizens. Ministers endorsed a *Comprehensive Good Practice Guide on Regulatory Reform*, which aimed at providing economies' with useful tips and practical experiences on good practice for regulatory reform, including regulation making, review and enforcement. They also agreed to initiate a process of voluntary self reviews of member economies institutional frameworks that support structural reform, and EC was tasked to further develop the process.

The *APEC Voluntary Reviews of Institutional Frameworks and Processes for Structural Reform* was subsequently endorsed at the EC2 meeting in July 2009. The purpose of the review is to assist economies to build and maintain effective institutions and processes to support structural

reform efforts. The recommendations will be cognizant of the reviewed economy's political system and developmental status and will be tailor made to assist each economy with the process of reform.

### 2.3 Overall evaluation of the activities

Although it is not a simple task to evaluate the overall progress in implementing the LAISR initiative, a couple of distinctive characteristics can be pointed out regarding the APEC's structural reform activities. The following points suggest that APEC has been making a difference in this key policy area.

**Table 2. The objectives of the current FWP and number of action items**

Areas	Objectives	No of action items
<i>Regulatory reform</i>		
	1 Enhance APEC economies' regulation making, review and enforcement processes and systems	5
	2 Improve APEC economies' regulation in key sectors of the economy	3
	3 Address key regulatory burden on businesses in APEC economies	2
	4 Assess overall progress in regulatory reform amongst APEC economies and set direction for future work	1
	(Completed items)	
	1 Provide context for the discussion on regulatory reform within APEC	1
	2 Provide guidance for good practice regulation principles and practices within APEC	5
<i>Competition policy</i>		
	1 Set the stage for productive discussion on competition policy within APEC	1
	2 Stocktake of progress in competition policy and set direction of future work	1
	3 Capacity building to implement practical measures	1
	4 Promote better understanding of practical measures to strengthen competition policy	1
	(Completed items)	
	1 Provide context for the discussion on competition policy within APEC, identifying areas of need for competition policy	1
	2 Provide guidance for good practice	2
	3 Stocktake of progress in competition policy and set direction of future work	1
	4 Capacity building to implement practical measures	1
	5 Promote better understanding of practical measures to strengthen competition policy	2
<i>Corporate governance</i>		
	1 Set the stage for productive discussion on corporate governance within APEC	3
	2 Identify areas of need for strengthening corporate governance	1
	3 Build consensus on best practices in corporate governance	1
	4 Build capacity to implement practical measures	3
	5 Increase awareness of the elements of sound corporate governance	3
	6 Stocktake of progress in strengthening corporate governance and set direction of future work	1
<i>Public sector governance</i>		
	1 Set the stage for productive discussion on public sector governance within APEC	3
	2 Identify areas of need for strengthening public sector governance	2
	3 Promote better understanding of practical measures to strengthen public sector governance	11
	4 Capacity building to implement practical measures	1
	5 Increase awareness of the elements of sound public sector governance	1
	6 Stocktake of progress in strengthening public sector governance and set direction of future work	2
<i>Strengthening economic and legal infrastructure</i>		
	1 Set the stage for productive discussion on strengthening economic and legal infrastructure within APEC	2
	2 Identify areas of need for strengthening economic and legal infrastructure	2
	3 Build consensus on best practices in strengthening economic and legal infrastructure	1
	4 Promote better understanding of practical measures to strengthen economic and legal infrastructure	1
	5 Capacity building to implement practical measures	1
	6 Increase awareness of the elements of sound economic and legal infrastructure	3
	7 Stocktake of progress in strengthening economic and legal infrastructure and set direction of future work	1

Note: The above table has been prepared by the EC Chair office for indicative purposes by simply aggregating the number of action items registered in the *Consolidated LAISR Forward Work Programme* submitted to EC1 in 2010.



*First*, a major outcome of the LAISR initiative is that it has translated into a large number of activities. No other international cooperation would come close to APEC in terms of the volume of activities to facilitate structural reform. These activities would have certainly increased the awareness of the importance of structural reform in the APEC region and contributed to capacity building.

*Second*, such a wide range of activities have been organised along the five priority areas and under clear objectives set out in the FWP as summarised in Table 2. This has been made possible through the development of the EC's internal structure.

*Third*, the approach is unique to APEC, i.e. it has a strong sense of providing assistance tailored to each economy's needs, reflecting the diversity of APEC member economies. Many of the activities under the LAISR framework are actually targeted at government officials who are in charge of implementation of specific economic policies. Such capacity building activities are particularly welcomed by developing economies (see Box 3). This contrasts with the approach taken by the OECD, which is another international forum focusing on structural policies in recent years.<sup>7</sup>

**Box 3. Need for capacity building: examples of Stock-take Survey responses by developing economies**

- The LAISR Forward Work Programme (FWP), which is mostly in the forms of capacity building activities such as seminars, roundtable discussions, workshops, has been really raising the awareness on how important structural reform is for improving trade and investment of economies, especially for developing economies
- Under the APEC framework, more technical assistance should be provided. Moreover, technical assistance programmes should not be common to all member economies; instead, they should be designed to meet the specific needs of each member economy.

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<sup>7</sup> The OECD's approach leverages on peer pressure and indicator-based monitoring, such as the Economic Development and Review Committee (EDRC)'s examination of economic situation and policies of each member country conducted every 1.5 to 2 years based on a draft report prepared by the OECD Secretariat, and the annual *Going for Growth* structural surveillance which relies on a set of internationally comparable indicators.

### **Section 3: Progress by Economies in Pursuing Domestic Structural Reforms**

The *Stock-take Survey* asked the EC members to report back its progress in structural reform (mainly in the five LAISR areas within each economy), examples of successful reforms, lessons learned in implementing reforms and the keys to the success of reform. This section summarises the responses received.

#### ***3.1 Structural reform has become a common agenda for all APEC economies***

All of the 21 member economies have responded to the *Stock-take Survey* with progress in some kind of structural reform, which indicates that the LAISR initiative has helped increase the awareness of the importance of structural reform in the APEC region and that structural reform has become a common agenda for all APEC economies. More specific comments by member economies indicate that APEC economies are implementing structural reform in order to strengthen medium-term growth potential and raise living standards.

#### ***3.2 Progress was reported in all five priority areas***

The *Stock-take Survey* asked member economies, the five FotC coordinators and the CPLG Convenor for details of the progress in reforms in the five areas. Below is a summary of the responses (see also Box 4 for some concrete examples of structural reform and Part II for the full responses).

##### *Regulatory Reform*

A number of economies cited regulatory reform as the area which made the most significant progress among the five areas. The results of the survey have highlighted that many economies have recently made concerted efforts to improve the consultation process in the rule-making process, particularly with the business community. There are indeed many unique but ambitious programmes aiming at creating a business-friendly environment through regulatory reform as reported in the *Stock-take Survey*, which suggests that governments across the APEC region have recognised the importance of regulatory reform as a key instrument to attracting businesses and enhancing growth potential.

##### *Competition Policy*

A couple of economies have reported that initiatives have been taken in recent years to enhance the effectiveness of competition policy, including implementation or improvement of

competition law. In addition, the Competition Policy FotC Coordinator reported the outcome of the *APEC Seminar on the Role of Competition Policy in Structural Reform* held in June 2007 that economies often faced similar challenges in setting up competition regimes, such as insufficient expertise, the need to build a competition culture, a lack of coordination across agencies on competition issues and limited resources. Meanwhile, the discussion at the *Stock-take Seminar* held in February 2010 confirmed the importance of competition policy, and suggested that opening up strategic sectors such as telecommunications, transport and energy might help drive competition as well as greater accessibility at the consumer level.

#### *Corporate governance*

Member economies are increasingly showing interest in applying good corporate governance rules, although different levels of development and different economic structures (e.g. state owned enterprises versus fully private corporations) have necessitated a flexible approach to implementing international principles as reported by the Corporate Governance FotC Coordinator.

#### *Public sector governance*

The *Stock-take Survey* has revealed that various efforts have been made in member economies to improve the performance of the public service, such as providing greater incentives for public workers, enhancing efficiency and reducing reporting burdens, and promoting transparency. The similarity of the challenges that the member economies are facing suggests that these problems are more or less inherent to the public sector. It would be important to make continuous reform efforts in order to produce visible results. In this context, sharing information on successes and lessons learned would be extremely important.

#### *Strengthening economic and legal infrastructure (SELI)*

Economic and legal infrastructure, including bankruptcy law, has been upgraded in many member economies. Meanwhile, the SELI Coordinator has reported that developing economies are increasingly interested in dispute settlement mechanisms such as Alternative Dispute Resolution (ADR).

#### **Box 4. Some examples of structural reforms reported in the Stock-take Survey**

##### *Regulatory reform*

- Progress in the Special Zones for Structural Reform initiative, an idea to allow regulatory changes in dedicated geographical areas to act as a testing ground.

- The expansion of the Sunset Clause, the introduction of a Temporary Regulatory Relief Mechanism, and the Regulatory Reform for New Growth Engine Industries as well as the reduction in regulations on business start-ups, which enabled individuals to set up a company in about 7 days.
- Continuous improvement to facilitate business environment to make it predictable and conducive to encourage foreign direct investment and facilitate businesses. Reform initiatives include i) reduction in the time to register standard property, ii) improvement in the time to start a business, iii) establishment of a Single Corporate Identity Card (MyCoID) to facilitate Business-to-Government and Business-to-Business transactions, iv) improvement in the income refund tax system, v) establishment of a single gateway (myBayar) for payments to government agencies, and vi) reduction in the number of procedures in dealing with construction permits and total time taken to complete the procedures.
- Measures to promote regulatory reform including i) implementation of mechanisms to hinder issuance of unnecessary or high-cost regulation, ii) use of public-consultation mechanisms to identify priority areas for reform, iii) reduction of administrative burdens on start-up businesses and iv) institutionalising regulatory reform in the States.
- Establishment of the Smart Regulation Committee which aimed to develop a regulatory regime that is friendly to business and investment.
- Establishment of a comprehensive coordination mechanism for deregulation, which combines calls for suggestions from the public and private sector, evaluation of such suggestions and policy-making models, supervision and evaluation. World Bank's Ease of Doing Business report has been used for reference.
- Increasing disclosure and transparency on regulatory actions, greater public participation in regulatory processes including advent of e-Rulemaking and greater identification of regulations with international impacts.

#### *Competition policy*

- Amendment of the Antimonopoly Act which introduced a leniency programme and compulsory measures for criminal investigation and revision of the surcharge system.
- The Independent Consumer and Competition Commission (ICCC) has carried out reviews of the state-owned enterprises to support their transition to commercial entities.

- Enactment of the Consumers' Code which introduces new regulations to reduce asymmetric information between consumers and producers and remove any practices that can violate consumers' rights.
- Significant progress in legislation and enforcement of competition policy.
- Establishment of an independent and transparent investigation body to maintain competitive markets in sectors which have been newly included in the Competition Act.
- Although Competition Law was enacted and came into effect, key sectors are still controlled by big enterprises and the price behaviour still lacks substance of competition.

#### *Corporate governance*

- Policies and instruments that would replace the current ones, with a particular focus on enhancing the standard of corporate governance and confidence in the capital markets.
- A new law on corporate governance, which was enacted drawing on international norms including the OECD guideline, has resulted in greater disclosure of information by companies, improved oversight of markets, and better protection of minority shareholders.
- The launch of the Code on Corporate Governance Practices and the Corporate Governance Report, which represents a significant move towards adoption of international benchmarks of corporate governance, best practice and disclosure.
- Reforms include the amendment of the Securities and Exchange Act, such as 1) reinforcement of the independence of directors and supervisors, 2) strengthening the responsibility of companies' management for false financial reports, 2) improvement of transparency measures for information disclosure.

#### *Public sector governance*

- Introduction of the Government Transformation Programme to transform the government to be more effective in its delivery of services and accountable for outcomes that matter most to the public, and to provide high standards of living for all. Six national key result areas have been identified to spearhead the Government Transformation Programme.

- Introduction of initiatives such as the Smart Regulation Committee (SRC), Pro-Enterprise Panel (PEP), and Zero-In-Process (ZIP) to improve public services. In addition, the Pro-Enterprise Ranking (PER) ranks the government agencies on their compliance cost, transparency, review of rules, customer responsiveness and pro-enterprise orientation.
- Utilisation of information and communication technologies to enhance government performance management and transparency, including the establishment of the Government Performance Management network (GPMnet), the Gazette Online, and the Government e-procurement System. Construction of an indicator to evaluate and trace holistic quality of public sector governance.
- Progress in introducing the Results-Based Management system, streamlining the work process of government agencies. Establishment of the Ethics Promotion and Information Center to improve human resource management with ethical standards.
- Attempts to accelerate administrative reform and plans to cut down 30 percent of all administrative procedures, although weak incentive for civil servants to streamline administrative procedures remains a problem.

