



**Asia-Pacific  
Economic Cooperation**

BEST PRACTICE GUIDE

# IMPROVING BUSINESS REGULATION IN APEC MEMBER ECONOMIES

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A summary of the APEC Private Sector Development –  
Ease of Doing Business Workshop Series  
(2007-2010)

APEC Project: SMEWG 01/2010T

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# 1 Executive Summary

The private sector plays a key role in generating growth and employment within the Asia-Pacific region. Asia-Pacific Economic Cooperation (APEC) member economies<sup>1</sup> have recognised this and are committed to making it easier, cheaper and faster to do business in the region<sup>2</sup>.

Economies and entrepreneurs stand to benefit from this commitment. Without complex regulations, businesses are more likely to operate in the formal economy, which means economies generate greater tax revenue. A growing body of research has found a strong, positive link between the quality of an economy's domestic regulations and its sustained economic performance.<sup>3</sup>

This *Best Practice Guide: Improving Business Regulation in APEC Member Economies* can assist regulators in developing a favourable environment for doing business. The guide synthesises the knowledge gained from the APEC Private Sector Development – Ease of Doing Business series of workshops held from 2007 – 2010. Each workshop focused on a different regulatory theme. These themes were based on the Ease of Doing Business indicators from the World Bank and the International Finance Corporation's annual *Doing Business* report.

Each economy is unique and there is no single template for creating the most favourable regulatory environment for business activity. However, this *Best Practice Guide* identifies initiatives which feature in leading economies and those that have significantly improved their rankings in the World Bank *Doing Business* reports.

The following activities contribute to making business easier across all areas:

- using technology to improve efficiency, with an emphasis on online services
- offering 'single window' or one-stop shops to access and process documents
- providing comprehensive and customised information to entrepreneurs
- engaging stakeholders when contemplating and undertaking regulatory reform, and giving them an opportunity to be part of the design process
- generating new and improved resources and services for entrepreneurs
- improving coordination between government agencies
- simplifying and streamlining regulatory and administrative processes
- setting service standards and introducing performance-based systems
- using risk-based systems to improve the use of resources.

The following table summarises the elements of best practice identified at the workshops by topic area.

1 Refer to Appendix 2 for a full list of APEC member economies.

2 APEC Ease of Doing Business Action Plan 2010-2015, [http://aimp.apec.org/Documents/2010/EC/WKSP1/10\\_ecv\\_wksp1\\_003.pdf](http://aimp.apec.org/Documents/2010/EC/WKSP1/10_ecv_wksp1_003.pdf)

3 World Bank and the International Finance Corporation. (2010). *Doing Business 2011: Making a Difference for Entrepreneurs*. Washington DC, US: Authors. p.14.

**Table 1: Summary of Best Practice Elements**

Topic	Elements of Best Practice
Starting a business	<ul style="list-style-type: none"> <li>• simplified and streamlined business registration administration, including standardised forms and service standards</li> <li>• a single interface for business registration – for example, one-stop shops</li> <li>• use of technology – including online registration – to improve efficiency</li> <li>• nominal or zero minimum capital</li> <li>• public education on starting a business</li> <li>• fixed registration fees</li> <li>• no court involvement</li> <li>• simple/no publication requirements</li> <li>• no requirement for annual/periodic registration renewal</li> </ul>
Paying taxes	<ul style="list-style-type: none"> <li>• effective electronic filing and tax payment systems</li> <li>• self-assessment for tax liability and voluntary compliance</li> <li>• stakeholder/community engagement and collaboration on developing resources and undertaking tax reform</li> <li>• simplified or 'light touch' tax administrative systems</li> <li>• effective tax products, services and resources</li> <li>• personalised taxation support services</li> <li>• tax legislation reform</li> <li>• tax audit risk management/analysis</li> <li>• capability building for tax administration and collection staff</li> </ul>
Dealing with licences and permits	<ul style="list-style-type: none"> <li>• online services and use of technology to increase efficiency</li> <li>• one-stop shops or 'single window' to access services and to process licensing applications</li> <li>• comprehensive and customised information on licensing requirements and costs</li> <li>• stakeholder consultation and engagement on licensing reform</li> <li>• interagency coordination</li> <li>• simplified and streamlined licensing procedures and processes, including agreed service standards and building codes</li> </ul>

Topic	Elements of Best Practice
Trading across borders	<ul style="list-style-type: none"> <li>• electronic data exchange systems</li> <li>• a single window or one-stop shop for processing trade-related documents</li> <li>• risk-based management and inspections</li> <li>• simplified and streamlined customs regulations and procedures</li> <li>• improved procedures at ports</li> <li>• close cooperation with other customs administrations</li> <li>• border cooperation agreements and trade agreements</li> </ul>
Enforcing contracts	<ul style="list-style-type: none"> <li>• electronic processes and the use of technology to enhance court efficiency</li> <li>• streamlined court practices, as part of wider court reforms</li> <li>• active case management in courts</li> <li>• specialised commercial courts, divisions or judges</li> <li>• formal arbitration courts</li> </ul>
Accessing credit	<ul style="list-style-type: none"> <li>• credit information which is broad in scope, readily accessible and of high quality</li> <li>• a strengthened legal system for accessing credit, including improved bankruptcy and insolvency-related laws</li> </ul>
Employing workers	<ul style="list-style-type: none"> <li>• labour reform which increases labour market flexibility without compromising workers' protections</li> </ul>
Registering property	<ul style="list-style-type: none"> <li>• simplified and streamlined land registration and transfer procedures and processes</li> <li>• online property registration processes and procedures</li> <li>• reduced costs for registering property</li> <li>• comprehensive land registry and property information</li> </ul>





## 2 Introducing the Best Practice Guide

Small and medium-sized enterprises play a vital role in the Asia-Pacific region. They account for approximately 90 percent of all businesses and employ nearly 60 percent of the workforce.<sup>4</sup> As small and medium-sized businesses significantly contribute to an economy's growth and employment, creating a positive business environment is critical.

Asia-Pacific Economic Cooperation (APEC) economies have recognised the link between a quality regulatory environment for business and economic performance. In May 2006, a symposium was held by the APEC Small and Medium Enterprises Working Group (SMEWG) in Montreal Canada to examine the business environment and identify how economies could make it easier for businesses to operate. This led to the development of a multi-year work plan endorsed by APEC Leaders later that year. The Private Sector Development Work Plan aimed to "cut red tape and lift the quality of business regulations which would particularly benefit small and medium-sized enterprises".<sup>5</sup>

The APEC Private Sector Development Work Plan consisted of a series of workshops held between 2007 and 2010<sup>6</sup>, coordinated by SMEWG members. Each workshop focused on different regulatory themes. These themes were based on the Ease of Doing Business indicators from the World Bank and the International Finance Corporation's annual *Doing Business* report, which analyses business regulations in 183 economies.

The workshop series looked at the regulations applying to domestic small and medium-sized enterprises through their life cycle. Some presenters also focused on issues relating to micro-sized enterprises. The topics covered were:

- Starting a business
- Paying taxes
- Dealing with licences and permits
- Trading across borders
- Enforcing contracts
- Accessing credit
- Employing workers
- Registering property.

The content of the *Best Practice Guide* is drawn primarily from presentations to the workshop series. The *Best Practice Guide* brings together the valuable information and experiences shared at the workshops.

4 Joint Ministerial Statement APEC Small and Medium Enterprises Ministerial Meeting, Big Sky, Montana, United States, May 2011.

5 Leaders' Declaration 14<sup>th</sup> APEC Economic Leaders' Meeting, Ha Noi, Viet Nam, November 2006.

6 Refer to Appendix 1 for the full list of APEC Private Sector Development-Ease of Doing Business workshops.

## AIM OF THE BEST PRACTICE GUIDE

The aim of the *Best Practice Guide* is to help improve the regulatory environment for businesses in the Asia-Pacific region. It is a practical tool to assist regulators and administrators in APEC member economies. It builds on APEC's tradition of collaborating and sharing knowledge to lift the quality of business regulations across the region.

The *Best Practice Guide* captures the lessons learned and best practices discussed at the workshops. It does not purport to be a 'one size fits all' tool for economies. Each economy is unique and there is no single template for creating the most favourable environment for economic activity.

While the *Best Practice Guide* focuses mainly on regulatory efficiency, it must be acknowledged that not all efficient regulations are effective in achieving their desired outcomes. Other non-regulatory factors, such as infrastructure and the skills of workers and managers, may also have a large influence on the performance of businesses and the economy.

## SOURCES OF INFORMATION FOR THE BEST PRACTICE GUIDE

### APEC Private Sector Development – Ease of Doing Business Workshop Series (coordinated by SMEWG)

The knowledge and experiences shared at the APEC Private Sector Development – Ease of Doing Business Workshop Series provides the basis for the *Best Practice Guide*.<sup>7</sup> General statements made in the following chapters are those that participants heard at those workshops. The *Best Practice Guide* has been reviewed by presenters, participating economies and APEC forums to help ensure the content accurately reflects the knowledge shared at the workshops.

Each workshop focused on what APEC economies have done, or are doing, to improve their performance in regulating business activity. The same workshop format was used throughout the series – a World Bank speaker, a survey (if applicable), and public and private sector speakers from leading economies and those that have significantly improved their rankings in the World Bank *Doing Business* reports.

### APEC's Ease of Doing Business Action Plan (coordinated by APEC's Economic Committee<sup>8</sup>)

In 2009, APEC Economic Leaders endorsed the Ease of Doing Business Action Plan to significantly improve the ease of doing business in the region. The goal was an APEC-wide 25 percent improvement by 2015 in the following five World Bank's *Doing Business* indicators:

- Starting a business
- Getting credit

7 Presentations to the seminars are available from the APEC Meeting Document Database, <http://aimp.apec.org/MDDDB/default.aspx>.

8 The APEC Economic Committee is responsible for the overall coordination of the Ease of Doing Business Action Plan and implements activities in four of the five designated priority areas. APEC's Committee on Trade and Investment is in charge of implementing activities related to 'Trading across borders'.

- Enforcing contracts
- Trading across borders
- Dealing with permits.

Under the first phase of this initiative<sup>9</sup>, six seminars were held to share experience and raise awareness of best practice among member economies. Presentations from these seminars provided supplementary sources of information for the *Best Practice Guide*, and are available from the [APEC Meeting Document Database](#).

### Other Publications

The World Bank and the International Finance Corporation jointly publish annual reports as part of their Doing Business project. The reports investigate the regulations which enhance business activity and those that constrain it.

*Doing Business 2011: Making a Difference for Entrepreneurs* is the eighth in this series. [Doing Business 2011](#)<sup>10</sup> (current as of 1 June 2010) is referenced heavily in this report. The reports present quantitative indicators of business regulations and the protection of property rights across 183 economies.

[Doing Business 2011: Making a Difference for Entrepreneurs APEC](#)<sup>11</sup> is also referred. This publication focuses on regulatory activity in APEC member economies, rather than the 183 economies reported on in the previous report.

References to additional material are provided.

## STRUCTURE OF THE BEST PRACTICE GUIDE

The *Best Practice Guide* is divided into the eight topic areas listed above. Each section is designed to stand alone. The following structure is used for each topic area:

- Why it matters
- The process
- Best practice guidance
- APEC's performance compared with other regions
- Conclusion.

Throughout the *Best Practice Guide*, examples of regulatory activity in APEC member economies are provided to illustrate best practice.

The influence of an economy's regulatory environment on women's economic opportunities is discussed in some sections and hyperlinks to some resources are also provided.

9 Outcomes from the first phase of the Action Plan have contributed towards Phase II, which involves diagnostic consultations to help participating economies identify opportunities for reform in the priority areas

10 [www.doingbusiness.org/reports/global-reports/doing-business-2011/](http://www.doingbusiness.org/reports/global-reports/doing-business-2011/)

11 [www.doingbusiness.org/~media/FPDKM/Doing%20Business/Documents/Profiles/Regional/DB2011/DB11-APEC.pdf](http://www.doingbusiness.org/~media/FPDKM/Doing%20Business/Documents/Profiles/Regional/DB2011/DB11-APEC.pdf)

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## 3 Starting a Business

### INTRODUCTION

Being able to start up businesses simply and efficiently is vital to fostering a healthy economy. This means creating a regulatory environment which reduces complexity for business.

This section focuses on what APEC economies have done, or are doing, to improve regulations around starting new businesses.

The content in this section was drawn primarily from the APEC Private Sector Development – Ease of Doing Business workshop on starting a business which was held in Hobart, Australia in 2007.<sup>12</sup>

It is supplemented by information shared at the Reducing Start-up and Establishment Time of Businesses workshop held in Hiroshima, Japan in March 2010. This workshop was part of the APEC Ease of Doing Business Action Plan. Presentations from workshop participants, including the World Bank, have been synthesised to identify the key themes and lessons.

While each economy is unique, the workshop participants identified some considerations that will be of interest to all regulators.

### EASE OF STARTING A BUSINESS – WHY IT MATTERS

#### When Starting a Business is Easy

There were many convincing arguments presented at the workshops on why economies should bother with the reform of regulations for starting a business.

For a start, reform can increase the number of business registrations, create new employment opportunities, increase entrepreneurship, enhance productivity and reduce informality. These changes can, in turn, lead to economic growth.

Entrepreneurs are a powerful economic force, contributing significantly to innovation, job creation and the gross domestic product (GDP) in their home economies. If business start-up is not smart and simple, the formal economy can miss out on entrepreneurs' valuable contribution.

When business start-up is easy, company registrations increase. Conversely, economies with higher start-up costs have a larger informal sector and a smaller number of registered firms.

Some presenters argued that changing the regulations around starting a business is often the most important area of business reform. It is needed before many other kinds of reform can take place. Business registration reform has the added advantage of being relatively easy and inexpensive to implement. Reforms in this area are usually not controversial, and are less fraught with political sensitivities than corporate tax changes, for example.

<sup>12</sup> Refer to Appendix 1 for the full list of APEC Private Sector Development – Ease of Doing Business workshops.