#### *Strengthening Economic and Legal Infrastructure*

- Reform of the bankruptcy law to introduce new mechanisms and establishment of a special commercial court in order to reduce uncertainty of legal procedures for investors in the case of bankruptcy.
- The amendments to the Trade Marks Rules allowed electronic communication with the trade mark agents.
- Institutionalisation of the basis for promulgating legal documents and promulgation of various new laws and associated under-law documents.

### ***3.3 Keys to the success of reform***

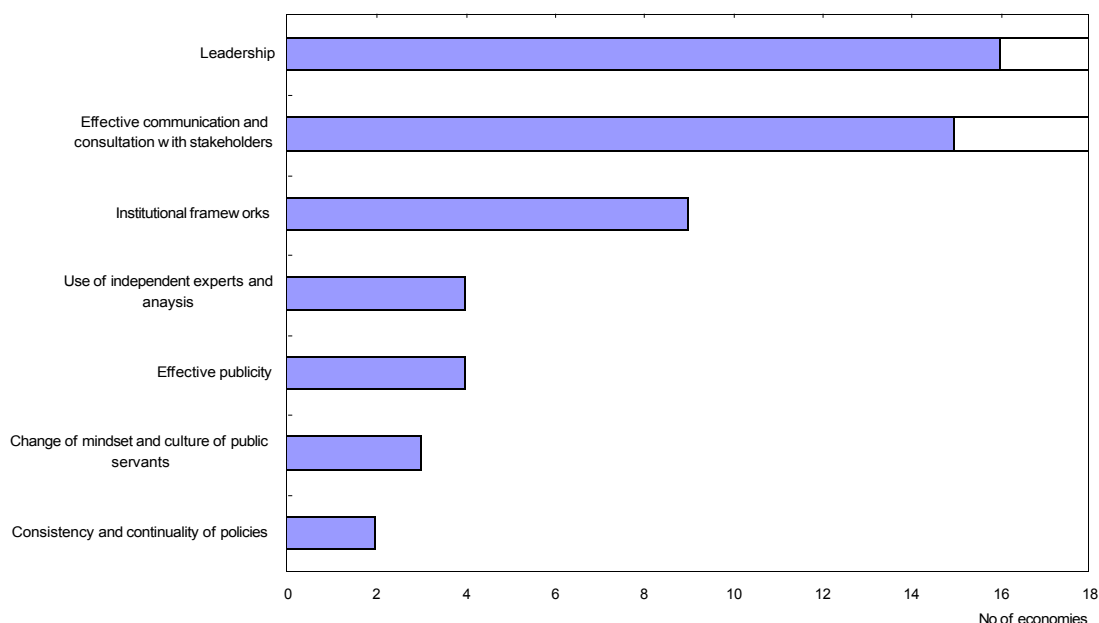
The *Stock-take Survey* also asked members to identify the keys to the success of reform, factors that impeded reform and lessons learned from past experiences. Although a limited number of factors that impeded reform and other negative consequence of reform have been reported, rich information regarding the keys to success of reform in member economies had been collected through this survey. Below is a summary of such responses (see also Figure 2 and Box 5).

The most commonly cited factors (by 16 economies) were associated with leadership. This suggests that since structural reforms tend to have adverse impacts on sectors which were previously protected, they could be watered down without strong leadership even if they are well planned.

This was followed by effective communication and consultation with stakeholders (15 economies). There were views that it was crucial to involving a wide range of stakeholders in the reform process in order to identify priority areas, ensure transparency, and prepare detailed design for reform.

The third most commonly cited factor (by 9 economies) was institutional frameworks including effective inter-agency coordination mechanism and appointment of dedicated ministers. This indicates the importance of having cross-cutting viewpoints in carrying out reforms even when discussing sector-specific issues.

**Figure 2. Keys to the success of reforms: summary of the Stock-take survey responses**



Note: The above figure has been prepared by the EC Chair office for indicative purposes by classifying written comments submitted by the EC members to the LAISR Stock-take Survey, so thus should not be treated like a multiple-choice survey result.

Use of independent experts and analysis was cited by 4 economies. This coincides with one of the ten lessons of the reform in APEC economies put forward in the *PSU Study*, which argues that independent evaluation can be very important, either in the formal sector or utilising the

second track as those organisations help to offset the lobbying efforts of the vested interests.

Other key factors for the success of the reforms cited in the survey include effective publicity, change of mindset and culture of public servants, and consistency and continuity of policies.

#### **Box 5. Keys to the success of reforms: some examples of Stock-take Survey responses**

##### *Leadership*

- Creation of a government council to initiate, develop and monitor key policy reforms, required support from the highest levels of government.
- Leadership has foremost role in making credible development results that translate to lowering of uncertainties in the government, businesses and consumer confidence.
- Strong political will has contributed to overcoming lobbying by stakeholders.
- Many reform measures were slowed down and even reversed as they often undermine the interest of some social groups. This implies that reforms need strong political will and effective implementation roadmap to be successful.

##### *Effective communication and consultation with stakeholders*

- A thorough, transparent and wide-ranging consultation process that includes all stakeholders and interested members has been the key aspect to the success of reform as these provide legitimacy, buy-in and ownership to the reform process.
- State leaders personally went down to grass-root units and convened symposiums to solicit opinions and suggestions.
- The government has carried out public consultations that significantly contributed to diagnosing, identifying and designing reform policies.
- Regular joint discussions with the representatives of business community, civil society institutions and sectoral experts within the frameworks of various consultation and expert councils provide for transparent mechanism of elaboration of relevant regulations.
- Agencies have learned the importance of public consultation which helps them to focus on priority



areas that meet the needs of businesses and key stakeholders.

#### *Institutional frameworks*

- Institutional framework is considered to be one of the keys to success for reform as the problem of coordination among related agencies and between central and local governments might be considered as impediment of reforms.
- Establishment of the government council on national competitiveness and the committee on regulatory reform made the coordination among different ministries and agencies much easier.
- A comprehensive coordination mechanism for deregulation, which combines calls for suggestions from the public and the private sector, evaluation of deregulation suggestions, supervision and evaluation has been set up.
- Appointment of a dedicated minister for regulatory reform (as discussed above).

#### *Use of independent experts and analysis*

- The success of structural reform initiative is often owing to the fact that recommendations underpinning the reform are made by an independent organisation of experts appointed by the government.
- Extensive research is considered to be one of the keys to the success of reform. In the case of the health care system reform, a dedicated working group and its entrusted institutions including the World Health Organisation and an academic institution conducted extensive study and research.
- Rigorous analysis is considered to be a key to regulatory policy. Cost-benefit analysis is used as a pragmatic tool for cataloguing, assessing, reassessing, and publicising the human consequences of regulation given the difficulty of quantifying all of the likely impacts of regulations.
- Independence of analysis by experts groups has been guaranteed by avoiding interference from interest groups and providing high level political commitment to carry out necessary actions.

## **Section 4: Impacts of Structural Reforms**

In order to gain wide and solid support and maintain momentum for structural reform, it is

extremely important to demonstrate impacts of structural reform in an easily understandable manner, since reforms may have adverse impacts on sectors which had been protected by regulations and other policies, while the benefits tend to spread across various segments of the society and across generations. The *Stock-take Survey* asked the EC members about the impacts, both positive and negative, of structural reforms on their economy and flow of trade and investment. Separately, the PSU has conducted a study on the impacts and benefits of structural reforms as explained above. This section summarises such outcomes.

#### ***4.1 Reforms have produced positive economic impacts in many economies***

The responses to the *Stock-take Survey* have indicated that various estimates on the impacts of structural reform are conducted in member economies. They include impacts on GDP, consumer benefits and prices, firm start-ups and investment (see Box 6).

#### **Box 6. Domestic studies on economic impacts of structural reforms: examples of Stock-take Survey responses**

- It has been estimated that productivity and price changes in key infrastructure sectors (electricity, gas, urban water, telecommunications, urban transport, ports and rail freight) in the 1990s, to which regulatory reforms directly contributed, increased GDP by 2.5 percent.
- It has been estimated that regulatory reform in 15 areas between 2005 and 2008 created consumer benefits equivalent to 1 percent of national income. The largest consumer benefit was recorded in the mobile communications sector, followed by petroleum products and electricity.
- The Rapid Business Start-up System (SARE) scheme which was introduced in 2002 with an aim to allow creation of businesses within 72 hours, has fostered the creation of 160,982 new businesses, 449,713 new jobs and investment of around 1.9 billion US dollars between 2002 and 2009. This is estimated to have boosted 4 percent on new firm start-ups.
- Liberalisation of cross-border movement of capital, goods, personnel and services would have contributed to boosting inward FDI, which more than tripled between 2003 and 2005.
- High economic growth rate was recorded even in the midst of the global financial crisis thanks to the fact that small enterprises were flexible in their production and activities, including frequent rotation of workers.

#### ***4.2 The PSU Study also revealed benefits of structural reforms***

The *PSU Study* sought to catalogue many of the substantial, tangible benefits for consumers and for small and medium businesses arising from APEC members' structural reform efforts in recent years, focussing on the transport, energy and telecommunications sectors. As well, economic modelling was undertaken to provide empirical estimates of reform impacts in those sectors (see Attachment 3).

The *PSU Study* has identified that in many cases reforms in the member economies in regulatory framework such as liberalisation of entry and privatisation have resulted in lower prices, differentiation of services and other service improvements (Box 7).

In addition, the *PSU Study* has estimated that the introduction of more competition in these sectors through a package of reforms could generate additional real income (in 2004 prices) of 175 billion US dollars a year across the whole APEC region relative to what would have accrued had no reforms occurred. This gain, which is a snapshot after a 10-year adjustment period, is almost twice as big as the gains from complete liberalisation of all remaining trade barriers in agriculture and food, other primary products and manufacturing by all APEC economies.

The *PSU Study* has shown the value of the adoption of an agenda to implement structural reform by APEC and has also revealed the importance of structural reform as providing strong bridges behind the border to capture the full benefits of improving regional economic integration.

#### **Box 7. Examples of estimated impact of structural reform presented in the PSU Study**

##### *Air transport*

- Fares fell by 20-30 percent as a result of the entry of low cost carriers (LCC) in 2006. The LCC share of the domestic market has increased to 25 percent and close to 30 percent on some routes.
- A more liberalised agreement for routes between two member economies resulted in a fall in fares by an average of more than 8 percent on these routes and traffic grew much faster (by a factor of 2) compared to other routes between the two economies.

##### *Rail transport*

- Tenders to operate an urban rail system were called in 2002 while the track was owned and managed by a government enterprise. Services more than doubled between 2005 and 2009 and traffic doubled between 2005 and 2010 under this competitive model. Reliability also improved significantly while many of the stations were upgraded.
- Fares declined by 40 percent after the government-owned rail corporation divested part of its operations.

#### *Road transport*

- Freight rates fell by 20 to 30 percent when quotes on cross-border freight licences were removed between two economies in 2004.

#### *Electricity*

- Retail competition reduced prices by 5 to 10 percent for residential customers and by 5 percent for industrial customers.
- The first stage of electricity reforms including the separation of generators from the distribution company resulted in an increase in utilisation of capacity and higher productivity.

#### *Telecommunications*

- Monthly subscription charges for mobile services had fallen from 17 US dollars in 1999 to zero by 2004. Structural reform efforts contributed to this outcome.
- The introduction of competition into the mobile sector has led to universal coverage, following a rise of 700 percent in the number of mobile subscribers since mid 2007. Charges have fallen by 11 percent in the peak times for domestic calls and 51 percent in the off-peak.

### ***4.3 Structural reform and trade and investment liberalisation complement with each other***

The two main pillars of the APEC's economic agenda, namely, trade and investment liberalisation and facilitation and "behind-the-border" structural reform, both aim at facilitating economic growth and improving our living standard both quantitatively and qualitatively. Various studies indicate that removing barriers to trade and investment and structural impediments to domestic economic activity both strengthen competition, leading to static and dynamic gains.<sup>8</sup> Static gains arise from better allocation of resources across and within

<sup>8</sup> They include OECD (2005a), "The Benefits of Liberalising Product Markets and Reducing Barriers

economies. Dynamic gains result from greater efforts to innovate and optimise production, and from more rapid diffusion of new technology (OECD 2006).

While trade liberalisation generally contributes to economic growth and creates new opportunities, its adverse impacts are often highlighted as it can lead to firm closures and job losses in some sectors. Providing temporary support to these sectors is a way to help alleviate pain and reduce short-term adjustment costs. However, the overall benefits of liberalisation for society will be larger if adjustment is taken place swiftly by a shift of resources across sectors, which can be facilitated by removing domestic barriers to competition. In this sense, undertaking reforms across different policy areas in a complementary way can help achieve swift adjustment, since those adversely affected by one reform might benefit from another. Broad-based reforms can also reduce resistance to change and make it harder for individual industries to argue for exemption (OECD, 2005b).

In terms of the magnitude of reforms, the *PSU Study* has indicated that the impact of structural reform is estimated to be almost twice as big as the gains from further liberalisation of trade. Such a result is in line with the outcome of a study by the OECD (OECD, 2005a), which estimated that GDP per capita in its member countries would increase by between 2 and 5 percent if all external and internal barriers including product market regulations, tariff barriers and restrictions on foreign direct investment (FDI) were reduced to the level in the least restrictive member country. Since these are permanent increases, individuals would be able to reap the gains each year once adjustments to the reforms are complete, and the cumulated addition to earnings over an average 40-year working life of an individual would be between one to two full-year's earnings. Product market reforms were estimated to have the largest impact, increasing GDP per capita by 1.75 to 3.0 per cent, with another 0.25 to 1.0 percent from cutting tariff rates and 0.75 percent from lowering restrictions to FDI. In addition to these static gains, there would also be significant size of dynamic gains on a sustained basis.

Although the above arguments and empirical evidence suggest that trade and investment liberalisation and domestic structural reform both contribute to raising growth potential, the exact interrelationship may depend on sectors, nature of growth constraints, development stage, and so on. Thus, it would be useful to continue to study the relationship between trade and investment liberalisation and facilitation and domestic structural reform further in the APEC context.

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to International Trade and Investment in the OECD", *OECD Economics Department Working Papers*, No. 463, OECD (2005b), *Trade and Structural Adjustment*, and OECD (2006), *OECD Economic Survey of Japan*.

## **Section 5: Further Strengthening APEC's Structural Reform Agenda**

As explained above, the LAISR initiative has evolved over time since its inception, including the establishment of the FWP and the introduction of various new approaches. A large number of activities have been conducted under each of the LAISR themes, which has been regularly welcomed by APEC Ministers and Leaders in subsequent years.

Attempts have already been made to further improve and strengthen the structural reform programmes, which would have implications for the future agenda of APEC. This section reviews recent efforts and discussions by the EC to strengthen structural reform activities and their implications for the next phase of APEC's structural reform agenda.

### ***5.1 Further strengthening capacity building activities***

At the SRMM held in August in 2008, Ministers requested the EC to develop and report back to APEC Leaders through Senior Officials on strengthening capacity building initiatives in its FWP. Responding to this task, an extensive survey was conducted among the EC members in early 2009 to obtain a better picture of their needs as well as gather their suggestions on capacity building programmes for the purposes of developing a programme that would deliver "Right contents to the right people through the right modes".

According to the survey results, the EC members perceive that the attendees in capacity building programmes and activities are mostly appropriate.<sup>9</sup> Nonetheless, there are still many cases where time and budget constraints prevent the right people from attending these programmes. Responses to the question on information dissemination suggest that this occurs on a rather ad-hoc basis, pointing to the need for improvement. The necessity of involving high ranking officials was suggested by many respondents, though it was pointed out that they are extremely busy people.

Based on the survey results, the EC Chair reported the following points to the CSOM in

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<sup>9</sup> See *Prioritising Capacity Building Programmes Within the APEC Economic Committee* (2009/SOM2/EC/009), *Highlights of the Economic Committee Capacity Building Survey Preliminary Results* (2009/SOM2/EC/009a), and *Economic Committee Capacity Building Questionnaire Results* (2009/SOM2/EC/009b).

November 2009.<sup>10</sup>

#### *Developing methods for better dissemination*

There is some room for improving the dissemination of information about the contents of capacity building programmes. One solution would be creating an easy-to-access and user-friendly archive of resources on capacity building on the APEC website.

#### *Collaboration with other fora*

It is necessary to explore ways in which the EC can further improve collaboration with other APEC fora as well as other international organisations such as the OECD, World Bank, United Nations, and International Competition Network. A mechanism for this purpose should be developed. One option for consideration would be to identify initial contact point(s) among various EC members (depending on the subject matter) that could liaise with other fora/international organisations.

### **5.2 Promoting the EoDB initiative**

Recognising the gains that could be made from removing “behind the border” impediments to doing business, a new "Ease of Doing Business" (EoDB) initiative was launched at SOM1 in 2009. Responding to SOM’s instruction to identify a preliminary list of priority areas for regulatory reform, the EC set up a small group to lead work on the Prioritisation of Regulatory Reform for Improving the Business Environment (PRIBE). Based on a study prepared by the PRIBE small group, which drew on a survey of the needs of member economies, an ABAC survey and the World Bank’s study on the Ease of Doing Business in APEC, the EC identified five out of the ten World Bank’s Doing Business factors as priority areas.

Subsequently, Leaders agreed in November 2009 on an APEC-wide aspirational target to make it 25 percent cheaper, faster and easier to do business within APEC economies by 2015 in the five priority areas. An interim target which aims at achieving a 5 percent improvement by 2011 has also been established. Ministers tasked officials to monitor and regularly review progress towards these targets, and urged officials to work closely with ABAC to identify ways in which the private sector can contribute towards the achievement of these aspirational targets.

In order to develop multi-year work programmes designed to assist APEC in achieving the targets collectively, “Champion Economies” for each priority area have been identified (see

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<sup>10</sup> See *Economic Committee Chair’s Report*(2009/CSOM/004).

Table 3).

Capacity building work programmes for the five areas will be carried out in two phases. Phase 1 consists of comprehensive seminars and workshops hosted by the champion economy to share information and experiences in reform. Phase 2 consists of a) in-depth diagnostics by each participating economy to understand the concerns and constraints of their line agencies, as well as identify the opportunities for regulatory reform in the priority areas, b) a customised action plan to implement the regulatory reforms, and c) follow-up by the champion economies and the sharing of progress reports by the participating economies.

**Table 3. The EoDB priority areas**

Priority areas	Champion economies
Starting a business	New Zealand; The United States
Getting credit	Japan
Enforcing contracts	Korea
Trading across borders	Hong Kong, China; Singapore
Dealing with permits	Singapore

A number of workshops have been held through 2010 as part of Phase 1 programme, while some Phase 2 activities have already started such as sending technical experts to identify the range of issues that were faced by some volunteering economies. These Phase 2 activities represent a tailor-made approach and have been providing effective capacity building to officials in relevant areas.

Responding to a request at the SOM1 meeting in 2010, the EC is playing a caretaking role for the EoDB Action Plan. Singapore, as the coordinator of the PRIBE group, has been monitoring the progress in implementing the Action Plan (see Attachment 4). At the EC2 meeting in 2010, EC members also agreed to establish an FotC dedicated to the EoDB and the United States assumed the role of the Coordinator.

The EoDB initiative is a new approach which attempts to facilitate structural reforms by setting a collective target with a specific target year and carrying out capacity building activities for economies in need of assistance in implementing reforms towards achieving the goal. The success of this approach would depend on a number of factors, including active contribution by the champion economies, close cooperation between relevant groups and businesses, and



high-level leadership. Although it was thought relatively easy to agree on the broad direction of reforms and to find good indicators to measure progress in the current five priority areas, some flexibility would be needed in implementing the initiative to allow for the diverse nature of economies, while maintaining sufficient momentum of the initiative.

### ***5.3 Taking a combined approach will be important in addressing new challenges***

Structural reform is one of the five work elements of the Action Plan of the APEC Leaders' Growth Strategy to be agreed in November 2010.<sup>11</sup> Given its centrality to the Growth Strategy, it is likely that structural reform will remain as a key priority agenda for APEC beyond 2010. Along with the discussion on the Growth Strategy, the *APEC New Strategy for Structural Reform* (ANSSR) has been developed by SOMs. The ANSSR considers that the priority areas for structural reform work in APEC need to extend beyond the five LAISR priorities in order to consolidate recovery from the crisis, promote regional economic integration, and achieve higher quality growth that is both balanced and inclusive. Under this strategy, structural reform would be expanded to become a shared APEC-wide objective, with all relevant fora taking part.

**Table 4. The new priority areas and coordinating economies**

Areas/group	FotC Coordinators/CPLG Convenor
Competition policy	Australia
Corporate law and governance	tbd
EoDB	The United States
Public sector governance	Chinese Taipei
Regulatory reform	Japan
Competition Policy and Law Group (CPLG)	Japan

Meanwhile, there has been a strong consensus among the EC members that the existing five LAISR priority areas are still relevant as a whole and need to be further strengthened beyond 2010. SOMs shared this view at the Extraordinary SOM meeting that took place in April 2010. The EC continued its discussion and agreed at the EC2 meeting in 2010 to reformulate the five areas to better facilitate structural reform in the current context, with the new set of FotC groups and new coordinators to lead the work in the priority areas as indicated in Table 4. The EC has also agreed to retain the Competition Policy and Law Group (CPLG) as a group of experts (see

<sup>11</sup> The five work elements are: a) structural reform, b) human resource and entrepreneurship development, c) green growth, d) knowledge-based economy and e) human security.

also Attachment 5).

This implies that the next phase of APEC's structural reform agenda will likely be a combination of continuation of the cross-cutting themes pursued under the LAISR initiative, with some new extended priority areas.

While the SOMs will take primary responsibility for monitoring and reviewing the implementation of the overall structural reform programme, and leave the exact implementation mechanism to relevant committees and fora, the EC's past experience in structural reform activities can provide some insights in creating effective implementation mechanisms, which would be all the more important if APEC goes further into tackling the behind-the-border issues.

At the EC1 in 2010, the EC members discussed possible new mechanisms including i) OECD-type peer reviews, ii) peer review with economy-wise action plans, iii) issue-specific seminars and iv) tailor made approaches. Among them, there was a wide support for the developing of new approaches which aim to introduce horizontal viewpoints to sector-specific issues building on the experience of the LAISR initiative. For example, the EC may hold a number of joint seminars/workshops with relevant committees and fora, taking advantage of its cross-cutting viewpoints. The EC could also look to develop a so-called tailor-made approach, which aims to enhance effectiveness of structural reform activities based on APEC's tradition of non-binding approaches. This approach can be applied not only to the reformulated LAISR areas but also to the new priority areas, which may require collaborating with relevant committees and fora.

Meanwhile, the OECD-type peer review mechanism was less welcomed by the EC members. This perhaps reflected the EC members' concern that "peer pressures" with policy recommendations by colleagues from economies of different development stages, historical and cultural background, etc. may make officials of the "examined economy" defensive and feel obliged to justify their current policies. The key for the success of such a peer review approach would therefore depend not only on the knowledge of so-called best practices but also good discussion as to why and under what conditions they perform well. Such discussion would make it clear whether or not some modification is needed in view of economy-specific factors.

#### ***5.4 More research on quantitative assessment of structural reform may be useful***

In the *Quick Survey*, a number of EC members commented that the EC should/can contribute to

APEC's possible new priorities for structural reform by conducting research and analyses on economic impacts of structural reforms. Building on the *PSU Study*, which provided a good foundation for APEC's research in this area, it may be worthwhile conducting more such research in the future.

For example, as the *PSU Study* has identified, structural reform may have adverse employment effects in certain sectors, while it makes a contribution to economic growth and overall employment growth since it adds to productivity, stimulates activity and increases the resilience of the economy. A more comprehensive research on the employment consequence of structural reforms, including shifts of labour force across sectors over time, would be useful.

In addition, more efforts would be needed to develop indicators which measures progress in structural reform. The above mentioned draft ANSSR encourages the use of qualitative and quantitative indicators for benchmarks, as appropriate and as selected by the individual economies, to make progress in policies and measures. Nevertheless, development of indicators which measure the progress in structural reforms is not a well-established area. Creating an indicator similar to the Product Market Regulation indicator developed by the OECD but tailored to APEC economies is a potential area of work, although such indicators should mainly be used for measuring progress in domestic reforms rather than for international comparison, given the diversity in APEC economies.

## **Section 6: Conclusion**

This report reviewed progress in the LAISR initiative and structural policies in APEC economies based on various works conducted as part of the stocktaking exercise.

The LAISR initiative provided APEC with a focus on the behind-the-border policy reforms, and a wide range of activities have been conducted. This strong momentum has certainly affected domestic policy reforms in member economies. The LAISR initiative has made significant progress and the choice of the five areas of focus seems to have been appropriate.

Structural reforms take time to produce concrete results while new challenges have been added to the APEC's structural reform agenda. Under such circumstances, APEC's work on structural reform should be reenergised building on the success of LAISR. The five LAISR priority areas continue to remain relevant in the current context and should be continued with necessary

modifications to the scope of the topics to build on lessons learned and reflect the priorities of members. As a forerunner in inter-regional cooperation on structural reform, APEC, in particular the EC, is well-placed to further pursue this policy agenda, while collaborating with other international fora as appropriate.<sup>12</sup>

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<sup>12</sup> *Toward Higher Quality Growth for APEC* (The APEC Growth Strategy High-Level Policy Round Table held in Beppu, Japan in August 2010) noted “APEC could contribute to balanced growth by re-energizing its work on structural reforms, building on ongoing efforts under the Leaders’ Agenda to Implement Structural Reform. APEC should also complement the G20’s efforts in pursuing balanced growth in the region.”