Entrepreneurs save time, money and effort if business registration is easy. There can be a range of other benefits for entrepreneurs if businesses are easily registered, including:

- enabling resources to be pooled if several shareholders join together
- gaining perpetual existence for enterprises (legal entities outliving their founders)
- limiting the financial liability of company owners to their investments, so personal assets are not at risk
- enabling entrepreneurs to gain access to new markets, government support programmes and services, and institutions, such as courts and banks
- increasing business protection through the rule of law, remedy of law, and security of investment
- eliminating the need for entrepreneurs to visit several agencies to file similar or identical information
- increasing transparency
- reducing the fear of harassment from authorities.

The World Bank and the International Finance Corporation reported similar benefits in their joint report, *Doing Business 2011*.<sup>13</sup>

Some workshop participants observed that women are not always treated the same when it comes to business registration. Women typically make up a minority of the owners of registered businesses. Regulations which result in transparent, efficient and easily accessible registration can help to level the playing field for all aspiring business owners.

### **When Starting a Business is Difficult**

Some estimates suggest that 15-20 percent of global GDP is outside the official economy. Globally, 1.8 billion people are estimated to be in the informal sector, more than the 1.2 billion in the formal sector.<sup>14</sup> The informal economy is the part of an economy that is not taxed, monitored, or included in any gross domestic product, unlike the formal economy.

Investment and company growth can be compromised if entrepreneurs operate under the radar. It can also mean that participating in public incentive schemes or procurement contracts is not possible. Entrepreneurs operating in this uncertain state typically do not invest in their business or their staff, which in turn impacts on productivity. Abrupt changes of business location or activities, bribes, closures or splitting the business into smaller units can all have a cost.

Factors which can perpetuate informality or that can create barriers to getting a company up and running quickly include:

- high start-up costs
- administrative barriers, including a large number of steps and duplication of procedures across federal, state and municipal levels of an economy

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13 World Bank and the International Finance Corporation. (2010). *Doing Business 2011: Making a Difference for Entrepreneurs*. Washington DC, US: Authors. pp 1-255.

14 [International Labour Organization \(www.ilo.org/global/statistics-and-databases/lang--en/index.htm\)](http://www.ilo.org/global/statistics-and-databases/lang--en/index.htm).

- lack of information on how to register or operate a firm
- cumbersome publication and public seal requirements
- complicated procedures to register land
- rigid labour market rules which encourage entrepreneurs to rely on informal sub-contractors
- resistance to change from administration or regulatory staff who fear redundancy or loss of authority
- inefficient or cumbersome government agency back-office processes
- concerns about internet security
- limited internet access and knowledge
- poor coordination among government agencies
- businesses being seen as a source of revenue rather than as contributors to the economy.

The challenge for regulators is to address these barriers and encourage informal business operators to register their businesses. For this to happen, entrepreneurs must be able to see that the benefits of formality outweigh the costs. Regulators must therefore think about business reform from a business perspective, rather than just a government perspective.

### STARTING A BUSINESS – THE PROCESS

Historically, the steps to incorporate a business have typically included:

- pre-registration activities – meeting requirements for company name reservation, document preparation, notarisatation and minimum capital
- registration/incorporation – registering the enterprise in a public commercial registry and paying registration fees
- post-incorporation activities – meeting requirements for publication, company seal, tax and social security registration.

As economies have streamlined their processes, some of these steps have merged or have disappeared.

The World Bank and the International Finance Corporation's annual *Doing Business* reports examine the regulatory environment for domestic business in 183 economies. The reports review four key areas for starting a business:

1. The time in calendar days for pre-registration, registration and post-registration activities.
2. The cost as a percentage of income per capita.
3. The paid-in minimum capital – funds required to be deposited with a bank or notary before registration, calculated as a percentage of income per capita.
4. The number of procedures required to be completed to the point where the final registration document is received.

*Table 2: Starting a Business Across Regions* in this chapter shows the performance of APEC economies in comparison to other regions against these four areas.

## BEST PRACTICE GUIDANCE

The elements of best practice identified at the workshops which often feature in the regulatory practice of high-performing economies include:

- streamlining and simplifying business registration procedures
- creating one interface for entrepreneurs wishing to register their business – for example, introducing a one-stop shop for registration processes and other functions related to business start-up, based around users' needs
- using technology to improve efficiency – for example, developing online registration and introducing mobile telephone company registration services
- setting nominal or zero capital requirements
- introducing public education campaigns to inform business founders and convince entrepreneurs to join the formal economy
- setting a fixed, flat registration fee
- not requiring judicial/court involvement in the process
- setting no/minimum publication requirements
- not requiring annual/periodic registration renewal.

In summary, the top performing economies have registration processes which take less than five days and can be done online, have fixed registration fees, no minimum capital or publication requirements, and no court involvement.

These practices are discussed in more detail below.

### **Simplified and Streamlined Business Registration**

Workshop participants shared information on ways their economies have gone about streamlining and simplifying procedures and processes to register a new business.

Examples discussed included:

- conducting a stocktake of current procedures and processes to start a business
- analysing who does what and why – which helps to identify opportunities to improve operations
- reducing or merging steps or procedures required to register a business
- reducing approval times
- simplifying and standardising forms
- eliminating the need for a company seal
- implementing service standards, including setting target timeframes for approving submissions
- enabling business founders to submit information once, for use by a number of agencies across all levels of government
- adopting an ongoing quality assurance approach to improve registry back-office efficiency and productivity



- exploring the possibilities of economies streamlining their respective processes and removing duplicative information requirements – for example, using information already provided by a company registered in one economy to register in another economy. This is the case between Australia and New Zealand who have a data exchange memorandum of understanding.

There is a direct relationship between growth in the informal business sector and the number of bureaucratic business start-up procedures. This is part of what prompted Peru's recent regulatory reform.

Peru's Administration Simplification Project established a legal framework to facilitate business start-ups. It adheres to the principles of impartiality, formality, efficiency and simplicity. Along with a suite of recent measures, the project improved Peru's overall ranking in *Doing Business 2011*. Its ranking was 92 in 2007 but had jumped to 54 by June 2010.

Not surprisingly, streamlining registration formalities is the most popular feature of business registration reforms.<sup>15</sup> However, some workshop participants warned that if an economy wanted to see real impact, reforms in setting up a business needed to be part of a wider reform programme.

### A Single Interface – One-stop Shop

According to one recent study, 67 economies around the world have some form of one-stop shop for business registration.<sup>16</sup> Whether virtual or physical, they do away with the need for entrepreneurs to visit a range of separate agencies. A single interface potentially saves time and money and increases transparency.

Some one-stop shops go beyond simple business registration. They offer services to assist entrepreneurs with post-registration formalities, business licenses and permits, investment, tourism-related issues and property management.

For example, the Programa MI EMPRESA (My Enterprise Program) created in 2006 in Peru provides the following services:<sup>17</sup>

- registration for paying taxes
- advice on documentation to establish micro and small enterprises
- name reservation services
- advice on municipal business licences
- banking services (National Bank Office – Banco de la Nacion).

Peru has found that liaison, coordination and alliances among public agencies are essential for this arrangement to work well.

15 World Bank and the International Finance Corporation. (2010). *Doing Business 2011: Making a Difference for Entrepreneurs*. Washington DC, US: Authors. pp 1-255.

16 Investment Climate Advisory Services of the World Bank Group. (2009). *How Many Stops in a One-Stop Shop? A Review of Recent Developments in Business Registration*. Washington DC, US: World Bank and the International Finance Corporation. Retrieved from [www.wbginvestmentclimate.org/uploads/Howmanystopsinaonestopshop.pdf](http://www.wbginvestmentclimate.org/uploads/Howmanystopsinaonestopshop.pdf)

17 [www.crecemype.pe/portal/](http://www.crecemype.pe/portal/)

A 2010 review of developments in business registration across a number of economies<sup>18</sup> highlighted a number of problems as well as the lessons learned. The review found that setting up an effective one-stop shop requires:

- active cooperation of the different parties
- political support at the highest levels
- a highly motivated project team and good project management methodology
- a shared vision to help resolve differences among stakeholders
- engagement with stakeholders
- a thoughtful approach on how best to manage and share data
- training for staff, including customer service training
- public education campaigns to prepare customers.

Documenting and formally reviewing existing procedures was recommended as a practical first step, to identify what is currently being done, by whom and why. This exercise has significant potential to highlight areas for improvement.

This helpful feedback was incorporated into the APEC Ease of Doing Business Action Plan. Through the project, economies wanting to improve in one of the five priority areas could volunteer to undergo a diagnostic study. The tailored, diagnostic analysis was designed to address issues and challenges encountered by individual APEC member economies.

### **Online Registration**

The two case studies on the following pages illustrate some aspects of best practice discussed at the seminars.

18 [www.wbginvestmentclimate.org/uploads/Howmanystopsinaonestopshop.pdf](http://www.wbginvestmentclimate.org/uploads/Howmanystopsinaonestopshop.pdf)

### CASE STUDY 1: NEW ZEALAND ONLINE COMPANY REGISTRATION

In 1996, New Zealand was the first economy to launch an online company registration system. The new service had a number of benefits for users and for the regulator (the Companies Office<sup>19</sup>), including:

- ensuring the rules were the same for everyone
- promoting transparency through a consistent and repeatable process
- increasing confidence in the system
- enabling the Companies Office to deliver services efficiently, quickly and on a large scale
- reducing the amount of time to register a company
- allowing users to see and correct (if necessary) their information online
- facilitating interaction with users and enabling services to be delivered to mobile phones
- enabling data access for third parties such as banks.

*Doing Business 2011* ranked New Zealand first for starting a business. New Zealand's path to this top ranking dates back to the 1980s when back-office processes were automated. By the early 1990s, company registration averaged 24 hours. From 1992 to 1998, changes included moving to ORACLE and PC-based applications, implementing legislative changes and introducing online name searching, name reservation and company incorporation. These changes reduced the time it took to incorporate a company online to an average of 40 minutes.

By 2009, New Zealand's company registration was connected to the tax department and to Australia, as many companies operate in both economies. The Companies Office also offered users public education seminars, workshops, publications and online tutorials. These were complemented by a government-sponsored business portal.<sup>20</sup>

Now, if all the correct information and documentation is at hand, an entrepreneur can register a business in a mere 15 minutes.

Underpinning these changes was a focus on service, integrity and availability, and this was helped by allowing clients to enter their own information into the system. There was a deliberate decision to rely on normal commercial forces to run the system. For example, rather than policing company names, normal commercial processes were left to manage any issues.

Today there is a flat incorporation fee but no annual fee, search fee or discretionary steps. The entrepreneur interacts directly with the Companies Office and support is available through its contact centre. It is a simple and geographically-neutral service where users can search or register a company via the internet, free-phone or mail.

19 [www.business.govt.nz/companies](http://www.business.govt.nz/companies)

20 [www.business.govt.nz](http://www.business.govt.nz)

## CASE STUDY 2: MALAYSIA E-LODGE MENT OF APPLICATIONS

Malaysia has introduced a mobile business registration counter which allows new businesses to be registered in the field. In 2009, Malaysia had 2052 mobile counters in operation. A review showed that these mobile counters directly contributed to a 10 percent increase in the number of new businesses that year.

By December 2011, Malaysia aims to move away from doing over-the-counter registration by allowing it to be done online. Obtaining a company seal will also be made optional. Malaysia is planning to implement 54 projects over the next five years to improve the business environment within its borders.

### Nominal or Zero Minimum Capital

The paid-in minimum capital requirement is the amount that an entrepreneur needs to deposit in a bank or with a notary before registering their business. Some economies have a minimum capital requirement but allow a business to pay only part of it before registration.

According to *Doing Business 2011*, approximately 80 economies around the world have removed the capital requirement to start a business. However, several APEC economies – such as Russia; the Philippines; Mexico; Indonesia; and China – still have a minimum capital requirement.

It should be noted that the usefulness of requiring a minimum amount was viewed differently by workshop participants.

### Public Education

Using public education resources and campaigns to provide information on starting a business is an important part of best practice.

New Zealand, for example, publishes [a guidebook for small businesses](#).<sup>21</sup> It covers almost all issues which could arise in starting a new business. The guidebook complements other services, such as a business portal that serves as an entry point for businesses to wider government services ([www.business.govt.nz](http://www.business.govt.nz)), a contact centre, and telephone access to Companies Office information.

## STARTING A BUSINESS – APEC PERFORMANCE

Six APEC economies feature in the global top 10 for starting a business in *Doing Business 2011*. They are New Zealand (1<sup>st</sup>); Australia (2<sup>nd</sup>); Canada (3<sup>rd</sup>); Singapore (4<sup>th</sup>); Hong Kong, China (6<sup>th</sup>); and the United States of America (9<sup>th</sup>). This ranking takes into account the documents, time, costs and paid-in minimum capital required for starting a business.

21 The Companies Office. (2010). *A Guide for Small Business*. Wellington, New Zealand: Ministry of Economic Development. Retrieved from [www.business.govt.nz/companies/learn-about/updating-company-details/financial-reporting/a-guide-for-small-business](http://www.business.govt.nz/companies/learn-about/updating-company-details/financial-reporting/a-guide-for-small-business)

In the report, Peru was recognised as the most improved economy for starting a business and Mexico ranked eighth.

APEC economies are applying the best practice information shared in the workshops. In a summary of changes to business regulations from June 2009 to June 2010, *Doing Business 2011 APEC*<sup>22</sup> noted:

- Brunei Darussalam had improved efficiency at the company registrar and implemented an electronic system for company name searches
- Chile had introduced an online system for registration and for filing the request for publication
- Indonesia had reduced the cost for company name clearance and reservation and reduced the time required to reserve the name and approve the deed of incorporation
- Malaysia had introduced more online services
- Mexico had launched an online one-stop shop for initiating business registration
- Peru had created an online one-stop shop for business registration
- The Philippines had set up a one-stop shop at the municipal level
- Chinese Taipei had reduced the time required to check company names.