**PART II**

**ECONOMY AND FOTC RESPONSES TO THE LAISR**

**STOCK-TAKE SURVEY**

## COLLATED RESPONSES TO QUESTIONS FOR THE FOTC COORDINATORS AND THE CPLG CONVENOR

### REGULATORY REFORM

**1. What do you think are the key findings from structural reform initiatives undertaken by APEC (e.g. AEPR, seminars, training courses, surveys, checklists) and by APEC economies in your FotC area? Please discuss their actual or anticipated implications, if immediately apparent, for the improvement of the economic environment and the flow of trade and investment in the APEC region.**

The key findings of the initiatives undertaken by the FotC group on Regulatory Reform include learning and recognition by the APEC economies that:

- Regulation is one of the key tools available to government to intervene and improve the well being of citizens.
- Regulatory reform is at the heart of structural reform.
- Regulatory reform carried out badly is worse than not reforming at all.
- Regulatory reform is an ongoing process.
- Regulatory frameworks and processes matter.

The actual or anticipated implications of these findings include better regulation or regulatory reforms in the APEC region. These reforms will help to reduce and eliminate regulatory barriers (whether behind or across the border), increase economic efficiency and productivity, and ultimately improve the wellbeing of APEC citizens.

In particular, these findings have been reflected in a key, lasting initiative in the *Good Practice Guide on Regulatory Reform*. This guide embodies an agreed set of good practices in reforming regulatory framework within APEC economies. This Guide will contribute in a meaningful way to an ongoing improvement in the structural arrangements and regulatory mechanisms in place.

As set out in the answers below, regulatory reform initiatives in Australia designed to reduce barriers to competition, eliminate inefficient regulatory restrictions and harmonise regulatory arrangements have contributed to a significant and permanent uplift in Australia's wellbeing. Current and future reform efforts can be expected to contribute even further in this regard. Continual improvement in structural arrangements and the performance of regulatory institutions within APEC member economies can confidently be expected to underpin comparable long-run benefits, with flow-on implications for the entire APEC region.

**2. Please give your recommendations on the possible future courses of the APEC structural reform initiatives in your FotC area.**

As the Chair of the FotC group on Regulatory Reform, Australia is strongly supportive of the APEC Voluntary Reviews of Institutional Frameworks and Processes for Structural Reform. These reviews will examine how reforms are initiated, how decisions are made and the institutions and process in place to promote and drive structural reform. These reviews have the potential to deliver targeted assistance and capacity building to APEC economies to suit their unique political and structural frameworks. Other economies may also learn from these reviews and take forward the recommendations even if they do not participate in a review themselves.

These reviews will also have the potential to reveal common underlying themes about the

strengths and weaknesses of APEC economies and result in the establishment of capacity building initiatives based on empirically identified priorities.

## COMPETITION POLICY

**1. What do you think are the key findings from structural reform initiatives undertaken by APEC (e.g. AEPR, seminars, training courses, surveys, checklists) and by APEC economies in your FotC area? Please discuss their actual or anticipated implications, if immediately apparent, for the improvement of the economic environment and the flow of trade and investment in the APEC region.**

Competition policy helps the economy as a whole which benefits from a more efficient allocation of resources, while increased competition also encourages innovation and productivity gains. In 2004, The LAISR set five priority areas to stimulate policy-oriented discussions on structural reform, and competition policy is one of the key areas. The “APEC Work Plan on LAISR toward 2010” was established by the EC in this context, and the LAISR 2010 set out a roadmap to address structural reform issues across APEC over the next five years. In 2007, APEC Leaders endorsed “Forward Work Program for LAISR,” which detailed action items in five policy areas including competition policy from 2007 to 2010 was planned. The aim of the Forward Work Program for competition policy includes (i) **increasing awareness of the importance of competition policy to economic growth**, (ii) **instilling knowledge on the practical elements of introducing a sound competition regime**, and (iii) **exploring practical guidance on how governments can facilitate competitive markets in key infrastructure sectors**. Over the years, APEC has undertaken various initiatives to promote the development of competition policy in member economies:

**The theme of 2008 AEPR was competition policy.** The report provided a detail analysis on the importance of competition policy in structural reform and also a revision on member economies’ domestic competition policies. Furthermore, it identified key priorities and challenges in future years.

The **APEC Seminar on the Role of Competition Policy in Structural Reform (Jun 2007)**, provided a platform for member economies to share knowledge, experiences and lessons on competition policy, and raise awareness about the economic importance of competition policy and emphasize the role that competition policy plays in achieving structural reform. One of the major conclusion of the seminar was that economies often face similar challenges in setting up competition regimes; for instance, insufficient expertise, the need to build a competition culture, a lack of coordination across agencies on competition issues and limited resources. It provided an important direction for planning of future activities.

The **Roundtable Discussion on “How to Create a Competition Culture” (Jun 2007)** focused on the importance of the creation of a competition culture. It concluded that it is necessary to handle 3 issues in order to develop competition culture. They are (i) factors that can impede competition, (ii) how governments can increase public awareness of the role of competition policy, and (iii) public support for a competition policy regime.

In the **APEC Seminar on Utilizing the “APEC-OECD Integrated Checklist on Regulatory Reform” in the Competition Policy and Deregulation Aspects (Jun 2007)**, participants confirmed that continuous information and experience sharing would be crucial on issues such as undertaking regulatory impact analysis or promotion of regulatory reform and competition. This indicated that capacity-building activities aimed at assisting APEC member economies to undertake and implement competition policy would be a future direction for activities planning on competition policy.

APEC has conducted a range of **training courses** to enhance member economies’ capabilities with respect to the development of robust competition policy and laws, and subsequent enforcement activities. The existing training program has been largely based on



areas of particular interest to member economies identified at and between meetings. To know the needs and preference of member economies more, CPLG has sent out survey questionnaires to member economies to identify key common training priorities earlier this year. As reflected by the results of the survey, the following four areas are of the highest priorities:

1. Competition advocacy
2. Cartels and Bid Rigging
3. Abuse of Dominance and Monopolisation
4. Mergers

In the past few years, APEC has made great efforts to improve the market competition under the agenda of LAISR. In view of the diversity in growth and income among the APEC economies, it will be important to continue to strengthen fundamentals and institutions for market competition to sustain economic growth after global financial crisis.

<b>2. Please give your recommendations on the possible future courses of the APEC structural reform initiatives in your FotC area.</b>
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As mentioned above, CPLG has sent out survey questionnaires to member economies to identify key common training priorities. We suggest APEC to follow member economies' views as far as practicable.

To relate competition policy to the new theme of inclusive growth in post- LAISR program, it is also suggested to develop new programme in this context, such as the impact of competition policy on SME as well as start-up enterprises; the interaction of regional economic integration and competition policy, etc.

## CORPORATE GOVERNANCE

**1. What do you think are the key findings from structural reform initiatives undertaken by APEC (e.g. AEPR, seminars, training courses, surveys, checklists) and by APEC economies in your FotC area? Please discuss their actual or anticipated implications, if immediately apparent, for the improvement of the economic environment and the flow of trade and investment in the APEC region.**

On November 11 2009 the United States implemented a workshop directly responsive to the Leaders' Agenda to Implement Structural Reform (LAISR), which includes corporate governance among its five priority work streams. In addition to advancing LAISR, the workshop also responded directly to the Joint Statement issued at the 20th APEC Ministerial Meeting in Lima, Peru, where Ministers directed work take place on a plan to ensure APEC's continued implementation of the OECD Principles of Corporate Governance in the Asia-Pacific context. The theme of the November 11 workshop was, "Implementing OECD Principles of Corporate Governance in an Asia-Pacific Context." Around 45 participants attended the workshop, which was opened by EC Chair, Dr. Takashi Omori. The keynote speaker was the Head of OECD's Corporate Affairs Division, Mats Isakkson, who provided extensive insights to workshop participants on the terms of, necessary conditions for, and benefits of implementing the OECD Principles of Corporate Governance.

What emerged during the workshop was a clear recognition that differing levels of development and differing economic structures (e.g. state owned enterprises vs. fully private corporations) necessitate a flexible approach to implementing the OECD Principles that takes into account the conditions in each APEC economy. Member economy representatives also noted that effective implementation of the OECD Principles as called for by Ministers and in a manner consistent with LAISR requires participation by a number of key players in each economy, including: sectoral (e.g. financial, manufacturing) regulatory authorities; stock exchanges; enforcement agencies; state owned and/or linked enterprises; public corporations; and family owned businesses. Consequently, there was general agreement that effective implementation of the OECD Principles will require sustained effort supported by the most senior levels in each economy to ensure broad-based adoption and enforcement in a manner consistent with LAISR.

**2. Please give your recommendations on the possible future courses of the APEC structural reform initiatives in your FotC area.**

Much work has been done in APEC over the last few years to explain the terms and value of good corporate governance, including the OECD Principles of Corporate Governance. This work was instrumental in ensuring that corporate governance was included as one of the five priority work streams under LAISR and in the decision to include endorsement of the OECD Principles in the Ministerial Joint Statement in Lima in 2008.

Looking into 2010, APEC member economies, especially developing member economies, would benefit from a renewed focus on challenges to overcome and steps needed to implement the OECD Principles of Corporate Governance. The United States urges EC members to consider steps we can all take to advance implementation of the OECD Principles, thereby making important progress under the corporate governance work stream of LAISR. In this context, a possible collaboration with the OECD Asian Roundtable could also be explored. The United States is exploring possible approaches to strengthening goal setting and quantifying progress in improving corporate governance and would welcome discussion within the EC on this point during 2010.

The United States further notes that the 2010 APEC Economic Progress Report (AEPR), for

which it is co-lead along with Japan, will focus on corporate governance. The United State anticipates that the economy-level reports in the 2010 AEPR will provide APEC member economies the opportunity to identify progress made and capacity building needed to promote implementation of more robust standards of corporate governance.

## PUBLIC SECTOR GOVERNANCE

**1. What do you think are the key findings from structural reform initiatives undertaken by APEC (e.g. AEPR, seminars, training courses, surveys, checklists) and by APEC economies in your FotC area? Please discuss their actual or anticipated implications, if immediately apparent, for the improvement of the economic environment and the flow of trade and investment in the APEC region.**

### Key Findings of Initiatives Undertaken by APEC and by APEC Economies

The Economic Committee and its Public Sector Governance Friends of the Chair Group have undertaken a series of initiatives to demonstrate the role that good public sector governance plays in structural reform. The key findings from these initiatives are summarized below.

- The *2007 APEC Economic Policy Report* (AEPR), in Chapter 1, identified nine generalised and high-level principles for good public sector governance based on the key findings of a seminar that was held alongside the 2006 ECII meeting in Da Nang, Vietnam:
  - rule of law
  - transparency
  - accountability
  - managing the performance of public sector agencies
  - public sector ethics and probity
  - responsiveness to stakeholders
  - political and bureaucratic structures
  - good policy and institutions
  - risk management.
- Chapter 1 of the 2007 AEPR also briefly examined several key issues in public sector governance.
  - The principal-agent problem of asymmetrical information between agents (i.e., those carrying out tasks) and principals (i.e., those initiating the tasks) leading to poor performance can be overcome by creating environments that (i) contain the proper incentives, (ii) establish clear targets that are monitored, and (iii) communicate the objectives and performance in a transparent manner to all stakeholders, including the general public. .
  - Being faced with multiple and diverse objectives in the public sector is a reality so the challenge is to ensure that problems of diverse objectives do not become acute so as to create conflicting incentives for agents.
  - Encouraging performance while managing risk involves balancing managerial discretion over the use of inputs with rules and procedures.
  - Clearly communicated and defined outcomes that are relevant to the responsibilities of agencies can act as a unifying force, orienting them to the wider goals of the government.
- Chapter 1 of the 2007 AEPR concluded that performance management is increasingly recognized as a core component of an effective public sector, involving the setting of targets and the measuring of progress, although there are limitations associated with this. Additionally, professional ethics of public service are seen as increasingly important alongside performance measurement and accountability.
- Chapter 2 of the 2007 AEPR discussed how public sector institutions may be used

to support any type of structural reform. Structural reforms often require a better set of rules governing the operations of markets, and these rules require institutions to implement and enforce them. It is helpful if these institutions can mediate among the diverse range of economic interests involved and build a coalition for reform. Examples of effective policy review institutions include Japan's Council on Economic and Fiscal Policy and the Australian Productivity Commission, among others.

- At the 2008 ECI meeting, Canada led a policy discussion on public sector governance. It was underpinned by a discussion paper entitled “Balancing Accountability and Innovation: Practical Measures to Strengthen Public Sector Governance”, which focused on practical measures used by APEC economies to improve and strengthen public sector governance, drawing from the unique and best practices identified in the Individual Economy Reports in the 2007 AEPR. It was also underpinned by the results of a questionnaire that APEC economies were asked to prepare, focussing on the cross-cutting challenge of using results-based management (RBM) to balance accountability and innovation in the public sector. Economies essentially viewed RBM as a tool to balance accountability and innovation. While public sectors are inherently risk averse, which can thwart innovation, RBM can help overcome this. RBM also allows clear reporting, emphasis on outcomes, continual assessment and course correction, intelligent assessment of risks, and, at its base, allows managers to manage. Some of the elements to follow up on included: how to measure qualitative and quantitative elements of government priorities; measuring productivity; performance pay; encouraging sub-national governments to pursue RBM, and sharing results with the public. Economies outlining their experiences with RBM included the US, Thailand, Peru, New Zealand, Mexico, Canada, Australia, Indonesia and Japan.
- A *Workshop on e-Governance*, sponsored by Chinese Taipei, was held alongside the 2008 ECI meeting. Its goal was to: raise awareness among APEC economies of the role of Information and Communications Technologies (ICT) as an enabler for good public sector governance; and share the relevant knowledge, experiences and lessons learned from different perspectives on the better use of technology to drive good public sector governance. The program focused on: (i) e-administration to make government (e.g., procurement activities) more accountable, transparent and effective; (ii) e-services for more efficient service delivery; and (iii) e-participation to allow stakeholders and citizens to contribute to better policy making. In respect of (i), the majority of APEC economies have implemented e-administration, however some have yet to create a legal framework. E-administration has engendered more competition in respect of procurement activities. Regarding (ii), the success of e-services is directly dependent on Internet penetration, which varies considerably within APEC (from 71% in North America to 14% in Asia), and the ability of public sectors to digitize records (e.g., moving from forms to e-forms). Most APEC economies are well on their way to digitizing their records. As for (iii), the success of e-participation again depends on Internet penetration; hence, where e-participation has the potential for increasing social inclusion, the direct opposite can occur if Internet penetration is low. The ICT transformations in Chinese Taipei – ranked among the top three in the global e-government rankings – have been considerable, with e-Tax Service, e-Procurement Service, e-Job Service, e-Village Voice (to bridge the digital divide between urban and rural areas), e-Motor Vehicle Service, e-Government Portal (to facilitate e-Democracy), among other e-services provided.
- Chinese Taipei hosted a *Workshop on Government Performance and Results Management*, March 26-28, 2008. The workshop delved into the main conclusion of Chapter 1 of the 2007 AEPR, namely that performance management is

increasingly recognized as a core component of an effective public sector. All international organizations recognize it as a key structural reform. It has been a work in progress in many economies over the past two decades or so, and still the performance management regimes still had room for improvement. The key is to be able to convert performance measurement to performance management system. Doing so yields positive benefits: more informed decision making based on previous performance; and the achievement of better results as the government engages in valid and accurate performance measurement that can be communicated to stakeholders. Yet, performance measurement systems need to be monitored to ensure there is not a disproportionate cost of compliance compared to expected benefits, which is the main problem of such systems. The challenge is to find the optimal balance between minimizing the cost of compliance and maximizing the net public value of public services. The main challenges of such systems include: quality of performance information; specification of outputs and outcomes (with outputs easier to specify than outcomes); and the extent of alignment and integration in the policy decision-making process. High-performing systems are comprehensive (i.e., system-wide), vertically integrated (i.e., hierarchical), balance top-down and bottom-up approaches, provide guidance to agencies, process the information through a central agency, and have political oversight and commitment. Canada, the US, Australia and New Zealand are considered to have performance management regimes.

- At the 2009 ECI meeting, New Zealand led a policy discussion on Recent Public Sector Changes and Principles of Good Public Sector Governance. Underpinning the discussion were the results from a survey of member economies to determine: the public sector reforms recently made; their motivation; the challenges encountered in making them; if they aligned with the APEC's nine good public sector governance principles; and implications of these changes for other APEC economies. The reforms varied widely across economies, often reflecting their various stages of development and thereby requiring anywhere from fundamental reforms to fine tuning. Some of the recent reforms are included below.
  - China's newly constituted National Development and Reform Commission (NDRC) to bring about more efficient macroeconomic management.
  - Canada's efforts to develop its performance and risk management system, including its Management Accountability Framework; its action plan to address the "Web of Rules"; and its Public Sector Renewal human resources plan.
  - Indonesia's tax reform and customs reform.
  - Chinese Taipei's use of ICT to promote good governance, and establishment of indicators to benchmark good governance.
  - New Zealand's efforts to measure outcomes and streamline reporting to Ministers.
  - Mexico's fiscal reforms of September 2007, including results-based budgeting, the Performance Evaluation System, and the Management Improvement Program.
  - Korea's downsizing of its public service and its wider use of sunset clauses on programs.
  
- At the 2009 ECII meeting, Chinese Taipei led a policy discussion on Improving Public Sector Governance Quality – Practice and Measurement. Underpinning the discussion were the results from a survey of member economies to determine: innovative approaches, initiatives, instruments or tools have economies recently implemented to measure good public governance; their motivation; the benefits or

risks from implementing them; the challenges; and the lessons learned from economies' experiences. Some of the recent approaches, initiatives, instruments or tools reforms are included below.

- Canada's required periodic reports to Parliament on its 2009 budget implementation; Strategic Reviews that use evidence-based techniques to improve the efficiency and effectiveness of direct program spending; the Web of Rules initiative's attempt to measure the burden of the totality of rules and regulations on the government; the use of tools to make the system of grants and contributions more fair, cost-effective and efficient; the strengthening of the Management Accountability Framework methodologies; and the use of government-wide Medium Term Planning using an evidence-based approach.
- Japan's "Reform of Quality" initiative, which aims to raise the productivity of government service and citizen's satisfaction.
- New Zealand's performance improvement framework, using indicators of good management practices, a cycle of formal performance assessments, and an improved central agency approach to assessment.
- Chinese Taipei's Public Governance Indicator, which consists of seven indicators under seven different public sector governance principles.
- Mexico's strengthening of its public sector governance indicators in respect of public management, results-based budgeting, and its National Program of Accountability, Transparency and Fight Against Corruption.
- Indonesia's development of a Good Governance Index that focuses on four good public sector governance principles.

#### Implications of Good Governance for the Economic Environment

Good public sector governance leads to the more efficient use of resources, thereby freeing up fiscal room to lower taxes or increase program spending (e.g., on infrastructure, government services for citizens, etc). Good public sector governance also leads to the effective design and implementation of policies (e.g., tax, competition policy) that directly impacts on the economic environment. Global investors consider factors such as relative tax burdens, quality of infrastructure, low corruption, and quality government services (if they intend to relocate) in respect of foreign direct investment decisions. In these ways, economic growth and living standards are enhanced.

<b>2. Please give your recommendations on the possible future courses of the APEC structural reform initiatives in your FotC area.</b>
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The post-LAISR agenda should include public sector governance as a FotC theme due to the large role the public sector plays in our economies, the strong link between good public sector governance and the economic environment, the differences in development among APEC economies, and the continually evolving reforms from which each economy can learn a great deal.

## STRENGTHENING ECONOMIC AND LEGAL INFRASTRUCTURE (SELI)

**1. What do you think are the key findings from structural reform initiatives undertaken by APEC (e.g. AEPR, seminars, training courses, surveys, checklists) and by APEC economies in your FotC area? Please discuss their actual or anticipated implications, if immediately apparent, for the improvement of the economic environment and the flow of trade and investment in the APEC region.**

Good economic and legal infrastructure promote flow of trade and investment because companies can have confidence in doing business including trade and investment if economic and legal infrastructure are solid and stable.

SELI's past activities contributed to:

- increase awareness of the importance of economic and legal infrastructure to the efficient operation of markets;
- promote a better understanding of practical measures to strengthen economic and legal infrastructure, including mechanisms for reviewing existing and proposed laws, regulations and policies, fighting corruption and ensuring transparency; and
- build capacity to enhance laws, regulations and procedures related to economic and legal infrastructure, including corporate restructuring, mergers and acquisitions and corporate accounting systems.

<Past activities>

APEC Symposium on Economic Legal Infrastructure (2000, 2002) focused on how the economies would support developing members to strengthen their fragile economic systems that helped deepen the impact of the 1997-1998 Asian crisis.

APEC Academic Conference on Competition Policy and Economic Development (2002) reviewed the development at that time of the draft competition law in China, to share experiences of various economies in competition law and its enforcement, and to identify issues and problems in further developing institutions and enforcement of competition law.

Seminars on Intensive Training on Commercial Laws(2002-3) were held in Vietnam, the Philippines, China, Indonesia and Thailand as a contribution to the Capacity and Institutional Building work program.

Study on Debt Collection Litigation/ Arbitration in APEC Economies (2003) identified how debt collection procedures are functioning as part of the economic legal infrastructure in APEC member economies.

Workshops on Fighting Corruption and Ensuring Transparency, and Strengthening Private Commercial Arbitration and Dispute Resolution (2006) were aimed at improving the technical expertise of officials, and at officials with specific technical expertise, and covered issues such as effective dispute avoidance and best practices in solving international commercial disputes through mediation and arbitration.

Seminar for Sharing Experiences in APEC Economies on Strengthening the Economic Legal Infrastructure (2007), we confirmed that APEC has played an important role in strengthening the economic legal infrastructure in the Asia-Pacific Region since this region was faced with the Asian Economic Crisis at the end of the 1990s. Viet Nam has been one of the major beneficiary economies of capacity-building in the economic legal infrastructure to move forward to market-oriented economic reform and to tackle the economic crisis.



Capacity-Building Workshop on Combating Corruption Related to Money Laundering (2007) with topics including International Mechanisms and Legal Obligations, Preventive Measures, Institutional and Other Measures to Combat Corruption, then shared Experiences and Case Studies within economies.

Seminar on International Alternative Dispute Resolution (ADR) Mechanisms (2007) included discussions on several international instruments, such as 1) the 1958 United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 2) The United Nations Commission International Trade Law (UNCITRAL) Model Law on International Commercial Conciliation, 3) The International Centre for Settlement of Investment Disputes (ICSID) Convention on the Settlement of Investment Disputes, as well as sessions on the ADR and Capital Markets, and recognition and enforcement of ADR awards.

Free Access to the law of APEC developing economies in Asia, and Cambodia (2007-) Asian Legal Information Institute (AsianLII) has 202 databases from 28 Asian economies and territories via the "[Free Access to Law Movement](#)"

Study of Cross-border Mergers and Acquisitions in APEC and their Implications for Exports, foreign direct investment (FDI) and growth (2008) was conducted to achieve four objectives: (i) examine the pattern of cross-border M&As within APEC, (ii) analyze how cross-border M&As affect international trade and FDI, (iii) analyze how cross-border M&As affect economic growth, and (iv) discuss the possible policy implications.

<p><b>2. Please give your recommendations on the possible future courses of the APEC structural reform initiatives in your FotC area.</b></p>
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Based on the SELI's 2009 survey result, Bankruptcy Law and Insolvency Law appears to be getting attention from most of the developing economies in terms of addressing financial turmoil and "Getting credit"; and developing economies are interested in dispute settlement mechanisms such as Alternative Dispute Resolution (ADR).

Commercial and Corporate Law and Competition Law and Policy seem to remain the principal areas with a desire for a greater focus on facilitating corporate restructuring and "Starting a business"; the activities of these fields could be interacted with other FotCs'.

Relating to the comprehensive long-term growth strategy to be formulated in 2010, structural reform is supposed to be one of the main policy approaches/methodologies in materializing the strategy. As one of the structural reform areas, SELI can contribute to the growth agenda.

## COMPETITION POLICY AND LAW GROUP (CPLG)

**1. What do you think are the key findings from structural reform initiatives undertaken by APEC (e.g. AEPR, seminars, training courses, surveys, checklists) and by APEC economies in your FotC area? Please discuss their actual or anticipated implications, if immediately apparent, for the improvement of the economic environment and the flow of trade and investment in the APEC region.**

The key findings from structural reform initiatives undertaken by APEC include:

- Promoting competition policy and enactment/reinforcement of competition law are one of the key elements of structural reform.
- Establishment of appropriate, comprehensive competition law and vigorous enforcement of the law are critically important for competition policy.
- Enactment or enhancement of competition law and active law-enforcement are facing challenges especially in developing economies.
- Competition policy and regulatory reform are complementary to each other.
- Promoting competition policy in APEC region is an ongoing process.

**2. Please give your recommendations on the possible future courses of the APEC structural reform initiatives in your FotC area.**

As is described in A-1 above, competition policy is an essential element of structural reform, so it is very important to enhance competition policy in order to accomplish structural reform in the APEC region. While establishment of competition law and vigorous enforcement of the law are critically important for competition policy, enactment or enhancement of competition law and active law-enforcement are facing challenges especially in developing economies.

Among twenty-one APEC economies, several economies do not have comprehensive competition law. Although some of them have been under a process of enacting a competition law for a long time, they are facing challenges and it is not sure whether they can realize the enactment.

Among the remaining economies which have comprehensive competition law, many economies are still in the process of accumulating necessary experiences of enforcing competition law.

Therefore, the APEC structural reform initiatives should furnish member economies, especially economies mentioned above, with appropriate support on establishment and/or enforcement of competition law in the future.