As a region APEC performs well in this area of regulatory reform, as illustrated in the following table.

**Table 2: Starting a Business Across Regions**

This table shows how APEC is performing as a region for starting a business compared to other regions.

Region	Procedures (number)	Time (days)	Cost (% of income per capita)	Paid-in Minimum Capital (% of income)
APEC	7.2	25.5	9.1	9.0
East Asia & Pacific (EAP)	7.8	39.0	27.1	50.6
European Union (EU)	5.9	14.6	5.7	18.4
Latin America	10.5	43.6	35.9	3.8
Organisation for Economic Co-operation and Development (OECD)	5.6	13.8	5.3	15.3
South Asia (SA)	7.1	24.6	24.5	24.1

Source: *Doing Business 2011*.

22 World Bank and the International Finance Corporation. (2011). *Doing Business 2011: Making a Difference for Entrepreneurs APEC*. Washington DC, US: Authors. pp 1-44.

## CONCLUSION

Making it faster, cheaper and easier to set up a business helps economies to flourish and brings significant benefits to entrepreneurs and workers. The mechanisms to achieve this include:

- simplified and streamlined business registration administration, including standardised forms and service standards
- a single interface for business registration – for example, one-stop shops
- use of technology to improve efficiency, including online registration
- nominal or zero minimum capital
- public education on starting a business
- fixed registration fees
- no judicial/court involvement
- simple or no publication requirements
- no requirement for annual and periodic registration renewal.

Making it easier to register a firm reduces the risk of doing business for entrepreneurs and gives economies greater tax revenue. It gives rights to services, fair treatment under the law and, for many, limited liability. It creates obligations to pay taxes, provide information and abide by the law.

Finally, business registration provides opportunities for firms to grow through better access to finance, potential clients, and public goods and services.

## 4 Paying Taxes

### INTRODUCTION

In most economies, taxes are a vital source of funding for social and economic development.

This section focuses on what APEC economies have done, and are doing, to improve their performance in relation to paying taxes.

This section primarily references information gathered at the APEC Private Sector Development – Ease of Doing Business workshop on tax compliance held in Kaohsiung, Chinese Taipei in April 2008.<sup>23</sup>

At the workshop, participants exchanged experiences and discussed future plans to improve business tax regulation. While there is no single regulatory prescription for getting this right, some common trends and themes emerged. These are summarised below.

### EASE OF PAYING TAXES – WHY IT MATTERS

#### When Paying Tax is Easy

The question often arises as to why administrators and regulators should make it easier to pay taxes. Paying taxes is, after all, the law.

An easier, cheaper and more personalised tax system generally results in better compliance. Reducing barriers to paying taxes increases the revenue to economies – revenue which is necessary to fund public services, infrastructure and amenities. Put simply, the easier the process, the more revenue is likely to be generated.

Reforms that smooth the way for everyone to pay taxes can also remove gender bias. Women's decisions on whether to work in the formal sector and pay taxes can be influenced by explicit gender bias in tax law.

One study showed that seven of the 128 economies surveyed by Women, Business and the Law<sup>24</sup> differentiate between men and women in their tax laws. The survey examined the direct and indirect gender implications of tax policy from the perspective of four standardised families with varying tax liabilities. The study concluded that gender differences in tax treatment may affect women's decision to work. Women may have stronger incentives to participate in the formal labour market if tax rules favour an equal distribution of income.

23 Refer to *Appendix 1* for the full list of APEC Private Sector Development – Ease of Doing Business workshops

24 The International Bank for Reconstruction and Development and the World Bank. (2010). *Women, Business and the Law: Measuring Legal Gender Parity for Entrepreneurs and Workers in 128 Economies 2010*. Washington DC, US: Authors. Retrieved from <http://wbl.worldbank.org/~media/FPDKM/WBL/Documents/Women-Business-Law.pdf>

### When Paying Tax is Difficult

*Doing Business 2011 APEC* notes that economies have larger informal sectors when it is more difficult and costly to pay taxes.<sup>25</sup> Additionally, participants in the informal economy generally sidestep paying taxes.

Despite many initiatives to reduce the cost of compliance, it can sometimes remain disproportionately high for small businesses.

Factors which can perpetuate informality and drive high levels of tax evasion (by both small and larger businesses) include:

- an overly complicated and complex tax system
- a high number of tax types and frequency of tax contributions
- a large number of hours required to comply with taxation requirements
- unclear or confusing tax laws and income attribution rules
- poor attention to compliance considerations when implementing regulation changes
- tax laws which differentiate between men and women in ways that affect their incentive or capacity to pay taxes
- high levels of corruption.

Participants at the Kaohsiung workshop heard that the reasons for non-compliance vary from economy to economy. In Papua New Guinea, the lack of skilled labour, the high cost of borrowing, low adult literacy rates, unreliable communication systems and poor infrastructure (for example, roading) have had an impact on tax compliance.

### PAYING TAXES – THE PROCESS

Compliance involves preparing, filing and paying taxes. The process can be more complex for an entrepreneur, depending on:

- the total number and types of taxes and contributions
- the method and frequency of filing and payment
- the time required to collect the relevant information, calculate the tax payable, complete the tax return forms, file the forms with the proper agencies, arrange payment and prepare separate tax accounting books, if required.

Examples of taxes and contributions include:

- profit or corporate income tax
- consumption tax, such as value-added tax, sales tax or goods and services tax (GST)
- mandatory social contributions and labour taxes paid by the employer
- property registration and property transfer taxes
- fringe benefit tax
- dividend, capital gain and financial transaction taxes
- waste collection and vehicle taxes.

<sup>25</sup> World Bank and the International Finance Corporation (2011). *Doing Business 2011: Making a Difference for Entrepreneurs APEC*. Washington DC, US: Authors. pp 1-44.



The *Doing Business* project reports on the ease of doing business, including paying taxes. In particular, it focuses on taxes paid by a company in the second year of operation and reviews the:

- number of tax payments per year
- the number of hours per year it takes to prepare, file and pay three major types of taxes (corporate income tax, value-added tax or sales tax, and labour tax)
- the total amount of tax payable by the business as a percentage of commercial profits.

These are useful pointers for administrators and regulators to consider when thinking about where and how to improve tax operations, services and products.

*Table 3: Paying Taxes Across Regions* in this chapter shows APEC economies' performance in comparison to other regions.

### BEST PRACTICE GUIDANCE

Economies approach taxation for small and medium-sized enterprises in different ways. However, the Kaohsiung seminar on paying taxes highlighted some common elements of best practice in high-performing economies. They included:

- providing electronic facilities to lodge and make tax payments
- enabling individuals and businesses to self assess for tax liability and promoting voluntary compliance
- engaging with the community to consult, co-design and collaborate to improve tax administration
- simplifying tax administration, including reducing the number of tax types
- improving tax products, services and resources, and adopting a culture of continuous improvement to ensure they remain effective for users
- personalising taxation support services, including:
  - helping taxpayers and their advisors understand their rights and obligations
  - managing relationships and differentiating responses
- ensuring clarity in tax laws and implementing legislative reform
- verifying compliance using a tax audit risk management/analysis approach
- building the capability of tax administration and collection staff.

This list of best practice activities is backed by the findings in [Paying Taxes 2011](#).<sup>26</sup> This report by PricewaterhouseCoopers and the World Bank Group looks at the impact of tax systems on business in 183 economies. It found the practices that have helped improve the results in this area include:

- implementing effective electronic filing and payment systems (used in 60 economies)
- having one tax per base, rather than multiple taxes (50 economies now have one tax per base)
- using a filing system based on self assessment.

26 World Bank, the International Finance Corporation and Pricewaterhouse Coopers International Limited (2011). *Paying Taxes 2011: The global picture*. Publisher: Authors. Retrieved from [www.pwc.com/gx/en/paying-taxes/pdf/paying-taxes-2011.pdf](http://www.pwc.com/gx/en/paying-taxes/pdf/paying-taxes-2011.pdf)

The report also showed that paying taxes is easiest for businesses in high-income economies. They have the lowest tax cost and the lowest administrative burden. These economies tend to have more advanced online filing and payment systems and a lighter administrative touch.

Some of these practices, and those discussed at the workshop, are covered in more detail below.

### **Electronic Tax Filing and Payment**

Electronic filing and payment of taxes, if implemented well, can offer benefits to tax authorities and business owners alike. They reduce the cost of administration, increase tax compliance, reduce the time businesses spend meeting their tax obligations, eliminate excessive paperwork and reduce contact with taxation staff.

In 2008, Australia; Canada; China; Chile; Japan; Korea; Malaysia; Mexico; New Zealand; Peru; the Philippines; Singapore; Chinese Taipei; and the United States of America all offered taxpayers some form of online tax-related service.

### **Voluntary Compliance and Self Assessment**

Voluntary compliance and self assessment for tax liability is available in a majority of APEC member economies, and with good results. In Malaysia, for example, taxpayer compliance and revenue collection has increased since the implementation of a self assessment system for businesses in 2001.<sup>27</sup>

Of the 183 economies covered by the *Doing Business 2011* report, 74 percent allow firms to calculate their own tax bill and file returns.

Self assessment involves trusting taxpayers to determine their own liability and pay the correct amount. To work well, self assessment needs to be properly introduced and implemented. It needs transparent rules, penalties for non-compliance and well-established audit processes. The burden of compliance activity and administrative costs are much lower where there are high rates of voluntary compliance. Discretionary powers of tax officials and opportunities for corruption are also reduced with self assessment systems.<sup>28</sup>

### **Engaging with the Community**

A number of APEC economies shared the ways they engage with stakeholders on tax reforms at the workshop.

Australia, for example, has deliberately set out to improve its tax administration by engaging and collaborating with the community. Its aim is to increase and improve the quality of information and services, as well as simplify and tailor tax processes and procedures to meet the needs of users.

27 World Bank and the International Finance Corporation. (2010). *Doing Business 2011: Making a Difference for Entrepreneurs*. Washington DC, US: Authors. pp 1-255, citing bin Haji Ridzuan (2006).

28 World Bank and the International Finance Corporation. (2010). *Doing Business 2011: Making a Difference for Entrepreneurs*. Washington DC, US: Authors. pp 1-255, citing Imam and Davina (2007).

It has set up an extensive network of stakeholder forums and built up strong relationships with tax practitioners and professional associations. Collaboration with the community has moved beyond consulting to working together to improve the design and operation of the tax system. Businesses are seen as having an important role to play in improving the tax system.

Papua New Guinea is also actively building and nurturing relationships with all stakeholders, including embarking on a compliance initiative focusing on efficiency, and the time and costs associated with paying taxes.

Canada found that success in implementing tax reforms requires external engagement, along with gaining buy-in at all levels of tax administration.

### **Simplified Tax Administration**

Initiatives to simplify tax administration can take a number of forms.

Hong Kong, China, for example, has initiated several measures to simplify its tax administration. These include:

- providing a tax return which is only four pages long
- setting up an online service for solely-owned small businesses to file returns
- exempting small businesses (an annual turnover of less than HK\$2 million) from needing to file audited accounts
- enabling a composite tax return where an individual can file one single return for all sole proprietorship businesses they own
- raising automated assessments which are subject to audit later
- enabling tax payments by telephone, automatic teller machine, internet, mail or in person. Electronic payments account for more than half of tax payments.

### **Improving Tax Products, Services and Resources**

Many APEC economies provide products, services and resources to help taxpayers meet their tax obligations.

Hong Kong, China, for example, has invested time and money in improving services and products to assist taxpayers. These include providing:

- an Enquiry Service Centre, including offering an extended telephone enquiry service during return filing periods
- software for filing employers' returns
- e-seminars and face-to-face seminars
- a taxpayer website portal. This allows business owners to lodge forms, get advice, view accounts and make payments online. It allows entrepreneurs to make transactions at any time, do the work themselves and keep business costs down.

Australian tax authorities have consulted with users to improve tax products and services. This collaboration contributed to minimising the cost and complexity of tax compliance.

Services include:

- a business portal and electronic lodgement
- a comprehensive technical and procedural website
- call centre support on technical and administrative queries.

Products include:

- online calculators and tools
- improved information booklets and brochures.

Malaysia has also had success with the introduction of a single standard identification number in 2010. Using a unique identification number (MyCOID), companies can now interact with different government agencies, including the Inland Revenue Board.

In sharing these experiences, workshop presenters made it clear they had adopted a culture of continuous improvement to ensure their products and services continued to meet users' needs.

### Legislative Changes

Many economies are engaged in clarifying tax law and implementing legislative reform.

Papua New Guinea reported a number of legislative changes which are helping to create a more favourable environment for paying taxes in their economy. These changes include abolishing some taxes (for example, stamp duties and debit tax), reducing personal income tax rates, exempting some sectors from submitting tax returns (for example, new businesses using renewable natural resources) and creating incentives for other sectors (for example, a 10-year concessional tax rate for substantially improved tourist accommodation). These legislative changes sit alongside a raft of other administrative changes which will help remove barriers to doing business.

## PAYING TAXES – APEC PERFORMANCE

According to *Doing Business 2011*, three APEC economies ranked in the top ten for paying taxes. They are Hong Kong, China (3<sup>rd</sup>); Singapore (4<sup>th</sup>); and Canada (10<sup>th</sup>). Canada also features in the list of economies which have improved the most in paying taxes along with China (7<sup>th</sup>) and Chinese Taipei (9<sup>th</sup>).

APEC economies are already embracing the best practice activities discussed at the workshop. A summary of tax reforms<sup>29</sup> from June 2009 to June 2010 shows the following changes in APEC economies:

- Brunei Darussalam reduced its corporate tax rate from 23.5 percent to 22 percent, while also introducing lower tax rates for small businesses, ranging from 5.5 percent to 11 percent
- Canada harmonised the Ontario and federal tax returns and reduced the corporate and employee tax rates

29 World Bank and the International Finance Corporation. (2011). *Doing Business 2011: Making a Difference for Entrepreneurs APEC*. Washington DC, US: Authors. pp 1-44.

- China's new corporate tax law unified the tax regimes for domestic and foreign enterprises and clarified the calculation of taxable income for corporate income tax purposes
- Hong Kong, China abolished the fuel tax on diesel
- Indonesia reduced the corporate tax rate
- Mexico introduced more options for online tax payments and increased the use of accounting software
- Chinese Taipei reduced the corporate income tax rate, and simplified the tax return forms, the rules for assessing corporate income and the calculation of interim tax payments
- Thailand temporarily lowered taxes on businesses by reducing its specific business tax for 12 months.

### Table 3: Paying Taxes Across Regions

This table shows APEC's regulatory performance for paying taxes compared to other regions.

Region	Payments (number per year)	Time (hours per year)	Total tax rate (% of profit)
APEC	16.5	267.7	38.7
East Asia & Pacific (EAP)	24.5	218.2	35.4
European Union (EU)	17.5	221.8	44.2
Latin America	33.1	557.1	53.5
Organisation for Economic Co-operation and Development (OECD)	14.2	199.3	43.0
South Asia (SA)	31.1	282.9	39.9

Source: *Doing Business 2011*.

## CONCLUSION

Regulators in APEC economies are striving to make it faster, less costly and easier to pay taxes.

Easing the tax compliance burden is a challenge tackled by administrators and regulators in a range of ways, depending on the needs of the economy. Different stages of economic development require regulators to tailor their approach to regulatory reform.

There is no single quick-fix remedy for relieving the tax compliance burden. Rather, there are a range of initiatives which can be considered within the overall context of business regulation reform for each economy.

Practices which have improved results in this area include:

- effective electronic filing and tax payment systems
- self assessment for tax liability and promoting voluntary compliance
- stakeholder/community engagement and collaboration on developing resources and undertaking tax reform
- simplified or 'light touch' tax administrative systems
- effective tax products, services and resources
- personalised tax support services
- tax legislation reform
- tax audit risk management/analysis
- capability building for tax administration and collection staff.

## 5 Dealing with Licences and Permits

### INTRODUCTION

Obtaining government licences and/or permits is an essential part of operating a business in most economies. They allow a business to legally undertake a certain activity, carry on business in a certain way, and/or operate in a certain jurisdiction.

Regulators need to find the right balance between protecting public safety through licensing and permit requirements at the same time as keeping compliance costs down.

This section focuses on what APEC economies have done, or are doing, to improve their performance in regulating licensing and permit requirements. It is not intended to be an exhaustive repository of information on dealing with licences. Instead, it is intended to be a practical resource which supports individual APEC economies to improve business regulation in this area. All information covered in this section complements other key publications on dealing with licences and permits.

The experiences shared by participants at the APEC Private Sector Development – Ease of Doing Business seminar in Chiclayo, Peru (August 2008) provide the basis for the content of this section.<sup>30</sup> The seminar covered business licensing arrangements for small and medium-sized enterprises.

The material is supplemented by information shared at further workshops on a similar theme held as part of the APEC Ease of Doing Business Action Plan in 2010.<sup>31</sup>

The World Bank and the International Finance Corporation's *Doing Business* reports and other publications have also been referenced.

### EASE OF DEALING WITH LICENCES – WHY IT MATTERS

#### When Obtaining a Licence is Easy

Making it easy for entrepreneurs to obtain a licence or permit reduces the time and energy spent by entrepreneurs searching for information or submitting applications. It frees them up to get on with what they do best – running their businesses.

An efficient licensing regime can also reduce the risk of non-compliance by businesses. When business regulation for dealing with licences is efficient and transparent, economic activity is more likely to take place in the formal economy. This can also have the added benefits of reducing corruption and protecting public safety.

Collecting information on licences and permits issued can produce a useful picture of economic activity. For example, it can be used to track the type, size, growth, location, continuity, and details of the concentrations of small and medium-sized enterprises within an economy as well as give a picture of overall compliance costs.

<sup>30</sup> Refer to Appendix 1 for a full list of the APEC Private Sector Development – Ease of Doing Business workshops

<sup>31</sup> Reforming the Regulatory System for Construction Permits workshop in Singapore, October 2010 and the First Steps of Successful Reform in Doing Business workshop in Taipei, Chinese Taipei, October 2010.

This data is of interest to the business community and government agencies. Economies can use compliance information to better understand the impact of licensing and permit requirements on businesses, develop initiatives to reduce their impact, and track progress in the success of their initiatives over time.

### **When Obtaining a Licence is Difficult**

When obtaining a licence or permit is difficult, levels of informality are higher. For example, if it is costly in time and money to obtain building permits, builders may opt to build illegally.<sup>32</sup> Construction standards can be compromised, concerns for worker safety overlooked, and the end product may not meet requirements.

According to workshop participants, factors which can commonly perpetuate informality or create barriers to obtaining a licence or permit include:

- a large number of different types of business permits with overlapping functions
- sequential and regimented submission requirements for licences and permits
- costly, lengthy or complicated licensing processes
- licensing used as a means of local revenue collection, resulting in a proliferation of local licences
- a lack of transparency or limited disclosure of information on the technical requirements and conditions for licences or permits
- limited channels for disseminating information on relevant licensing-related laws, regulation and decisions
- a lack of public consultation and appeal mechanisms
- a lack of performance measures to monitor services
- poor coordination across technical agencies and no integration across different levels of government
- different interpretations of legislation within and across different levels of government.

### **DEALING WITH LICENCES – THE PROCESS**

For the purposes of this report, a licence or permit is defined as a legal document issued by a government entity which allows a business to undertake a certain activity, carry on business in a certain way, and/or operate in a certain jurisdiction. In most economies, more than one level of government issues licences and permits. However, workshop participants shared experiences of the municipal/local/city level of government being responsible for issuing the majority of licences.

Concentrating burden and compliance reduction efforts at the municipal level is likely to generate the greatest relief to the largest number of businesses.

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32 World Bank and the International Finance Corporation. (2011). *Doing Business 2011: Making a Difference for Entrepreneurs APEC*. Washington DC, US: Authors. pp 1-44.



Types of licences, permits and certificates differ within and across industries and economies. Examples include:

- nuisance permits
- location permits
- building permits
- trade permits
- industry-specific permits – for example, food, tourism and health permits
- land ownership certificates
- water use and waste water discharge permits
- fire services certificates
- building usage certificates
- occupational licences.

Responsibility for issuing occupational licences and permits varies greatly in APEC economies. Findings from a survey conducted by Canada prior to the seminar found that occupations which are regulated, and those which are not, also vary greatly – with the exception of health and legal professionals, engineers and accountants.

To overcome some of the challenges arising from these divergences, some APEC member economies mutually recognise various registered/licensed occupations across their economies – for example, Australia and New Zealand.

The licensing requirements and procedures are diverse. For example, the procedures typically involved in the construction industry can include:

- preconstruction stage – submitting all relevant project-specific documentation to the proper authorities (for example, building and structure plans)
- construction stage – obtaining all necessary clearances, licences, permits and certificates to carry out work; completing all required notifications; and receiving all necessary inspections
- post-construction stage – obtaining all utility connections and registering the property.

The *Doing Business* project provides a useful basis for understanding and improving the regulatory environment. It uses construction licensing as a proxy for licensing procedures in an economy. Construction is a significant sector in most economies and its size depends heavily on licensing regulations. *Doing Business* measures the procedures, time and cost for a small to medium-sized business to build a simple warehouse and connect it to basic utility services. More specifically, it measures:

- every interaction with an external party (for example, municipality, inspectors, utilities) as part of procedures
- the time in calendar days for the median duration of each procedure and the time span for each procedure – from the first filing of the application to when the firm receives its final documentation or requested service
- the cost of official fees and taxes, calculated as a percentage of gross domestic income.

Table 4 - *Dealing with Construction Permits Across Regions* later in this chapter shows how APEC economies compare with other regions.

### BEST PRACTICE GUIDANCE

The workshops identified many elements of best practice which feature strongly in the regulatory practice of high-performing economies. In summary, these elements included:

- creating online services for dealing with licences and permits
- setting up a one-stop shop or single interface/window for dealing with licences and permits
- providing comprehensive and customised information on licensing
- engaging and involving stakeholders in developing and implementing regulation
- coordinating licensing activity across technical and government agencies
- simplifying and streamlining licensing through a range of initiatives, including introducing a comprehensive, approved and uniform building code and service standards.

These best practice activities are discussed in more detail below.

#### Online Services and Use of Technology

A survey of APEC member economies conducted by Canada prior to the seminar in Peru found that introducing online services was the most common reform.<sup>33</sup>

Online services offered in 2008 by participating APEC economies included:

- providing online help to determine which licences and permits were required
- providing access to online application forms
- accepting completed applications online
- accepting payments online.

By way of example, the Taipei City government set up a website for making building permit applications online. In 2010, 18 kinds of applications could be made online, including applications for construction permits, user licences, start-of-construction registrations and site inspections.

However, using technology to improve performance is only part of the solution. Back-office procedures need to be improved, practices need to be reviewed and standardised, complaint and conflict resolution arrangements rolled out, and performance measures agreed, including setting target response timeframes. In other words, good housekeeping creates the necessary platform for an effective electronic licensing system.

New Zealand's presentation emphasised the importance of getting the back-office processes working well, liaising with professional bodies and coordinating technical agencies. New Zealand is ranked fifth in the *Doing Business 2011* report for dealing with licences, despite not using an e-platform.

33 *Business License and Permit Requirements in APEC Member Economies: Survey Responses of Participating Economies*. Unpublished survey presented by Canada at the Business Licensing Seminar, Chiclayo, Peru, August 2008.

Malaysia warned not to underestimate the challenge of transitioning from manual to electronic business licensing. Assistance programmes and incentives were suggested to encourage participation and adoption.

### **One-stop Shops**

Indonesia set up a one-stop shop initiative in 2000 to streamline its licensing process and enable business owners to access permits from a single window. Committed local governments, supported by development agencies, set up the service. The initiative was successful and, in 2006, central government authorised the service to be rolled out to all districts.

The process involved:

- gaining the commitment and involvement of key officials
- undertaking a detailed needs assessment and analysis of current conditions
- designing the service, including gaining the legal mandate
- setting up efficient procedures, service standards, budgets and complaints mechanism
- training staff
- setting up the necessary infrastructure and technology
- implementing a media campaign to support the roll-out of the new service
- launching the service and conducting public education seminars.

Leadership, engagement and commitment at all levels of government were vital factors in successfully introducing the significant new service. In Indonesia's case, the service was complemented by broader regulatory reform and streamlined procedures at the sub-district level.

In 2010, Malaysia reported that the introduction of one-stop centres for processing licences and permits had reduced the number of procedures required from 25 to 12, and improved the average number of days for processing an application from 261 to 139.

### **Comprehensive and Customised Information**

Canada has found that its small business owners want accurate, up-to-date, comprehensive and customised information on licences and permits for their business. They also want convenient, quick access to this information from a one-stop shop and contact details for assistance if they need it.

The Canadian Government's portal, BizPal, was designed to meet these needs. BizPal customises licence and permit information to the type and location of the business that the user operates, across all levels of government and through multiple access points. The portal provides information on the cost and the renewal period as well as contact information and other requirements. Canada intends to expand the service domestically to other regulatory requirements (for example, inspections) and to improve the information technology architecture and functionality.

### **Stakeholder Consultation and Engagement**

Many presenters at the APEC workshop series stressed the importance of engaging with internal and external stakeholders, such as professional groups, industry bodies, academia, and private sector business owners.

One example of this is the Urban Redevelopment Authority (URA) in Singapore. At the Reforming the Regulatory System for Construction Permits seminar in Singapore in October 2010, participants heard how the URA takes a methodical approach in gauging the views of affected citizens. The URA then makes land-use decisions based on the views gathered through a comprehensive consultation process.

### **Interagency Coordination and Integration**

Presenters at the APEC workshops series often stated the need for economies to coordinate the technical agencies responsible for licensing.

Singapore shared their experiences from their Building and Construction Authority (BCA) at the October 2010 seminar. The BCA plays a central coordinating role across the various regulatory agencies. It has also set up conflict resolution procedures to resolve any difficulties between agencies.

Chinese Taipei is also active in this area. It has set up a multi-stakeholder reform working group for dealing with construction permits. The working group influenced recent reforms which included:

- simplifying documentation requirements
- allowing applications for different permits together (for example, being able to apply for fire-fighting design approval and a construction permit at the same time)
- setting up a single window to process licence applications for buildings under a certain size
- rationalising the number of inspections for buildings under a certain size
- setting timeframes for processing certain types of applications.

### **Simplified and Streamlined Procedures**

Seminar participants shared information on a range of activities designed to streamline licensing activities. These included:

- introducing a comprehensive, approved and uniform building code
- introducing risk-based approval systems – rigorous yet differentiated construction permitting processes to treat buildings according to their risk level and location
- reducing or eliminating licensing fees
- allowing concurrent submissions for permits related to the same project
- reducing or eliminating the frequency of renewals
- implementing service standards for issuing licences and permits, including time limits for processing licensing and permit applications
- eliminating the requirement for some licences, permits or certificates
- building staff capability

- mapping the permit approval process, identifying bottlenecks and implementing solutions
- drafting plain language documentation
- providing incentives to encourage industry participation
- standardising technical requirements, procedures and operating systems
- regularly reviewing relevant laws and rules, including replacing outdated regulations
- developing and implementing laws and policies aimed at combating corruption
- piloting reforms to assess their effectiveness before full-scale implementation
- rationalising inspections.

*Doing Business 2011 APEC* reported on the impact of changes to Canada's construction permit process. Canada revamped its construction permit process in 2005 by introducing response timeframes for different stages of the process and preparing a basic list of requirements for each project. Later it provided electronic information and risk-based approvals with fast-tracked procedures. Between 2005 and 2008, the number of commercial building permits increased by 17 percent and the construction value of buildings increased by 84 percent.