As a training program on competition law/policy, CPLG held a series of five training courses in the past five years (2005-2009). Since the series had been concluded in 2009, the next training courses as a successor of the series should be launched, and they have already been planned by CPLG as three training courses for the next three year (2010-2012).

As for themes of the training courses, CPLG conducted a survey by sending questionnaires to member economies to identify training priorities. As a result of the survey, competition advocacy, M&A, cartel/bid-rigging and abuse of dominant position are most supported as themes for the training courses by member economies.

We consider that APEC should continue to furnish training programs on competition law/policy in full respect of the views of member economies shown by the survey.

## COLLATED RESPONSES TO QUESTIONS FOR MEMBER ECONOMIES

### AUSTRALIA

**1. In which areas of structural reforms have the most significant progress been made in your economy in the past five years? Please describe in what way you think the progress has been significant? Any structural reform activity can be included here, and does not necessarily need to be restricted to the five LAISR themes.**

#### **Deregulation agenda**

The Australian Government is committed to reducing the regulatory burden on Australian businesses, non-profit organisations and consumers. As part of this commitment, upon its election in 2007, the Government created a new Cabinet portfolio position for Deregulation, the first time that the Australian Government has had a dedicated cabinet position for regulatory reform. Responsibility for regulatory reform was also transferred to a central agency of government, the newly named Department of Finance and Deregulation. The Government also introduced a number of changes to Regulatory Impact Analysis requirements, including increased scrutiny of new regulatory proposals, a process to remove redundant Acts and regulations and the introduction of Better Regulation Ministerial Partnerships, where the Minister for Finance and Deregulation works with his counterparts to address areas of particular regulatory concern.

The Australian Government's Regulation Impact Statement requirements have been extended to agreements or decisions of the Council of Australia Governments (COAG), other Commonwealth-State Ministerial Councils and national standard setting bodies.

The Australian Government continues to task the Productivity Commission to conduct reviews to examine the scope for future regulatory reform, to benchmark regulatory compliance across jurisdictions and to measure and report on the regulatory burden on business. The Productivity Commission is the Australian Government's independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. The Productivity Commission has recently conducted reviews on *Chemicals and Plastics Regulation*, the *Regulatory Burden in the Upstream Petroleum (Oil and Gas) Sector* and the *Regulatory Burdens on Business*, with a focus on social and economic infrastructure services.

Australia's regulatory reform agenda has been ambitious. It has provided Australia with a solid foundation in terms of the quality of its institutional frameworks and the level of political commitment to better regulation. However, Australia continues to face challenges in effectively managing the growth in regulation, including by finding methods to better measure both the costs of regulatory burdens and quantifying the benefits of regulation. Removing regulatory costs and barriers to doing business across jurisdictions will remain a high priority for Australia.

#### **Structural and microeconomic reform**

Different rules, laws and regulations by different levels of government in Australia create administrative costs and complexity for business and inhibit the movement of goods, labour and services within the national market.

The Australian Government is pursuing a number of structural and microeconomic reforms

through COAG. COAG comprises the Prime Minister, State Premiers, Territory Chief Ministers and the President of the Australian Local Government Association. The role of COAG is to initiate, develop and monitor the implementation of policy reforms that are of national significance and which require cooperative action by Australian governments.

COAG's has five priority work streams, including the competition and regulation stream which aims to facilitate a "National Seamless Economy" through the elimination of internal regulatory barriers to the transfer of goods, labour and services within the national market.

The change in government at Australian Government level in 2007 led to a reinvigorated COAG process, the COAG Reform Agenda. COAG identified seven priority areas for its work agenda, one of which is business regulation and competition. The objectives of this work agenda include accelerating and broadening regulation reduction to reduce the regulatory burden on business, further improving processes for regulation making and review and significantly improving Australia's competition, productivity and international competitiveness.

In 2008, COAG agreed to the National Partnership Agreement to deliver a National Seamless Economy agenda, with the Commonwealth committing to fund a National Partnership Payment of \$550 million over the five years from 2008-09 to facilitate reform priorities. The funding model of the National Partnership Agreement allocates \$100 million in 'facilitation' payments, which recognise net set-up costs and revenue forgone by the States and Territories, and \$450 million in 'reward' payments which are contingent upon completion of key milestones in the Agreement's Implementation Plan.

The Implementation Plan comprises three streams: reducing inconsistent and unnecessary regulation in 27 separate areas; including nationally uniform occupational health and safety laws, a national consumer policy framework, a national trade licensing system, a national system for registering business names, and a national system of consumer credit; eight priority areas of competition reform; and reform of regulation-making and review processes.

Key milestones from the Implementation Plan are already being achieved. In April 2009, an Intergovernmental Agreement was signed on the development of a national licensing system for specified occupations. In July 2009, an Intergovernmental Agreement was signed on the establishment of a national Australian Consumer Law, as well as a further Intergovernmental Agreement covering national business names registration, which will result in lower costs for registering a business. Progress has been made on the development of a National Construction Code and reform of legal professional regulation.

### **Federal financial relations**

Australia's federal relations are characterised by the large expenditure responsibilities of the States and Territories relative to their revenue capacities, so they rely on transfers from the Australian Government to finance their activities. As a result, the Australian Government makes a number of payments to the States and Territories, including in the areas of health, education, housing infrastructure and community services.

In 2008, COAG agreed to a new financial framework under the *Intergovernmental Agreement on Federal Financial Relations*. The framework commenced on 1 January 2009 and involves significant reforms to the payment structures and conditions of a number of Australian Government payments to the States and Territories. The new framework involves a significant rationalisation of the number of payments made, while increasing the overall quantum of payments.

The framework provides clearer specification of the roles and responsibilities of each level of

government, so that the appropriate government is accountable to the community. This new model emphasises arrangements which are focused on outputs and outcomes, with an increased emphasis on flexible and innovative service delivery, together with a commitment from the Commonwealth to provide incentive payments to drive reforms through a series of new National Partnership Payments. The framework will also enhance public accountability through simpler, standardised and more transparent performance reporting and reduced administration and compliance overheads through centralised payment administration.

### **Public sector administration**

On 3 September 2009, the Prime Minister of Australia announced the formation of an Advisory Group on Reform of Australian Government Administration. The Advisory Group has been tasked with delivering a blueprint for reform of Australian Government Administration by early 2010. The blueprint will outline steps needed to rejuvenate the Australian public service and enable it to serve the government of the day in addressing the challenges facing Australia in the 21st century.

In developing the blueprint, the Advisory Group will consider reforms to improve the performance of the public service in creating a values-driven culture that retains public trust, generates high quality forward-looking and creative policy advice, delivers effective services focused on the needs of citizens, and does so in a way that is flexible and efficient.

**2. Describe examples of successful reforms and lessons learned in your economy in implementing structural reforms in the five LAISR areas. Please indicate relevant websites or other reference material, preferably those written in English.**

### **Regulatory reform**

As outlined above, Australia is progressing a structural and microeconomic reform program through COAG. One of the reform streams under the National Partnership Agreement to Deliver a Seamless National Economy is to reduce inconsistent and unnecessary regulation in 27 separate areas.

While achieving agreement on reforms between the Commonwealth and the States and Territories has been difficult in the past, it has been successful as a whole under the COAG Reform Agenda. The COAG working groups established to support the seven priority areas for its work agenda are composed of a Minister or Ministers from the Australian Government and officials from State and Territory governments. This structure was created to ensure the agenda had sufficient political carriage and support.

State and Territory officials are from central policy agencies, such as the Departments of Premier and Cabinet and Treasuries, which ensures coordinated and centralised support and involvement.

### **Strengthening Economic and Legal Infrastructure**

Australia's competition and consumer policy laws are contained in the *Trade Practices Act 1974 (TPA)*. On 10 November 2008, Parliament passed the *Trade Practices Legislation Amendment Act* which strengthened and further clarified the misuse of market power provisions under section 46 of the TPA. Amongst other things, this Act clarified the term 'take advantage' used in section 46; provided additional guidance in relation to the concept of recoupment in predatory pricing cases; and extended the Federal Magistrates Court's jurisdiction to hear section 46 cases.

On 15 June 2009, Parliament passed the *Trade Practices Amendment (Cartel Conduct and Other Measures) Act* (the Cartels Act) to criminalise serious cartel conduct. The Cartels Act came into effect on 26 June 2009. It prohibits a person from making, or giving effect to, an agreement between competitors that contains a provision to fix prices, restrict outputs, divide markets or rig bids. The Cartels Act established criminal penalties for individuals of a 10-year jail term and/or a fine of \$220,000; and for corporations, the greater of \$10 million, three times the benefit obtained from the prohibited behaviour, or 10 per cent of annual turnover.

Further information about COAG can be found at [www.coag.gov.au](http://www.coag.gov.au)

Further information about the Australian Government's regulatory reform agenda can be found at [www.finance.gov.au](http://www.finance.gov.au)

Further information about the *Trade Practices Act 1974* can be found at [www.accc.gov.au](http://www.accc.gov.au)

The *Trade Practices Legislation Amendment Act* can be found at <http://www.comlaw.gov.au/ComLaw/Legislation/Act1.nsf/0/D89FE1186E8F9CA8CA25750B0076CFBB?OpenDocument>

The Cartels Act can be found at <http://www.comlaw.gov.au/ComLaw/Legislation/Act1.nsf/0/02684FF95442BF72CA2575EC0017387D?OpenDocument>

**3. What in your economy's experience are the keys to the success of reform? (e.g. leadership, institutional framework, communication strategy, consultation process) What are the factors, if any, that impeded reform? What lessons can we learn from your experience?**

In order to be successful, the creation of the COAG Reform Agenda required support from the highest levels of government. The reform agenda was agreed jointly between the Australian Government and the States and Territories, which allowed for national coordination and agreement on the nominated reforms and buy-in and support from all parties.

Through its previous experience with the National Competition Policy reforms which began in 1995, the Australian Government recognised the importance of creating incentives for reforms. The 1995 National Competition Policy payments were the means by which gains from reform were distributed throughout the community. The payments recognised that, although the States and Territories were responsible for significant elements of the National Competition Policy, much of the direct financial return accrued to the Australian Government via increases in taxation revenue that flow from greater economic activity, which the reforms helped generate.

As a result of Australia's success with the 1995 reforms, the COAG Reform Agenda created a new series of payments, the National Partnership Payments, as a mechanism to drive reforms and improve service delivery standards. The National Partnership Payments will be made either *ex ante* to support the delivery of specified outputs and projects and facilitate reforms, or *ex post* to reward those jurisdictions that deliver on nationally-significant reforms.

The reward payments are intended to be structured in a way that encourages the achievement of ambitious performance benchmarks. For example, if timely implementation of a service or project is paramount, then a reducing scale of payments may be made for

performance benchmarks met after the specified delivery date. Graduated performance benchmarks could also be provided so that a State may receive some proportion of total available funding for an activity where it has not fully achieved the reform or project delivery performance benchmarks but has partially attained the agreed benchmarks. Eligibility for reward payments will be assessed by the independent COAG Reform Council to ensure transparency and enhance accountability in performance assessment. These principles will encourage timely and ambitious achievement of reforms and ensure all parties are accountable. The achievement of the performance benchmarks is to be assessed annually for the Commonwealth and each State and Territory, with the Commonwealth providing the reward payments based on the COAG Reform Council's advice.

**4. What are the impacts, both positive and negative, of the reform on the economy and the flow of trade and investment? Please provide data or statistics where available.**

Australia remains committed to 'across the border' trade and investment liberalisation both multilaterally, through the Doha round of WTO negotiations, and bilaterally through free trade agreements (FTAs). FTAs promote stronger trade and commercial ties between participating economies and open up opportunities for Australian exporters and investors to expand their business into key markets. Australia is also pursuing the informal removal of trade barriers through the 'behind the border' structural reforms of the COAG reform agenda. These reforms will increase the competitiveness of Australian exporters in global markets and make Australia a more attractive place to invest.

The Productivity Commission, as the Australian Government's independent research and advisory body is tasked with examining performance of microeconomic reform. The Productivity Commission's work covers all levels of government and all sectors of the economy, as well as social and environmental issues. Its role, expressed simply, is to help governments make better policies in the long term interest of the Australian community. The Productivity Commission conducts public inquiries on key policy or regulatory issues bearing on Australia's economic performance and community wellbeing and undertakes a variety of research at the request of government.

The Commission has estimated in its review of National Competition Policy that the observed productivity and price changes in key infrastructure sectors (electricity, gas, urban water, telecommunications, urban transport, ports and rail freight) in the 1990s, to which National Competition Policy and related regulatory reforms directly contributed, increased Australia's GDP by 2.5 per cent or \$20 billion.

The Commission has further estimated that the National Reform Agenda competition and regulation reforms had the potential to deliver an increase in GDP by around 1¾ per cent after 10 years, and in the human capital stream, could add almost 9 per cent to GDP after 25 years.

The current COAG reform agenda is aimed at achieving 'behind the border' reforms to boost productivity, workforce participation, geographic mobility, and support wider objectives including better services for the community, social inclusion, closing the gap on Indigenous disadvantage and environmental sustainability.