At the seminar in Chinese Taipei in 2010, Malaysia described the suite of initiatives it introduced to streamline licensing. Initiatives included establishing 103 one-stop shops, introducing a Commissioner of Building, integrating and coordinating the relevant technical agencies, restructuring and realigning processes and procedures, replacing outdated regulations, allowing concurrent submissions for permits on land matters, and setting target approval timeframes. Officials set up a favourable environment to implement these initiatives with the following activities:

- ran public education campaigns
- regularly engaged with stakeholders, including professional bodies and industry representatives
- liaised with the heads of the one-stop shops
- held a special conference for staff at technical agencies at all levels of government administration
- standardised common requirements for internal technical agencies
- issued a template for manual submission of permits to one-stop shops.

## DEALING WITH LICENCES – APEC PERFORMANCE

Three APEC economies are in the top 10 in *Doing Business 2011* for dealing with construction permits. They are: Hong Kong, China (1<sup>st</sup>); Singapore (2<sup>nd</sup>); and New Zealand (5<sup>th</sup>). Mexico; Viet Nam; and Peru feature in the list for the most improved economies, ranking as fifth, ninth and tenth in the world respectively.<sup>34</sup>

34 World Bank and the International Finance Corporation. (2010). *Doing Business 2011: Making a Difference for Entrepreneurs*. Washington DC, US: Authors. pp 1-255.

**Table 4: Dealing with Construction Permits Across Regions**

This table illustrates how APEC region performs against other regions in dealing with construction permits.

Region	Procedures (numbers)	Time (days)	Cost (% of income per capita)
<b>APEC</b>	<b>20.0</b>	<b>166.7</b>	<b>316.1</b>
East Asia & Pacific (EAP)	19.0	167.2	168.7
European Union (EU)	17.0	199.2	77.4
Latin America	19.0	201.4	243.4
Organisation for Economic Co-operation and Development (OECD)	16.0	166.3	62.1
South Asia (SA)	18.0	241.0	2,039.2

Source: *Doing Business 2011*.

The average time to deal with construction permits in APEC economies in 2008 (the year of the initial seminar in Peru) was 190 days. By June 2010 this had dropped to an average of 166.7 days, as shown in Table 4.

A summary of recent changes to business regulations relating to dealing with licences<sup>35</sup> shows that:

- Mexico merged and streamlined procedures related to zoning and utilities
- Peru implemented administrative reforms
- Russia implemented a single window for all procedures related to land use
- Viet Nam reduced the cost to register newly-completed buildings by 50 percent and transferred the authority to register buildings from local authorities to the Department of National Resources and Environment.

35 World Bank and the International Finance Corporation. (2011). *Doing Business 2011: Making a Difference for Entrepreneurs APEC*. Washington DC, US: Authors. pp 1-44.

## CONCLUSION

Entrepreneurs, governments and consumers all benefit from a faster, cheaper and easier process for obtaining licences and permits.

Regulators need to take steps to make it easy for firms to operate, while also protecting the public. As each economy is unique, the approach taken to achieve this will differ across APEC member economies. However, some best practice initiatives identified at the workshops included:

- online services and use of technology to increase efficiency
- one-stop shops or single windows to access services and to process licencing applications
- comprehensive and customised information on licensing requirements and costs
- stakeholder consultation and engagement in licensing reform
- interagency coordination
- simplified and streamlined licensing procedures and processes, including agreed service standards and building codes.

While technology is a useful enabler, core fundamentals need to be in place for it to work well. This means strong leadership, sound policies, clear objectives and legislation, robust information technology infrastructure and architecture, efficient procedures and processes, appropriate internal capability development, stakeholder engagement, coordination across regulatory agencies, and holistic implementation strategies.





## 6 Trading Across Borders

### INTRODUCTION

Balancing law enforcement and security while facilitating trade is a challenge for regulators and customs officials in all economies.

This section focuses on what APEC economies have done, or are doing, to facilitate trading across borders.

In February 2009, representatives from a number of APEC member economies met in Wellington, New Zealand to share experiences, issues and best practices relating to trading across borders. It was the fourth meeting in the APEC Private Sector Development – Ease of Doing Business Workshop Series.<sup>36</sup> Information shared at the seminar provides the basis of the content for this section.

This material is supplemented by information shared at a meeting of the Sub-Committee on Customs Procedures in Hiroshima, Japan in March 2010 and a workshop on trading across borders in Sendai, Japan in September 2010. The latter was part of the APEC Ease of Doing Business Action Plan.

The World Bank and the International Finance Corporation's *Doing Business* reports and other publications have also been referenced.

### TRADING ACROSS BORDERS – WHY IT MATTERS

#### When Trading Across Borders is Easy

Customs administrators have to guard against illegal activities such as smuggling in drugs, firearms, counterfeit and pirated goods. Customs and bio-security administrators are also required to guard against threats to an economy's security and bio-security. At the same time, customs administrators have to collect customs revenue, while not impeding trade.

Finding the right balance between maintaining security and facilitating trade can provide tangible benefits to traders and economies. For example, removing constraints to trading can encourage business owners to look beyond their own borders for business opportunities.

Facilitating trade also helps strengthen firms' international competitiveness and improve an economy's productivity and trading environment. Efficiency gains in trade administration can in turn be passed on to traders in the form of reduced fees.

At APEC's Sub-Committee on Customs Procedures meeting in March 2010, Canada stressed the importance of a transparent rules-based administration system to ensure certainty and a level playing field for legitimate businesses.

<sup>36</sup> Refer to Appendix 1 for a full list of the APEC Private Sector Development – Ease of Doing Business workshops.

Trade facilitation tools and initiatives – such as risk-based inspections, single window access to customs authorities, and the ability to submit documentation electronically – save traders time, money and effort. This can be achieved through:

- having access to streamlined and simplified customs application processes
- having fewer interactions with officials
- improved transparency
- no longer needing to visit several different physical locations to submit paperwork
- gaining benefits from reduced port and border clearance times
- being able to more accurately predict processing times.

### **When Trading Across Borders is Difficult**

Factors that can commonly stifle the movement of goods or lead to costly delays for traders include:

- excessive documentation requirements
- burdensome and time-consuming customs procedures
- unnecessarily complex procedures at the border
- multiple audits from different government agencies
- regulatory requirements which do not match the level of risk involved
- inconsistency in interpretation of regulatory requirements across agencies and by third parties (for example, auditors, consultants)
- heavy-handed inspection regimes
- no risk-based inspection systems
- inefficient port operations and transit arrangements
- inadequate infrastructure – for example, poor roading, unreliable internet connections or electricity supply
- complicated notarisation requirements for customs documentation
- requirements to submit both hard and electronic copies of documentation.

A combination of any of these factors can lead to issues for an economy's overall trade competitiveness and dissuade entrepreneurs from trading outside their borders. In addition, high trade costs and complicated procedures create an environment conducive to corruption, bribery and discretionary practices.

One study shows that a longer timeframe to export and import is associated with a greater prevalence of trade-related corruption.<sup>37</sup>

The efficiency of traders and private sector agencies involved in trade-related activities can also have an impact. Efficiency and effectiveness gains can be achieved by improving the management systems of firms that link with regulatory agency systems and ensuring they have the information and resources to meet their obligations.

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37 Shepherd, B. (2009). *Speed Money: Time, Corruption, and Trade* (Working Paper no. 17337). Munich, Germany: Munich Personal RePEc Archive. Retrieved from <http://ideas.repec.org/p/pramprapa/17337.html>

## TRADING ACROSS BORDERS – THE PROCESS

Trading across borders involves looking at exports and imports. For the purposes of this report, exporting starts with the conclusion of the sales contract and ends with the shipment of goods from the port of departure. Importing starts with the conclusion of the purchase contract and ends with the arrival of goods at the importer's warehouse. These processes require documents, take time and incur costs.

Documents required for exporting and importing goods include:

- bank documents – such as letters of credit
- customs clearance documents – for example, customs declaration, bills of lading and commercial invoices
- port and terminal handling documents
- transport documents – for example, bills of lading and transit documents
- other documents – like packing lists, powers of attorney, import licences, food safety, bio-security and quarantine documents.

Traders often have to deal with a number of agencies – such as the ports, standards and health control authorities and the customs service. Goods may have to undergo several types of inspections – such as tax, security, bio-security, environmental, border control and health and safety.

Traders are likely to spend time on:

- obtaining all the required documents
- managing inland transport and handling
- securing customs clearance and passing inspections
- arranging port and terminal handling.

The trade indicator for the *Doing Business* reports take into account the number of documents, costs (US\$ per container) and the number of days associated with every procedure for trading a standard shipment of goods by ocean transport. The reports rank 183 economies against these sub-indicators as one way of measuring the ease of trading across borders.

Tables 5 and 6 in this chapter show how APEC economies compare with other regions when it comes to trading across borders.

## BEST PRACTICE GUIDANCE

Initiatives to support trading across borders vary across economies. However, the APEC workshops highlighted some examples of common best practice activities. They included:

- introducing new or improved electronic data exchange systems
- implementing a single window service for processing documentation for trading across borders
- implementing or improving risk-based management systems and inspection regimes
- simplifying and streamlining customs regulations and procedures
- instituting improved procedures at ports

- establishing close cooperation with other customs administrations
- implementing border cooperation and trade agreements.

APEC is focusing on some of these best practice activities at a regional level. For example, APEC's Sub-Committee on Customs Procedures is investigating ways to simplify and harmonise customs procedures to facilitate trade among APEC economies. At its meeting in Japan in March 2010, participants discussed a number of joint projects.

One such project is the Time-Release Study. APEC member economies are conducting the study to identify bottlenecks in the flow of goods and share information.

The Trade Recovery Program is another example where APEC economies are working together. It examines how to resume trade in the event of a major disruption to the global supply chain.

APEC's Electronic Commerce Steering Group and the Paperless Trading Sub-group have also set up a project to look at best practice in relation to paperless trading. Paperless trading is defined as the electronic exchange of structured information between computer application systems, or between computer application systems and people.

In 2009, Chinese Taipei and China implemented a project called Assessment and Best Practices on Paperless Trading to Facilitate Cross Border Trade. After discussion with approximately 40 delegations from 15 APEC member economies at the dedicated symposium, they came up with eight recommendations on paperless trading. The recommendations included examples of best public and private-sector practices, key performance indicators and critical success factors. Refer to the [executive summary from the symposium](#)<sup>38</sup> for more information.

### Electronic Data Exchange Systems and Technology

Information and communication technologies (ICT) can be used in a number of ways to facilitate trading across borders.

ICT is an effective tool for publicising regulations and interacting with stakeholders. It also enables traders to submit their documents from anywhere at any time.

Many economies allow traders to exchange information with customs and other agencies electronically. *Doing Business 2011* reported that 78 percent of the 149 surveyed economies allowed traders to submit electronically at least some of their export and import declarations, manifests and other trade-related documents to customs authorities.<sup>39</sup> These economies included Australia; Brunei Darussalam; Chile; Korea; Malaysia; New Zealand; Peru; the Philippines; Singapore; and Thailand. Some APEC economies now achieve customs clearance in a matter of hours or even minutes, as in Korea and New Zealand.<sup>40</sup>

38 [http://publications.apec.org/publication-detail.php?pub\\_id=1040](http://publications.apec.org/publication-detail.php?pub_id=1040)

39 World Bank and the International Finance Corporation. (2010). *Doing Business 2011: Making a Difference for Entrepreneurs*. Washington DC, US: Authors. pp 1-255.

40 See Footnote 39.

To speed up cargo processing at borders, Hong Kong, China has installed fixed and mobile x-ray vehicle scanning systems at various control points connecting it to China. X-ray inspection images are shared on a case-by-case basis for reference purposes. Clearance procedures are also streamlined using mounted digital cameras.

Hong Kong Customs has developed an electronic road cargo system dubbed ROCARS. This system allows traders to submit cargo data to customs authorities in advance. Customs authorities can then assess the risks on imports before they arrive, allowing seamless cargo clearance at the land boundary.

Under the APEC Electronic Commerce Steering Group framework, Chinese Taipei and Korea developed a system called the Electronic Certificate of Origin (ECO) Cross-Border Exchange Pathfinder Initiative. In general, ECOs reduce costs for traders and exempt exporters from needing a certificate of origin authorisation stamp. The new system improved Chinese Taipei and Korea's electronic data interchange system, enabling them to receive, process and exchange ECOs. The first ECO was successfully transmitted across borders in May 2010. Since its launch, 15 exporters from Korea and 20 importers from Chinese Taipei have joined the project.

However, workshop participants heard that introducing and operating electronic systems can be costly and complex. Further, without robust infrastructure (for example, a reliable electricity supply), automated systems may not speed up customs processes as intended. Successful implementation requires project planning, training for staff and users, an assessment of current procedures and forms, engagement with stakeholders, and implementation of standards and standardised forms.

### Single Window

A single window service is a facility which allows official documents to be lodged at one location. This single window may be a physical one-stop shop or, more commonly, a web portal. The service allows government agencies to share information, provide a single source of trade-related information, and ensure trade-related obligations are met.

Many APEC economies offer traders a single window service. These economies include Australia; Canada; Chile; China; Indonesia; Japan, Korea; and Singapore.

Singapore set up the world's first economy single window in 1989, bringing together 13 controlling agencies.

Some economies go beyond linking traders to government agencies. For example, the trade portal in Korea also connects traders to private sector participants such as banks, customs brokers, insurance companies and freight forwarders.<sup>41</sup>

While getting physical goods across the border is obviously important, businesses should also be aware that their customer databases may be subject to privacy rules. Particular caution is needed when a business transfers personal information across borders – for example, to suppliers or to database managers.

41 World Bank and the International Finance Corporation. (2010). *Doing Business 2011: Making a Difference for Entrepreneurs*. Washington DC, US: Authors. pp 1-255.

The APEC Cross-Border Privacy Rules<sup>42</sup> are designed to help tackle this issue. The Data Privacy Sub-group of APEC's Electronic Commerce Steering Group offers another source of guidance.

APEC's Sub-Committee on Customs Procedures is developing a collective action plan to assist economies set up their own single window systems.

### **Risk-based Management Systems and Inspections**

Risk-based management systems speed up the clearance process by reducing the volume of goods inspected. Taking a risk-based approach is more efficient and helps to maintain security and protection.

APEC economies using risk-based assessments need to do less physical inspections of shipments. As a result, they have reduced their customs clearance times. Several APEC member economies have also developed risk profiles that allow them to limit physical inspections to only the riskiest cargo.

### **Simplified Customs Regulations and Procedures**

Economies participating in the workshop series shared information on how to simplify and streamline trade regulations and administration. Highlights included:

- conducting cross-government projects to review and amend regulatory practice which adversely affects businesses' ability to increase exports
- identifying regulation issues by talking with industry organisations and firms in key sectors, then resolving priority issues
- asking firms to test proposed regulations during their development
- piloting new regulations before they are introduced
- incorporating an export-growth focus into all regulatory work
- reviewing and improving port and customs administrative processes and procedures
- reducing the number of documents required to trade
- reducing tariff rates
- introducing a fast-track system for traders with a good record. This system allows these businesses to speed up importing and exporting procedures
- using international standards and best practices to streamline, enhance and harmonise processes across different economies
- setting up systems for effective customs appeals
- assisting private sector participation in trade services (for example, customs brokers and trucking companies)
- introducing performance-based systems to hold officials accountable
- involving stakeholders in the design and implementation of trade facilitation reforms
- ensuring transparency by publicising customs regulations in full

42 [www.dpmmc.gov.au/privacy/apec/cross-border.cfm](http://www.dpmmc.gov.au/privacy/apec/cross-border.cfm)

- taking a client-focused approach to service delivery – for example, extending office hours, offering training in new systems to users and staff, and employing user-friendly ICT systems which are easy for traders to install
- using technology to improve efficiency – for example, launching electronic cargo-tracking systems or using mobile x-ray machines to check cargo
- putting in place electronic signature and transaction laws to ensure legal validity and avoid disputes
- establishing close cooperation with other customs administrations.

Korea has gone beyond streamlining its customs activities to using customs to promote green growth. Korea briefed the Sub-Committee on Customs Procedures on its Green Customs Strategy at a meeting in Japan in 2010. Its efforts to promote green business include providing tax breaks for green products and stopping the trade of environmentally-harmful products. Customs offices are also improving energy efficiency and simplifying their procedures for cargo-processing systems.

#### **Bilateral Arrangements – Border Cooperation and Trade Agreements**

Negotiations on free trade agreements often trigger improvements in trade facilitation in economies. For example, the need for common transit documents among members of a trading block can prompt the standardisation of documents.

Border cooperation agreements also enable cargo to move freely to its point of destination. This is especially useful for land-locked economies.

#### **TRADING ACROSS BORDERS – APEC PERFORMANCE**

Three APEC economies feature in the top 10 for trading across borders, according to *Doing Business 2011*. They are: Singapore (1<sup>st</sup>); Hong Kong, China (2<sup>nd</sup>); and Korea (8<sup>th</sup>). Peru was the most improved economy when it comes to trading across borders and the Philippines ranked tenth.<sup>43</sup>

Alongside these successes, APEC economies are using the best practice information shared in the workshops and elsewhere. A summary of changes to business regulations reported in *Doing Business 2011 APEC* shows member economies have made trading easier, cheaper and faster in the following ways:

- Brunei Darussalam introduced an electronic customs system to make trading easier
- Indonesia reduced exporting times by launching a single window service
- Peru implemented a new web-based electronic data interchange system, risk-based inspections and payment deferrals
- The Philippines improved its electronic customs systems, adding in new functions such as electronic payments and online submission of declarations.

Tables 5 and 6 provide more detail on how the APEC region performs against other regions.

43 World Bank and the International Finance Corporation. (2011). *Doing Business 2011: Making a Difference for Entrepreneurs APEC*. Washington DC, US: Authors. pp 1-44.

**Table 5: Trading Across Borders Across Regions (Export)**

Region	Documents to export (number)	Time to export (days)	Cost to export (US\$ per container)
APEC	5.5	15.0	846.6
East Asia & Pacific (EAP)	6.4	22.7	889.8
European Union (EU)	4.5	11.5	1,025.3
Latin America	7.1	19.0	1,310.6
Organisation for Economic Co-operation and Development (OECD)	4.4	10.9	1,058.7
South Asia (SA)	8.5	32.3	1,511.6

Source: *Doing Business 2011*.

**Table 6: Trading Across Borders Across Regions (Import)**

Region	Documents to import (number)	Time to import (days)	Cost to import (US\$ per container)
APEC	6.0	15.2	912.8
East Asia & Pacific (EAP)	6.9	24.1	934.7
European Union (EU)	5.3	12.1	1,086.5
Latin America	7.5	22.0	1,441.1
Organisation for Economic Co-operation and Development (OECD)	4.9	11.4	1,106.3
South Asia (SA)	9.0	32.5	1,744.5

Source: *Doing Business 2011*.

## CONCLUSION

Firms and economies are able to enhance their trade in global markets through trade facilitation reform. APEC economies recognise this and are removing regulatory obstacles to encourage and support cross-border trade.

APEC economies which rank among the best for trading across borders tend to have:

- electronic data exchange systems
- a single window or one-stop shop for processing trade-related documents
- risk-based management and inspections
- simplified and streamlined customs regulations and procedures
- improved procedures at ports
- close cooperation with other customs administrations
- border cooperation agreements and trade agreements.



## 7 Enforcing Contracts

### INTRODUCTION

Well-functioning economies need efficient processes for dealing with and resolving commercial disputes.

This section provides ideas for improving the efficiency and effectiveness of contract-enforcement regulation. However, a customised approach to regulatory reform in enforcing contracts is needed for each economy.

In July 2009, representatives from a number of APEC member economies met in Singapore to share experiences relating to enforcing contracts. The seminar was part of the APEC Private Sector Development – Ease of Doing Business Workshop Series.<sup>44</sup> The content for this section is taken from information shared at the seminar.

The material is supplemented by information discussed at a further workshop on the same topic held as part of the APEC Ease of Doing Business Action Plan in Seoul, Korea in June 2010. This seminar provided an opportunity for APEC economies to reflect on their own systems for enforcing contracts and discuss best practices.

The World Bank and the International Finance Corporation's *Doing Business* reports and other publications have also been referenced.

### ENFORCING CONTRACTS – WHY IT MATTERS

#### When Enforcing Contracts is Easy

If a business transaction goes wrong, entrepreneurs, suppliers and consumers need to be able to seek redress. They need an effective contract-enforcement system that helps achieve justice, increases trade and facilitates credit.

The most compelling argument for introducing reforms in this area is that they work. In a presentation at the Singapore workshop, the World Bank highlighted the significant efficiency gains from cutting the time and cost of enforcing contract disputes. For example, China's reform of civil procedure law had a huge impact on the effectiveness of courts. Administrative reforms in Singapore and the New York State Supreme Court also helped improve their efficiency goals.

Korea reformed its civil justice system and reduced the cost, time and number of procedures when enforcing contracts. E-filing for patent cases is saving time and storage space.

Japan has found that reforms to its justice system have made it more user-friendly and have encouraged greater public trust in the judicial system.

Improved systems for enforcing contracts also protect women entrepreneurs. In particular, it protects them from losing money if the contract is not able to be carried out. With these kinds of measures in place, women are more likely to actively participate in the economy.

44 Refer to Appendix 1 for a full list of the APEC Private Sector Development – Ease of Doing Business workshops.

### When Enforcing Contracts is Difficult

Costly commercial disputes which take a long time to resolve are in no-one's best interests.

Some of the main factors which can cause problems include:

- procedural complexity
- a lack of strict deadlines for court hearings, allowing for constant adjournments
- protracted appeals
- an inadequate number of judges
- inefficient systems to enforce judgments
- large caseloads and/or a large backlog of cases
- poor management of cases.

### ENFORCING CONTRACTS – THE PROCESS

Disputes for small and medium-sized enterprises can involve anything from disagreements over property and supply contracts to banking transaction issues and defaulting debtors.

The contract-enforcement process can be divided into three components: the number of procedures, the time required and the cost involved.

The procedures involved in resolving commercial disputes in local courts generally include:

- filing the case
- the trial and judgment
- enforcing the outcome of the court hearing
- the interaction between parties or between the parties and the court officer or judge.

The time required to complete the procedures includes filing and serving the case, conducting the trial and enforcing the contract.

Parties are liable to pay attorney fees, court costs and enforcement costs.

The *Doing Business* reports measure the efficiency of judicial systems in resolving commercial disputes. It calculates and ranks economies for the time, cost and number of procedures involved – from the moment a plaintiff files the lawsuit until actual payment is recorded.

*Table 7: Enforcing Contracts Across Regions* in this chapter shows how APEC economies perform in comparison with other regions.

### BEST PRACTICE GUIDANCE

Workshop participants recommended a number of administrative and judicial practices to improve court efficiency:

- investing in electronic processes and using technology to enhance court efficiency
- streamlining court practices and implementing wider court reforms
- using active case management
- establishing or maintaining specialised commercial courts, divisions or judges
- introducing formal arbitration courts.

This list is not exhaustive. More detail about each is provided below.

### Technology

Technology can increase efficiency in the judicial system. It can be used to track court processes, thereby increasing transparency, limiting opportunities for corruption and protecting court records.<sup>45</sup>

Commercial disputes can also be resolved more efficiently if complaints can be filed electronically. A number of APEC economies provide this service, including Australia; Korea; Singapore; and the United States.

Singapore, for example, has an electronic filing system in its courts and will soon launch an integrated Electronic Litigation System.

Efficiency in judicial systems can also be improved by:

- storing court documents electronically
- logging court proceedings electronically
- assigning court hearing dates automatically
- notifying court hearing dates via automated text messaging
- tracking cases and reporting deadlines electronically
- allowing online filing to commercial courts 24 hours a day
- allowing attachments to be sent electronically to and from courts
- introducing computer-aided case management systems
- scanning paper-based proceedings, which saves space and paper.

An electronic case management tracking system is now fully integrated into the Malaysian courts system. This innovation was introduced as part of a suite of reform activities. These activities ranged from undertaking a stocktake of caseloads and using a computerised case management system to methodically reviewing all procedures.

Seminar presenters emphasised that the introduction of information technology can improve court efficiency and effectiveness but should not be seen as the final goal of regulatory reform. A reduction in time and cost will not be achieved if the electronic filing is not accompanied by a review and, sometimes, an overhaul of court processes. Infrastructure development and information technology education are also necessary to successfully introduce an electronic litigation system.

### Streamlined Court Practices and Court Reforms

Many APEC economies have developed initiatives to simplify and streamline court procedures. Activities discussed at the workshops included:

- reviewing and improving court procedures, such as reducing or amalgamating procedures
- reviewing and improving services and notification methods – for example, sending notifications by text message

45 World Bank and the International Finance Corporation. (2010). *Doing Business 2011: Making a Difference for Entrepreneurs*. Washington DC, US: Authors. pp 1-255.

- imposing and enforcing strict procedural time limits on certain applications and appeals
- restricting the right of appeal to higher-value cases
- measuring the performance of judges
- increasing the number of judges
- creating a 'fast track' for interlocutory matters
- setting target timeframes for enforcing judgments
- limiting the time period for witness examination, oral submissions and extended discovery procedures
- establishing strategic partnerships with stakeholders
- introducing real-time court reporting and making records of court proceedings immediately available to litigants, court officials and the public
- setting up court-referred mediation and placing an emphasis on alternative dispute resolution
- facilitating pre-trial conferences
- setting up small claims courts or tribunals
- introducing changes to civil law procedures aimed at reducing complexity
- allowing flexible settlement arrangements.

Singapore's judiciary has taken a multi-pronged approach to improve court litigation. Electronic filing, proactive case management, pre-trial conferences, specialised courts, special protocols and trials of preliminary issues are all part of a package of measures to streamline court practices.

These measures are complemented by a free service where judges act as mediators to help resolve disputes at the outset.

In addition, Singapore has a small claims regime which offers a simple, quick and inexpensive opportunity for litigants to represent themselves in an informal setting. Mediation is encouraged as a viable first step.

### **Active Case Management**

Active case management is an important part of streamlining court practices. This can include conducting preparatory hearings where judges help parties to narrow the issues in dispute.<sup>46</sup> As a first step, periodic reviews can be implemented to clear inactive cases from court lists.

In 2009/10, Hong Kong, China continued to make use of a computerised case management system to support the operation of their court registry.

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46 World Bank and the International Finance Corporation. (2010). *Doing Business 2011: Making a Difference for Entrepreneurs*. Washington DC, US: Authors. pp 1-255.

### Specialised Commercial Courts

A specialised commercial court can stand alone or be a section within an existing court. These kinds of specialised courts offer one way of responding to growing caseloads.

The Commercial Division of the New York State Supreme Court<sup>47</sup> in the United States operates this kind of system to resolve commercial disputes.

### Arbitration

Arbitration and other alternative methods of resolving contract disputes are a viable way for APEC as a region to improve the business environment.

Hong Kong, China has already reformed its Law of Arbitration. While it is now not compulsory to go to arbitration, it is actively promoted to litigants as an efficient alternative to the typical litigation process.

## ENFORCING CONTRACTS – APEC PERFORMANCE

Four APEC economies feature in the global top 10 in *Doing Business 2011* for the way they enforce contracts. They are Hong Kong, China (2nd); Korea (5th); the United States of America (8th); and New Zealand (10th). The rankings are based on the economy's procedures and the time and cost involved in resolving commercial disputes through the courts.