The Productivity Commission is to report to COAG on the economic impacts and benefits of COAG's agreed reform agenda every two to three years. The benefits from COAG's reform agenda are yet to be realised as the reforms are only partially completed and the benefits from the reforms will play out over a number of years. In addition, the global economic downturn is likely to postpone the full realisation of these benefits until the economy

recovers.

Once the Australian economy returns to a normal economic operating environment, it is anticipated that these reforms will reduce the regulatory burden on business, increase the efficiency and allocation of resources in the economy, reduce administrative waste in government policy, improve government accountability and increase the effectiveness of government service delivery to Australian citizens. The result of these outcomes is expected to be a sustained increase in Australia's productivity growth over the long term.

To the extent the reforms dismantle barriers to entry from international markets, investment and trade in Australia will increase, both as demand for internationally competitive Australian good and services increases, and increased demand from Australians in a growing economy accessing goods and services internationally.

**5. In what ways can APEC better promote structural reform in the region? What would be some possible next steps beyond 2010 based on the achievement of the LAISR process?**

Because the LAISR agenda is broad based, there is a risk that APEC's enthusiasm to nominate new ideas and expand its agenda will lead to too many objectives and reforms being pursued simultaneously, resulting in a dilution in focus, reform fatigue, stretched economy resources, and an inefficient allocation of resources away from the highest reform priority areas.

The nature of structural reform is that the benefits take a substantial period of time, resources and political support to implement, and there is an even longer time horizon until the benefits are realised. As a result, sustained commitment to APEC's structural reform agenda will be required, matched with sufficient resources to assist economies through the process. While there needs to be sufficient flexibility to change the priority areas as economic circumstances change, the continual addition of new projects and priorities risks diluting the focus of the Economic Committee. This could be addressed by an annual reaffirmation of the high priority reform areas, and a commitment for any additional projects/working groups to sunset one year after commencement. The high priority areas should then be agreed on a three to five year basis, with projects, surveys and capacity building flowing from these high level priorities.

The LAISR's five streams proved to be successful in framing the 2010 agenda, and new APEC structural reform priorities should be similarly limited to no more than five. Each priority areas should be accompanied by a descriptive statement on the policy area it intends to cover, and be distributed widely throughout APEC to ensure uniform understanding. A cohesive understanding and approach throughout APEC to the structural reform priority areas will improve potential outcomes.

Similar to the LAISR agenda, many of the structural reforms occur 'behind the border'. In this regard, efficient, open and competitive markets are a logical objective of behind the border reforms. This will be particularly timely as economies unwind their efforts to provide stability and support for domestic industries under the global economic crisis, and return, or develop towards, viable and prosperous private markets.



## BRUNEI DARUSSALAM

**1. In which areas of structural reforms have the most significant progress been made in your economy in the past five years? Please describe in what way you think the progress has been significant? Any structural reform activity can be included here, and does not necessarily need to be restricted to the five LAISR themes.**

The government of Brunei Darussalam views good governance as essential to achieving prosperity, harmony and stability as well as sustainable progress and economic development. It aspires to continuously improve its governance in order to be at par with other economies and to remain competitive.

In ensuring good governance, modernising the civil service has always been the top agenda of His Majesty's Government. His Majesty always stresses that the civil service should always be efficient, effective, innovative, competitive, productive and proactive as well as customer focused and friendly.

For this purpose, the Government has launched its Civil Service Vision of the 21st century which is to make the Civil Service of Brunei Darussalam as an organisation that promotes continuous development and continuously striving for excellence in its own way and in a healthy environment.

The vision provides a platform to shape the future of the civil service as well as to give direction and focus in order to strengthen as well as to consolidate all efforts to improve and to reform the Civil Service for the well-being and prosperity of the people of Brunei Darussalam. It also provides guidance for Ministries and Departments in planning their activities which in the long run is hoped to create an excellent Civil Service.

The vision has emphasized several goals such as on commitment, quality, effectiveness, excellence, and moral ethics in the Civil Service of the economy. Besides continuing its traditional role to maintain peace, enforce law and order, as regulator and service provider, the civil service itself has to focus on a more strategic role such as facilitator, developer, innovator and thinker.

The vision focuses on three areas namely policy, organisational structure and organisational behaviour. Good policies are very crucial in the nation's development; the civil service should reassess them from time to time to meet the aspiration of the nation while human resources should be efficient, innovative, skilled, qualified as well as motivated in performing their tasks and responsibilities. In ensuring its effectiveness, the right infrastructure should be in place. This will enhance the capacity of the organisation in meeting the challenging demand of its customers.

**2. Describe examples of successful reforms and lessons learned in your economy in implementing structural reforms in the five LAISR areas. Please indicate relevant websites or other reference material, preferably those written in English.**

E-Government has emerged as a key element in any policy of modernising government and other institutions of public governance and service provision. The Government has launched the e-Government strategic plan 2009-2014 that addresses the needs of its three major stakeholders namely the citizen, industry and the Government. It is aligned with the national vision of "Wawasan 2035" and harmonised with the agenda of the proposed Ministry of Communication's E-Strategy of Brunei Darussalam as well as the Civil Service 21st Century Vision. The Government seeks to deliver and follow the "EG21 Governance and Services

Online” with its vision of the public sector services being “an e-smart Government in line with the 21st century Service vision.

The implementation of the e-Government aims to promote more efficient government by allowing better delivery of public services, improved access to information and increased accountability of government to its citizens.

The e-Government Program Executive Committee (EGPEC) is the advisory and consultative body to the Brunei Information Technology (BIT) Council for the development and implementation of the e-Government programs listed in the e-Government Strategic Framework for Action 2001- 2005.

In the e-Government framework, a number of strategic IT projects have been identified for consideration and implementation by the relevant ministries. These include the integrated government wide Treasury Accounting and Financial Information System (TAFIS), Human Resource Management (HRM), Labour Exchange, Common Office Environment (COE) and Multipurpose Smart Card (MSC).

In addition, other flagship applications under consideration also include e-Health, e-Education and MukimNet with the aim to provide convenient and online services to the citizen. Besides providing ICT facilities to the ordinary citizens in the villages, MukimNet will also serve business development functions offering opportunities for the unemployed graduates to be engaged for its operations. MukimNet has been proposed to be funded partly by the government and the private sector especially in the infrastructure aspect.

Please visit <http://www.e-government.gov.bn> for more information.

**3. What in your economy’s experience are the keys to the success of reform? (e.g. leadership, institutional framework, communication strategy, consultation process) What are the factors, if any, that impeded reform? What lessons can we learn from your experience?**

Promotion of awareness is an important factor in achieving a particular reform vision. Beside this, as to sustain the success of reform, it requires initiatives from various parties and supportive policies which include leadership, institutional framework, communication strategy, consultation process. Furthermore, advocacy mechanism is also imperative to the success of any new reform to ensure the acceptance of any changes and cooperation by all stakeholders.

**4. What are the impacts, both positive and negative, of the reform on the economy and the flow of trade and investment? Please provide data or statistics where available.**

The impacts of the current initiatives on the flow of trade and investment are still being observed and studied.

**5. In what ways can APEC better promote structural reform in the region? What would be some possible next steps beyond 2010 based on the achievement of the LAISR process?**

APEC continues to be a platform for promoting structural reform in the region. Among the initiatives that can be considered by APEC may include the support for more capacity

building activities and fostering collaborations with other APEC and non-APEC foras.

In developing the future work programmes for future capacity building activities, it will be beneficial for APEC to provide diverse contents taking into account the different levels of economic development of APEC economies.

## CANADA

**1. In which areas of structural reforms have the most significant progress been made in your economy in the past five years? Please describe in what way you think the progress has been significant? Any structural reform activity can be included here, and does not necessarily need to be restricted to the five LAISR themes.**

Since putting its macroeconomic fundamentals in order in the 1990s, the Government of Canada has been able to better concentrate on structural reforms designed to make Canada's economy more competitive. The current framework for this process is *Advantage Canada* – Canada's economic plan, introduced in November 2006. *Advantage Canada* has the following five components:

1. Tax Advantage - Reducing taxes for all Canadians and establishing the lowest tax rate on new business investment in the G7.
2. Fiscal Advantage - Eliminating Canada's total government net debt by 2021.
3. Entrepreneurial Advantage - Reducing unnecessary regulation and red tape and increasing competition in the Canadian marketplace.
4. Knowledge Advantage - Creating the best-educated, most-skilled and most flexible workforce in the world.
5. Infrastructure Advantage - Building the modern infrastructure it requires.

As mentioned in the 2009 Federal Budget, over the previous three years, the Government has implemented significant elements of *Advantage Canada*, including:

- reducing taxes on individuals, families and businesses by an estimated total of \$220 billion over the period of 2006 to 2014
- reducing corporate income taxes so that Canada will have the lowest statutory corporate tax rate in the G7 by 2012 and the lowest overall tax rate on new business investment in the G7 by 2010
- reducing the federal debt by \$37 billion
- introducing a federal science and technology strategy and new investments in people, equipment and research
- investing in education and training, including long-term support of postsecondary education and a modernized Canada Student Loans Program
- streamlining Canada's immigration system to better respond to the needs of the Canadian labour market
- enhancing and expediting infrastructure funding.

**2. Describe examples of successful reforms and lessons learned in your economy in implementing structural reforms in the five LAISR areas. Please indicate relevant websites or other reference material, preferably those written in English.**

The LAISR priorities interface with two components of *Advantage Canada*: Entrepreneurial Advantage (i.e., regulatory reform, competition policy, corporate governance) and Fiscal Advantage (i.e., public sector governance). The most significant structural reforms in recent years in Canada in the areas of regulatory reform, competition policy, corporate governance and public sector governance are indicated below.

**Regulatory Reform:** The 2007 Federal Budget moved to create a performance-based regulatory system based on three elements. First was the Cabinet Directive on Streamlining Regulation (CDSR), which came into effect on April 1<sup>st</sup>, 2007, introducing new

requirements for regulatory departments and agencies regarding the preparation of regulatory proposals, including enhanced international regulatory cooperation, performance measurement and evaluation, service standards, and more robust cost-benefit analysis (see: <http://www.reglementation.gc.ca/directive/directive00-eng.asp>). Second was the creation of the Major Projects Management Office to provide a single point of entry into the federal regulatory process for large natural resource projects (see: <http://www.mpmo-bggp.gc.ca/index-eng.php>). Third was the Paper Burden Reduction Initiative, designed to reduce the administrative and paper burden on small business resulting from government rules and regulations by 20% by November 2008 (see: <http://reducingpaperburden.gc.ca/epic/site/pbri-iafp.nsf/en/Home>).

**Competition Policy:** The 2009 Federal Budget introduced significant amendments to the *Competition Act*, which were designed to modernize it and bring it more closely in line with the competition laws of Canada's major trading partners (see [http://www.cb-bc.gc.ca/eic/site/cb-bc.nsf/eng/h\\_03036.html](http://www.cb-bc.gc.ca/eic/site/cb-bc.nsf/eng/h_03036.html)). The amendments responded to recommendations made by the independent Competition Policy Review Panel, which the Government set up in July 2007 to review Canada's competition and foreign investment laws and policies with a view to improving Canada's productivity and competitiveness. The Panel's final report of June 2008 had recommended that the *Competition Act* be amended to include: reforms to the merger review process; amendments to the conspiracy provisions; the introduction of financial penalties for abuse of dominance; and the repeal of various industry-specific and pricing practices provisions. The amendments came into force on March 12, 2009 (with the exception of reforms to the conspiracy provisions, which come into force on March 12, 2010).

**Corporate Governance:** In 2005, the Canadian Securities Administrators (CSA), an umbrella organization of provincial and territorial securities regulators in Canada, established national policies and instruments that provide guidelines and disclosure requirements for publicly traded companies with the intent of improving corporate governance using a "comply or explain" regime (see: <http://www.osc.gov.on.ca/en/14206.htm>). The process responded to a series of corporate and accounting scandals in the early part of the decade and was informed by a thorough and transparent consultation process. In 2009, the CSA published proposed policies and instruments that would replace the current ones, with a particular focus on enhancing the standard of corporate governance and confidence in Canadian capital markets. The proposed regime would move away from the "comply or explain" requirements to a principles-based approach. Publicly-traded companies would be required to disclose the practices they use to achieve nine core principles. The CSA is in the process of analysing the comments received during the consultation period (see <http://www.osc.gov.on.ca/en/24538.htm>). No decision has yet been made with respect to the proposed changes.