As a result of sharing information and collaboration, APEC economies are making changes to the way they enforce contracts. A summary of changes to business regulations in *Doing Business 2011 APEC*<sup>48</sup> shows they have made trading easier, cheaper and faster in a number of ways:

- Canada has increased the efficiency of its courts by expanding electronic document submission and streamlining procedures
- Chile has amended its security law. This has strengthened investor protections by requiring greater corporate disclosure and regulating the approval of transactions between interested parties
- Hong Kong, China has implemented the Civil Justice Reform to improve the cost-effectiveness of the civil justice system, making it less complex and reducing delays
- Japan has established an entity called the Enterprise Turnaround Initiative Corporation to support the revitalisation of companies suffering from excessive debt
- Korea has made it easier to deal with insolvency by introducing post-filing financing and granting priority to the repayment of loans given to companies undergoing reorganisation
- New Zealand has enacted new district court rules which make the process for enforcing contracts more user-friendly
- Russia introduced a series of legislative measures in 2009 to improve creditor rights and its insolvency system.

47 [www.courts.state.ny.us/courts/comdiv/index.shtml](http://www.courts.state.ny.us/courts/comdiv/index.shtml)

48 World Bank and the International Finance Corporation. (2011). *Doing Business 2011: Making a Difference for Entrepreneurs APEC*. Washington DC, US: Authors. pp 1-44.

**Table 7: Enforcing Contracts Across Regions.**

This table shows how APEC is doing as a region.

Region	Procedures (number)	Time (days)	Cost (% of claim)
APEC	35.5	424.9	31.5
East Asia & Pacific (EAP)	37.3	531.8	48.5
European Union (EU)	31.8	548.9	20.7
Latin America	37.0	711.6	30.1
Organisation for Economic Co-operation and Development (OECD)	31.2	517.5	19.2
South Asia (SA)	43.5	1,052.9	27.2

Source: *Doing Business 2011*.

## CONCLUSION

Judicial reform can improve the business environment as well as promote public justice and welfare. Judicial reforms support entrepreneurs, suppliers and consumers to seek redress where necessary. They make contract-enforcement procedures less costly, more accessible and more efficient.

Enforcing contracts in an effective and efficient manner also contributes to encouraging active business within the Asia-Pacific region by increasing certainty for businesses.

Workshop participants highlighted a number of practices which can drive advances in enforcing contracts:

- implementing electronic processes and the use of technology to enhance court efficiency
- streamlining court practices as part of implementing wider court reforms
- using active case management
- setting up specialised commercial courts, divisions or judges
- introducing formal arbitration courts.

## 8 Accessing Credit

### INTRODUCTION

The cost of finance is a significant determinant in whether a business continues its operations, expands or even closes.

This section looks at the methods undertaken by APEC economies to improve access to finance for small and medium-sized enterprises.

In October 2009, representatives from 11 APEC economies met in Singapore for a capacity-building seminar on accessing credit. The seminar was part of the APEC Private Sector Development – Ease of Doing Business Workshop Series.<sup>49</sup> It was also attended by representatives from the World Bank, the banking sector, the APEC Advisory Council and academia. The content for this section is sourced from presentations at the seminar.

This material is supplemented by information shared at a further workshop on the same topic held as part of the APEC Ease of Doing Business Action Plan in Sendai, Japan in September 2010.

The World Bank and the International Finance Corporation's *Doing Business* reports and other publications are also referenced.

### ACCESSING CREDIT – WHY IT MATTERS

#### When Accessing Credit is Easy

The World Bank has found that improving firms' access to formal finance pays off. It fosters entrepreneurship, innovation, better asset allocation and firm growth.<sup>50</sup>

It is useful to think about two distinct areas when considering how to support access to credit:

- the strength of legal rights of borrowers and lenders in secured transactions and bankruptcy law; and
- the depth of finance or credit information.

Strong creditor rights reassure lenders that their loans will be repaid. One study shows that where lenders have better legal protection during bankruptcy and reorganisation, they are more willing to extend credit on favourable terms.<sup>51</sup>

Workshop participants also heard that expanding the scope, accessibility and quality of credit information is another important element in creating a better environment for businesses to obtain credit. Reliable credit information systems enable prospective lenders to get the whole picture (positive and negative) of a borrower's financial situation. Armed with comprehensive financial information, a lender can assess the true level of risk involved with much greater confidence.

49 Refer to Appendix 1 for a full list of seminars in the Private Sector Development – Ease of Doing Business Workshop Series.

50 World Bank and the International Finance Corporation. (2010). *Doing Business 2011: Making a Difference for Entrepreneurs*. Washington DC, US: Authors. pp 1-255.

51 World Bank and the International Finance Corporation. (2010). *Doing Business 2011: Making a Difference for Entrepreneurs*. Washington DC, US: Authors. pp 1-255, citing Qian and Strahan (2007).

*Doing Business 2011 APEC* reports that credit information systems also benefit borrowers, allowing them to establish a reputable credit history which can enable them to access credit more easily.

The regulatory environment also impacts on women's decisions to become entrepreneurs and be part of the formal economy. Women can face greater difficulties than men in securing credit due to a lack of collateral, according to a new index on women's economic opportunities released by the Economist Intelligence Unit.<sup>52</sup>

Allowing moveable assets as security for loans can benefit women who often lack legal title to land or buildings that could serve as collateral. This can also reduce the number of women resorting to informal credit, which often involves high transaction costs.<sup>53</sup>

In summary, strengthening legal rights around credit and increasing the credit information available can produce a range of benefits for borrowers and lenders. These tangible gains can include:

- allowing borrowers to avoid the high transaction costs associated with getting credit through informal channels
- allowing borrowers to establish a favourable credit history
- broadening the scope and accessibility of credit information for all parties
- expanding the number of public credit registries and private credit bureaux
- promoting the protection of secured creditors' rights through bankruptcy laws
- allowing creditors to determine how easily they can recover their investment after a default by a debtor, and clarifying priority among creditors
- giving creditors the confidence to make loans
- mitigating against information asymmetry. This is where one party has more or better information than the other. It creates an imbalance of power in transactions which can sometimes cause problems.

### **When Accessing Credit is Difficult**

Banks are more likely to lend, and at better rates, when a borrower can offer collateral. However, for some entrepreneurs, access to collateral can be difficult.

There are two types of collateral: immovable (for example, land) and moveable (for example, crops, land-use rights, services or intellectual property). The legal systems in some economies do not allow for moveable assets to be accepted as collateral. Yet many micro, small and medium-sized enterprises only have moveable assets. This puts these entrepreneurs at a disadvantage and can discourage them from even applying for credit.

52 Economist Intelligence Unit Limited. (2010). *Women's economic opportunity. A new pilot index and global ranking from the Economist Intelligence Unit. Findings and methodology*. Place of publication not specified: The Economist. Retrieved from [www.eiu.com/site\\_info.asp?info\\_name=womens\\_economic\\_opportunity&page=noads&rf=0](http://www.eiu.com/site_info.asp?info_name=womens_economic_opportunity&page=noads&rf=0)

53 World Bank and the International Finance Corporation. (2010). *Doing Business 2011: Making a Difference for Entrepreneurs*. Washington DC, US: Authors. pp 1-255.



Other factors that can commonly make access to finance difficult for small and medium-sized enterprises include:

- poor information on loans and government assistance programmes
- credit financing regulations that explicitly differentiate on the basis of gender and impact on the capacity of women to access credit
- high collateral requirements for credit application approval
- not permitting general descriptions of assets. This can make using inventory as collateral very difficult as every item would need to be described and any changes recorded
- not extending security rights to include future assets
- no unified collateral registry
- not allowing out-of-court enforcement of security rights
- not making historical credit information on individuals and companies readily available
- not having positive and negative credit information readily available
- borrowers being unable to look at information about themselves
- poor creditor and borrowers' rights.

### ACCESSING CREDIT – THE PROCESS

In general, the credit cycle covers three main phases: the creation of a security agreement, the publication of the agreement and the enforcement of the agreement.

In creating a credit arrangement, the parties may look at factors such as the collateral and obligations of the agreement and the way in which the components of the agreement can be described.

The factors which come into play during the publication stage include the transparency of the information, the speed of the process, and the way in which the agreement is registered.

The enforcement stage covers the priority rules inside and outside bankruptcy, the level of protection for creditors during bankruptcy processes, and out-of-court enforcement (if available).

There are a number of formal sources for credit-based financing available to micro, small and medium-sized enterprises. Examples include:

- term loans to businesses from private sector commercial lenders
- lines of credit/operating loans from private sector commercial lenders
- commercial credit cards
- leases from private sector finance institutions
- direct loans from government and government-backed loan guarantee schemes
- loans from government-owned financial institutions
- trade credit owing to suppliers

- personal credit cards
- personal loans to business owners from lending institutions
- micro-credit.

The annual *Doing Business* reports use two separate sub-indices to measure the ease of getting credit:

1. The strength of legal rights for borrowers and lenders in secured transactions (Index 0-10). This measures the degree to which collateral and bankruptcy laws protect the rights of borrowers and lenders and thus facilitate lending.
2. The depth of credit information (Index 0-6). This measures rules and practices affecting the coverage, scope and accessibility of credit information available through either public or private credit registries.

*Table 8: Getting Credit Across Regions* in this chapter shows APEC's performance against other regions.

### BEST PRACTICE GUIDANCE

To improve the environment for getting credit, workshop participants noted that economies could:

- expand the scope, accessibility and quality of credit information
- strengthen legal systems for getting credit, including improving bankruptcy and insolvency-related laws.

These examples are discussed in more detail below.

#### Credit Information Systems

A public credit registry is a database managed by a government agency – usually the central bank or the superintendent of banks. This agency collects information on the creditworthiness of borrowers (individuals and businesses) and facilitates the exchange of credit information among banks and other financial institutions.

A private credit bureau is a private company or non-profit organisation that maintains a database on the creditworthiness of borrowers in the financial system. It also facilitates the exchange of information.

Credit bureaux get their data from a number of sources including banks (loans and mortgages), leasing companies, credit card agencies, utilities, retailers, trade creditors and microfinance institutions. Access to this information helps creditors assess the creditworthiness of potential clients.

A credit information system for the small and medium-sized enterprise sector helps address the challenge of information asymmetry. Some economies provide online access to this information.

Reliable credit information also provides regulators with a valuable tool to assess and monitor credit risk in an economy.

Best practice for managing credit information also includes:

- distributing data on firms and individuals
- distributing positive and negative credit information on firms and individuals. Positive information might cover information on the amount of loans (original, outstanding and instalments) and repayment patterns. Negative information might include information on arrears, defaults, court judgments and bankruptcies
- providing credit information from retailers, trade creditors or utilities, and financial institutions
- distributing historical data (two years or more)
- distributing data on all loans below 1 percent of income per capita
- allowing borrowers rights to access their data by law.

A credit bureau without good mechanisms to correct errors in credit reports or ensure fairness in the listing of credit or defaults may create significant adverse effects for individuals seeking to expand their business.

There are significant privacy issues in credit reporting. The Data Privacy Sub-group of APEC's Electronic Commerce Steering Group is available to provide guidance on privacy issues tied up in credit reporting, should APEC economies consider setting up credit bureaux.

In relation to issues for women entrepreneurs, Mexico notes that women entrepreneurs face a number of issues in accessing finance. The issues can include a lack of information about loans, advice on planning payments, and difficulties in fulfilling collateral requirements. It suggests institutions can increase access to information on loans, introduce simpler procedures for getting credit and ask women what they need. Mexico also recommends that women entrepreneurs actively search for loans and government assistance and plan their financing needs in advance.

### **Strengthened Legal Systems and Rights Relating to Getting Credit**

A clear and predictable legal infrastructure plays an important role in facilitating finance for commercial activities, particularly for small and medium-sized enterprises.

The terms on which lenders make credit available depend on several factors: the lenders' costs of capital, the transaction costs to make the loan, and the risks associated with repayment of the loan. High costs and risks result in smaller, shorter loans at higher interest rates.

In contrast, strong credit rights reduce the risks for lenders and encourage them to expand the loan. A priority system for creditors in cases of loan default can result in increased credit to the private sector, compared with economies without these creditor protections.

In short, collateral and bankruptcy laws that protect borrowers and lenders also facilitate lending.

To calculate the strength of the legal rights index of economies, the *Doing Business* project allocates a point for each of the factors listed below.

1. Can any business use moveable assets as collateral, while keeping possession of the assets?
2. Does the law allow businesses to grant businesses a non-possessory security right in a single category of moveable assets without requiring a specific description of the collateral?
3. Does the law allow businesses to grant a non-possessory security right in substantially all of its assets, without requiring a specific description of the collateral?
4. May a security right extend to future or after-acquired assets, and may it extend automatically to the products, proceeds or replacement of the original assets?
5. Is a general description of debts and obligations permitted in collateral agreements so that they can be secured by stating a maximum amount?
6. Is a unified collateral registry in operation?
7. Do secured creditors have absolute priority to their collateral outside bankruptcy procedures?
8. Do secured creditors have absolute priority to their collateral within bankruptcy procedures?
9. During reorganisation, are secured creditors' claims exempt from an automatic stay on enforcement?
10. Does the law authorise parties to agree on out-of-court enforcement?

Singapore; Hong Kong, China; Malaysia; and New Zealand all scored 10 out of 10 in this index, followed closely by Australia (9/10); the United States (8/10); and Viet Nam (8/10). The APEC regional average is 6.5, according to *Doing Business 2011*.

Regulators can look at these factors when considering where improvements to credit-related regulation could be made.

### ACCESSING CREDIT – APEC PERFORMANCE

Six APEC economies are in the global top 10 for getting credit in *Doing Business 2011*. They are Malaysia (1<sup>st</sup>); Hong Kong, China (2<sup>nd</sup>); New Zealand (3<sup>rd</sup>); Australia (6<sup>th</sup>); Singapore (9<sup>th</sup>); and the United States of America (10<sup>th</sup>). The rankings are based on the sum of the strength of the legal rights index and the depth of the credit information index.

APEC economies are taking steps to improve access to credit:

- New Zealand has reformed the Personal Property Securities Act (1999) to allow a wider range of moveable assets to be used as collateral, including future property
- Viet Nam's Civil Code (2005) and Decree 163 (2006) now allow for a general description of assets. After the Civil Code was enacted, a decree further clarified the provisions governing secured transactions. Since the inclusion of this new provision, the number of registrations increased from 43,000 (2005) to 120,000 (end of 2008)<sup>54</sup>

<sup>54</sup> World Bank and the International Finance Corporation. (2011). *Doing Business 2011: Making a Difference for Entrepreneurs APEC*. Washington DC, US: Authors. pp 1-44.