**Public Sector Governance:** The Government of Canada has introduced a variety of initiatives over the past five years in order to improve its principles-based, risk-sensitive, results-focused management regime. These include: Expenditure Management System (EMS) Renewal (2006) (see: <http://www.tbs-sct.gc.ca/media/nr-cp/2009/0206a-eng.asp>), systematically subjecting all Government programs to ongoing Strategic Reviews to ensure they remain focused on results, provide value for money and are aligned with current priorities; the Federal Accountability Act (2006), designed to put greater accountability and transparency in government operations (see <http://www.faa-lfi.gc.ca/index-eng.asp>); Public Service Renewal (2007), aimed at improving human resource management (see: <http://www.tbs-sct.gc.ca/chro-dprh/ren-eng.asp>); the Web of Rules Initiative (2008), intended to eliminate ineffective and unnecessary rules and reducing the reporting burden

(see: <http://www.tbs-sct.gc.ca/reports-rapports/wr-lr/index-eng.asp>); and Grants and Contributions Reform (2008) to make grants and contributions programs more fair, cost-effective and efficient

(see: <http://www.tbs-sct.gc.ca/qcr-esc/docs/2008/ragcp-rapsc-eng.asp>).

**3. What in your economy's experience are the keys to the success of reform? (e.g. leadership, institutional framework, communication strategy, consultation process) What are the factors, if any, that impeded reform? What lessons can we learn from your experience?**

The success of a structural reform initiative is often owing to the fact that recommendations underpinning the reform are made by an independent organization of experts appointed by the Government – esteemed individuals in whom the population in general can place their trust. For example, in formulating its new regulatory policy (i.e., the CDSR), the Government drew from the recommendations made by the External Advisory Committee on Smart Regulation. As another example, in establishing its March 2009 amendments to the *Competition Act*, the Government was guided by the recommendations made by the Competition Policy Review Panel.

Another key aspect to the success of a structural reform initiative is a thorough, transparent and wide-ranging consultation process that includes all stakeholders and interested members of the Canadian public. Consultations provide legitimacy, buy-in and ownership to the reform process. They should typically be an integral part of the work carried out by the independent organization of experts appointed by the Government, with the views obtained to be used to inform its recommendations along with rigorous evidence-based research.

Once the independent organization of experts has consulted widely and has established and conveyed its recommendations to the Government, leadership at senior bureaucratic and political levels becomes instrumental in ensuring that the recommendations inform a set of official policy proposals that will eventually come into force.

In implementing a new policy, guidance and outreach provided by the Government to stakeholders and the public is critical to ensure that they understand it and the obligations associated with it. For example, the March 2009 amendments to the *Competition Act*, were accompanied by guideline documents, including: *A Guide to Amendments of the Competition Act*, draft *Competitor Collaboration Guidelines* (for public consultation), and *Merger Review Process Guidelines*. Additionally, the Bureau organized a economy-wide outreach program to educate consumers, business people and other stakeholders about the new amendments.

Finally, the Government must also ensure that it has built the necessary internal capacity, as required, to properly implement the new policy. For example, the new regulatory policy (i.e., the CDSR) has included the establishment of the Centre of Regulatory Expertise (CORE) to provide expert advice and services to regulatory departments and agencies in order to enable them build their internal capacity. Specific expertise is provided in the areas of cost-benefit analysis, performance measurement, risk assessment, and regulatory impact assessment in general. This advice has been provided at a much lower cost than if each department and agency were to have contracted with the private sector.

**4. What are the impacts, both positive and negative, of the reform on the economy and the flow of trade and investment? Please provide data or statistics where available.**

Generally the aforementioned structural reforms are sufficiently new that it is too early to assess their economic impacts, if indeed it is possible to assess them in a measurable way. An exception within public sector governance reform are the Strategic Reviews. The first two rounds of Strategic Reviews, which covered 38 federal organizations and approximately 45% of direct program spending, identified aggregate ongoing savings from low-priority existing programming of almost \$1 billion (US\$950 million) that were reallocated to higher priority programming. The results were reported in the 2008 and 2009 Federal Budgets.

**5. In what ways can APEC better promote structural reform in the region? What would be some possible next steps beyond 2010 based on the achievement of the LAISR process?**

**Regulatory Reform:** One of the key challenges of assessing the success of regulatory reform is determining its overall impact on the economy and the environment. Hence the development of indicators of regulatory quality can help economies learn from the past and advance new regulatory reform strategies. Canada is encouraged by ongoing work at the OECD in this area, and views APEC as a forum that can also play an important role.

**Competition Policy:** Next steps beyond 2010 could include:

- promoting the convergence of competition laws in APEC economies in order to minimize costs to business and provide increased stability and certainty;
- supporting the adoption in APEC economies of the International Competition Network's recommended practices; and
- promoting ongoing cooperation between competition enforcement agencies to ensure effective cross-border enforcement and assisting newer agencies in capacity building in order to support enforcement convergence.

## CHILE

**1. In which areas of structural reforms have the most significant progress been made in your economy in the past five years? Please describe in what way you think the progress has been significant? Any structural reform activity can be included here, and does not necessarily need to be restricted to the five LAISR themes.**

Capital market reforms have made overarching progress over a number of LAISR themes, including Regulatory Reform, Competition Policy, and Strengthening Economic Legal Infrastructure. A continual process of legislative and administrative reforms has allowed the Chilean capital market to develop and have left the economy in a privileged position to confront the challenges of increasingly complex and dynamic global markets.

**2. Describe examples of successful reforms and lessons learned in your economy in implementing structural reforms in the five LAISR areas. Please indicate relevant websites or other reference material, preferably those written in English.**

### *Capital Market Reforms*

Since 1994 and through to the recent reforms known as MKII and MKB, Chile has achieved important progress in the management of investments, market discipline, savings incentives for individuals, and competition in the financial system.

In June 2007, the Second Capital Market Reform (MKII) entered into force. This reform was structured based on three main objectives: first, to encourage the development of venture capital industry; second, to strengthen safety standards in the financial market; and third, to promote financial market development.

As for promoting venture capital industry, MKII established, among other measures, a tax exemption on capital gains from the sale of shares of venture capital, thus benefiting all those entrepreneurs, angel and seed investors willing to enter into that kind of firm.

Regarding the objective of providing better safety standards in the financial market, MKII set higher demands on custody of securities, established the need for executives of brokerage to certify sufficient knowledge, and strengthened the auditing power of the Superintendency of Securities and Insurance (SVS) over cases of insolvency or financial weakness of the institutions under its supervision. Similarly, MKII legally established the principle of immunity from seizure for debt securities in custody of the intermediary and established, for the latter, the obligation to keep separate accounts of self-owned securities and of securities held for others.

Finally, in terms of financial market development, the reform empowered the SVS to authorize the issuance of insurance policies in Chilean pesos and extended the range of investments representing technical reserves and risk capital for insurance companies. Perhaps one of the most notable measures of the MKII reforms is the demutualization of stock exchanges, which constitutes the foundation of a strong policy of innovation, integration and stock market development.

Finally, MKII introduced a number of changes to the legal statute that regulates the supply of foreign securities in Chile, commonly known as off-shore. These changes ease the requirements and conditions required for registration and subsequent public offering of such securities, and allow them to be registered not only by their issuers, but now also by brokers, securities dealers or stock exchanges themselves.



MK Bicentenario (MKB), a major Capital Market Reform put forth under the current administration, of President Sebastian Piñera, defines four strategic objectives: The International integration of Chile's financial market; a regulatory framework that fosters innovation and entrepreneurship; the adoption of best international practices on competition, supervision and transparency; and to advance the financial system both in terms of depth and liquidity. To achieve this, the Reform defines seven distinct pillars:

**I. Tax Framework:** In order to promote the development of new products and markets, and to foster the export of financial services and the participation of external agents, MKB will create a clear, simple and competitive regulatory framework for the fixed-income, derivatives, and financial services markets.

**II. Consumer Protection:** In order to allow more people to access the financial market and on better terms, the Reform will create a National Financial Consumer Service that will: Extend consumer protection from lending to other financial services; reduce regulatory disputes and focus regulation on the products and services supplied rather than the supplier; and reduce asymmetry in access to information.

**III. Financial System Solvency and Risk:** In view of the recent international financial crisis, the reform will make improvements to the General Bank Law and the regulation of insurance companies. These will seek to reduce cyclical variations in credit supply (through the use of provisions) and make the system more secure in terms of solvency and liquidity.

**IV. Information and Transparency:** In order to have a market that is integrated, competitive and provides proper consumer protection, MKB will seek to foster transparency and correct price formation. To this end, the reform proposes to integrate of local stock exchanges with others of the region; to increase price information in the foreign exchange market; to certify financial professionals; and to prevent the use of market-sensitive information.

**V. Institutional Development:** The market's institutional framework requires modernization in several areas. In particular: Strengthening the governance of the stock market regulator (SVS), moving towards a Securities Commission; increasing the autonomy for the bank regulator (SBIF); and reforming the Bankruptcy Law.

**VI: Capital Markets at the Service of the Middle Class and SMEs:** The reform seeks to improve the access to a wider range of saving and financing options for individuals and SMEs. To this end, MKB will implement measures to increase bank penetration and encourage families to save; reduce the cost of public offering; and create new incentives for innovation and venture capital, eventually introducing a new Investment Fund Law.

**VII: New Markets and Cheaper Financing:** The Reform aims to see the development of new markets and products that create cheaper financing alternatives. In particular, MKB will develop the market for high-yield instruments; analyze possible incentives for this industry's incorporation into the stock market; identify ways to improve the access of small businesses to exchange-rate hedging; and study a new legal framework for micro-credit institutions and, eventually, niche banks.

### ***Public Sector Governance***

On April 20, 2009, the Law of Transparency came into force. Its purpose is to regulate (1) the principle of transparency in the public sector, (2) the right of access to information of Public offices, (3) the procedures for the practice of law, and (4) exceptions to the disclosure of information.

With this Law, the various departments of the State will not only have to publish on paper or on their websites all the information regarding their composition and activities, but will also have to timely respond to requests for specific information made by any citizen.

In case of failure to comply with reporting requirements, citizens may report public services before the Council for Transparency, an entity created by this Law as an autonomous body with supervisory and sanctioning powers, which will ensure compliance with the standard and apply the corresponding sanctions.

**3. What in your economy's experience are the keys to the success of reform? (e.g. leadership, institutional framework, communication strategy, consultation process) What are the factors, if any, that impeded reform? What lessons can we learn from your experience?**

There is no one sufficient condition to the success of reform and surely all the cited examples of leadership, institutional framework, communication strategy, consultation process are important. However, our recent experience points to the additional importance of international norms and benchmarks. Take two examples:

First, as part of the accession process to the OECD, Chile had to make substantive improvements in Corporate Governance in order to comply with best international practices in this field. In fact, as from January 1, 2010, a new law on corporate governance was enacted drawing on the guidelines of the OECD and other standards. Thanks to this law, important regulatory changes have taken place: companies must now disclose greater information both to their own shareholders and to the auditing regulators; oversight of markets is now more adequate; and minority shareholders are better protected.

Secondly, international benchmarks such as those defined by the Doing Business Report have helped identify areas where burdensome administrative procedures are currently undermining Chile's international competitiveness and have thus helped trigger important reforms. For instance, the Sistema Integrado de Comercio Exterior (SICEX) is a new project that will implement the Single Window for International Trade, and thereby reduce barriers to "Trading Across Borders." Also, the government has recently announced a project to decrease costs for "Starting a Business" to US\$ 20, and the time required to one day.

**4. What are the impacts, both positive and negative, of the reform on the economy and the flow of trade and investment? Please provide data or statistics where available.**

The "Estado de la Hacienda Pública" is a comprehensive yearly report that presents the economic performance, reviews implemented structural changes, and further draws the roadmap for future economic policy. The 2010 publication defines the roadmap for Chile to growth at an average annual rate of 6% in future years; to create an average 200,000 new jobs each year (2010-2014); to elimination extreme poverty by 2014; and sets the foundations for totally defeating poverty and become a developed economy by 2018.

The "Estado de la Hacienda Pública" publications from 2006 through 2010 can be found at: [http://www.minhda.cl/documentos/estado\\_de\\_la\\_hacienda\\_publica.php](http://www.minhda.cl/documentos/estado_de_la_hacienda_publica.php)

**5. In what ways can APEC better promote structural reform in the region? What would be some possible next steps beyond 2010 based on the achievement of the LAISR process?**

One way in which APEC could better promote structural reform in the region is by facilitating a work dynamic of collaboration through which civil servants from economies committed to undertaking particular structural reforms could visit and learn from their peers in economies with a leading experience in the field.

This “field trip” work dynamic would complement the traditional APEC workshops as it would cater to civil servants that need in-depth and customized information that cannot be typically shared on workshops intended for a broader audience.

The “field trip” work dynamic has been useful for Chile in the design of its Single Window for International Trade (see above), whereby Chilean authorities have visited and learned from leading economies in the field, and acquired an understanding that compliments that gained through EoDB Phase 1 and 2 initiatives.

We envision the possibility that APEC economies with particular expertise on given areas could offer to host customized and well-designed visits for interested economies on an individual basis. Such field trips could include meetings with top officials, visits to relevant governmental organizations and academia. Chile, for instance, could potentially host visits for sharing our worldwide recognized expertise on pension reforms, amongst others.