- China's Property Law (2007) has resulted in a unified collateral registry which is searchable by a debtor's name
- Peru's Bill of Guarantee Based on Moveable Property (2006) has enabled secured creditors to have priority to their collateral outside bankruptcy procedures and allowed out-of-court enforcement by law
- Indonesia has increased the scope of credit information and lowered the threshold on loans being reported
- The Philippines enacted a new act in 2008 which sets out the regulations for credit information.

More recent changes to business regulations reported in *Doing Business 2011 APEC*<sup>55</sup> show some APEC economies have made getting credit easier, cheaper and faster:

- Papua New Guinea's operation of a new private credit bureau has improved their credit information
- Viet Nam has improved its credit information system by allowing borrowers to examine their own credit report and correct errors.

### Table 8: Getting Credit Across Regions

This table shows how APEC is performing as a region in facilitating access to credit.

Region	Depth of credit information index (0-6)	Strength of legal rights index (0-10)
APEC	4.8	6.5
East Asia & Pacific (EAP)	2.1	6.1
European Union (EU)	4.5	6.8
Latin America	5.3	4.4
Organisation for Economic Co-operation and Development (OECD)	4.7	6.9
South Asia (SA)	2.1	5.4

Source: *Doing Business 2011*. Note: the higher the score on both indices, the higher the depth of credit information or strength of legal rights.

## CONCLUSION

To facilitate accessing credit, high-performing economies are concentrating their efforts on strengthening their legal systems and on improving the scope, accessibility and quality of credit information.

The workshop provided economies with a wealth of information on how to go about this. Suggestions included allowing borrowers to access and correct their own data, permitting out-of-court enforcement by law, opening a public credit registry and distributing historical data.

55 See Footnote 54.



## 9 Employing Workers

### INTRODUCTION

Employing workers is a key issue for effective business operation and growth.

APEC economies recognise this and are implementing a number of initiatives to improve their performance in regulation on employing workers for micro, small and medium-sized enterprises.

In June 2010, representatives from a number of APEC member economies met in Hong Kong, China to exchange experiences surrounding employing workers. They were joined at the seminar by a representative from the local firm that partners with the World Bank on the Doing Business project<sup>56</sup>, the APEC Business Advisory Council, private sector business owners and guest economy Costa Rica.

This seminar was the seventh in the Private Sector Development – Ease of Doing Business series and provided a forum to share information and employers' perspectives on operating within labour market regulations.<sup>57</sup> Australia also presented the results of a survey on labour market reforms and regulation in APEC economies. Presentations made at the seminar form the basis of the content for this section.

The World Bank and the International Finance Corporation's *Doing Business* reports and other publications have also been referenced.

### EASE OF EMPLOYING WORKERS – WHY IT MATTERS

#### When Employing Workers is Easy

Employment regulations and laws are necessary to facilitate good relationships between employers and workers.

Creating a favourable regulatory environment for employing workers, however, is not without its challenges. Economies throughout the APEC region have to find the right balance between worker protection and labour market flexibility – for example, in establishing processes for hiring, working hours and dismissals.

One study found that excessively rigid employment laws provide a relatively high standard of protection for just a few workers in a formal economy. The majority of workers employed in the informal sector, however, are left unprotected.<sup>58</sup>

Another study noted that workers in the informal sector are twice as likely to become unemployed as those in the formal sector.<sup>59</sup> Good labour regulations help the unemployed to find work while safeguarding those already holding a job.

56 The World Bank was undertaking a review of the methodology for this indicator and was unable to send a representative to the seminar.

57 Refer to Appendix 1 for a full list of seminars in the APEC Private Sector Development – Ease of Doing Business Workshop Series.

58 World Bank and the International Finance Corporation. (2010). *Doing Business 2011: Making a Difference for Entrepreneurs*. Washington DC, US: Authors. pp 1-255, citing Pierre and Scarpetta (2007).

59 World Bank and the International Finance Corporation. (2010). *Doing Business 2011: Making a Difference for Entrepreneurs*. Washington DC, US: Authors. pp 1-255, citing Duryea and others (2006).

Labour market flexibility can help stimulate job creation. However, where labour rules do not exist, or where the rules are too flexible or do not offer sufficient safeguards, workers are at risk of abusive working conditions.<sup>60</sup> Once again, finding the right balance between too much flexibility and not enough is the challenge in developing good labour regulations.

There are inherent tensions between striving to make employment of staff for small and medium-sized enterprises as easy as possible and looking after workers' interests.

Participants discussed the positive benefits of good labour regulations for an economy and for entrepreneurs and workers within that economy. They can:

- promote the establishment of new businesses
- encourage workers to shift to the formal economy where they benefit from worker protection mechanisms
- help boost labour productivity, which in turn supports economic growth
- encourage entrepreneurs to formalise operation of their enterprise, thereby gaining increased access to credit, international markets and formal institutions.

### When Employing Workers is Difficult

Workshop participants shared information on the factors which can perpetuate informality or create barriers to employing workers. These include:

- excessively rigid employment rules and strict labour laws and, conversely, excessively flexible employment rules and lax labour laws
- strict procedural requirements and high costs for redundancy that can deter employers from taking on staff, especially during difficult financial times
- policies that significantly increase the cost of being part of the formal economy for entrepreneurs and workers. For example, the cost of hiring workers in the regulated formal sector may be such that it deters some employers. They may opt out of the formal economy and be faced with reduced access to credit, markets, government assistance programmes and legal institutions. Workers in the informal sector have less protection from discrimination and fewer benefits.

The World Bank Group has introduced the Women, Business and the Law database<sup>61</sup>, which is a new benchmarking indicator. It shows that every economy has labour regulations that apply only to women. The most common are labour laws covering maternity. Other areas of gender-based regulations include those relating to working hours, industry restrictions and retirement ages.

Restrictions in these areas may have been introduced as protection measures but they can disadvantage women. The study's authors hope that the database will inform research on the type of measures that actually protect women, rather than inadvertently harm them by restricting their involvement in the labour force.

60 World Bank and the International Finance Corporation. (2009). *Doing Business 2010: Making a Difference for Entrepreneurs*. Washington DC, US: Authors. pp 1-215.

61 The International Bank for Reconstruction and Development and the World Bank. (2010). *Women, Business and the Law: Measuring Legal Gender Parity for Entrepreneurs and Workers in 128 Economies 2010*. Washington DC, US: Authors. Retrieved from <http://wbl.worldbank.org/~media/FPDKM/WBL/Documents/Women-Business-Law.pdf>



## EMPLOYING WORKERS – THE PROCESS

For employers, labour regulations and laws formalise obligations and provide a framework for conducting their relationship with the worker. For workers, labour regulations enshrine certain rights and provide some protections.

The World Bank and the International Finance Corporation publish their annual *Doing Business* reports to investigate the regulations that enhance business activities and those that create barriers.

The *Doing Business* reports previously measured the flexibility in economies relating to regulations for hiring, working hours and redundancy. The methodology for these indicators has recently changed to ensure consistency with relevant International Labour Organization conventions. Future changes will take into account the need for a balance between worker protection and flexibility in employment regulation that favours job creation.

*Doing Business 2011* reported that four main aspects are affected by the changes to its methodology. They are:

- the minimum wage
- paid annual leave
- the maximum number of working days per week
- the tenure of the worker in the case study.

Consultation on the new methodology and expanded data set for this indicator is yet to be completed. Consequently, *Doing Business 2011* has not ranked economies in this area.

## BEST PRACTICE GUIDANCE

Finding the right balance between giving flexibility to employ workers and protecting them from unfair treatment is not easy. Each economy needs to find its own way to do this. Reforms may include:

- allowing flexible scheduling of working hours, rest days and use of fixed-term contracts
- allowing dialogue between workers and employers prior to signing contracts
- ensuring information on employing workers is readily available
- moving from simple severance pay to unemployment insurance
- reducing the number of procedures to register new workers
- supporting youth employment – for example, introducing apprentice wages
- simplifying procedures for individual and collective agreements and redundancies
- reducing the complexity and cost of dismissals
- increasing opportunities for hiring foreign workers, particularly high-skilled workers.

Reforms in other areas of business regulation complement those in labour market regulation.

The two case studies on the following pages illustrate some aspects of best practice for employing workers.

### CASE STUDY 3: EMPLOYING WORKERS IN AUSTRALIA

John Malkovich, Managing Director of SOS Recruitment in Canberra, Australia, provided his perspective on employing workers. In his experience, Australian employment regulation and legislation allow people to be employed quickly and easily. The factors critical to achieving this include:

- the ease of advertising job vacancies. Using employment websites is cheaper than the newspaper equivalent, convenient for job hunters, and ensures a wide reach for employers
- clear regulations and rules around ending employment – whether it is redundancy, resignation or dismissal
- flexibility around the selection process so that it can be tailored to individual organisations
- rationalising of approximately 1700 federal and state-based employment arrangements into 122. These employment arrangements outline the standard hours of work per day and per week, minimum rates of pay, when overtime rates are payable and various other conditions of employment such as accrual of leave
- agreement to vary terms of an award to meet the needs of employers or employees. This agreement must be without coercion or duress
- the ability to create an enterprise agreement to simplify the management of staff across a variety of industries
- access to government resources providing accurate guidance on employing staff.

Mr Malkovich cited the [business.gov.au](http://business.gov.au) website as a source of information on all aspects of running a business, including employing workers. The website covers how to hire people, employer obligations, employee entitlements, skills development and training, complaints, disputes, employee relations and ending employment.

The [Fair Work Online website](http://Fair Work Online website)<sup>62</sup> provides information and advice about the domestic workplace relations system, including the work of the Fair Work Ombudsman. The Ombudsman's role is to promote harmonious, productive and cooperative workplaces; investigate workplace complaints; and enforce compliance with Australia's workplace laws.

The [Australian Taxation Office website](http://Australian Taxation Office website)<sup>63</sup> provides employers with information on how to meet their tax and superannuation obligations for their employees.

<sup>62</sup> [www.fairwork.gov.au/pages/default.aspx](http://www.fairwork.gov.au/pages/default.aspx)

<sup>63</sup> [www.ato.gov.au](http://www.ato.gov.au)

#### CASE STUDY 4: REFORMS IMPACTING ON MICRO AND SMALL ENTERPRISES

Hernán Briceño, an economic advisor from the Ministry of Labor and Employment Promotion in Lima, Peru, presented a [working paper](#)<sup>64</sup> about reforms which have lifted Peru's position in the rankings for employing workers from 159 in *Doing Business 2008* to 112 in the *Doing Business 2010*.

Micro and small enterprises (MSEs) in Peru produce goods and/or services for selling on the domestic and global markets. Micro enterprises are defined as businesses that employ up to ten employees and have a turnover of up to US\$200,000. Small enterprises can employ up to 100 employees, with a turnover of up to US\$2.2 million.

MSEs account for 98 percent of all Peru's enterprises and 42 percent of Peru's gross domestic product. They also employ more than 60 percent of Peru's economically-active population. MSEs therefore have an important role in Peru's economy.

In his presentation, Mr Briceño acknowledged that Peru had one of the most rigid set of labour regulations in the world and a large informal economy. The large informal sector is partly explained by the high cost of hiring and firing workers.

The improvements to Peru's labour market regulation stem from the Micro and Small Enterprises Law (June 2008) which was implemented by Peru's Ministry of Labor and Employment Promotion. This law resulted in a number of changes, including:

- reducing annual leave entitlements
- reducing severance payment levels
- offering online services for employers
- introducing subsidies for employers to contribute to domestic health security funds for their employees
- introducing new social benefits
- introducing obligations for employers to use the electronic spreadsheet tool to calculate employees' salaries and other entitlements.

These changes were complemented by changes in other areas of business regulation, like paying taxes and accessing credit.

Increased flexibility in Peru's labour market regulations has resulted in a number of benefits, including:

- an increased number of workers in the formal MSE sector
- increased incomes for entrepreneurs operating MSEs
- lower costs for the formalisation of MSEs
- workers gaining access to a wider range of health, social security and pension benefits
- higher levels of new investment for small enterprises as a result of a new depreciation system.

64 Briceño, H. (June 2010). *Micro and Small Enterprises Regulation Progress on Employing Workers in Perú*. Working paper presented at the APEC workshop, on Employing Workers, in Hong Kong, China. Retrieved from [www.unfv.edu.pe/site/facultades/fce/images/MicroandSmallEnterprises.pdf](http://www.unfv.edu.pe/site/facultades/fce/images/MicroandSmallEnterprises.pdf)

Improving MSE regulation around the employment of workers has taken place against the backdrop of enhancements in other areas. For example:

- providing education, training and capacity-building opportunities to increase productivity
- improving coordination between different regulations and clusters of regulations
- adopting new information and communication technologies
- enabling easy access to government purchasing for MSEs
- facilitating increased participation in international markets for MSEs.

Mr Briceño acknowledged that while Peru has dramatically improved its regulations for employing workers, more work is necessary. For example, Peru's labour informality is one of the highest in the world, with three out of every four workers taking part in the informal sector.

### EMPLOYING WORKERS – APEC PERFORMANCE

As the Doing Business project is refining its methodology and expanding its data set for the employing workers indicator, data is not available for 2011.

However, responses by 13 APEC economies in an unpublished Australian survey conducted in April 2010 for the purpose of this seminar indicated five key areas where all respondents regulate: wages, leave, superannuation/pensions, workplace injury/occupational health and safety and foreign workers. The majority of respondents also reported regulations covering redundancy payments and terminations, working hours, working age and equal opportunity.

At the time of the survey, all respondents had either undertaken labour market reforms, had reforms under consideration, or were reviewing labour regulations. Areas of reform or review included:

- New Zealand and Ontario: minimum wage increases
- Chile: equality of wages
- Hong Kong, China: minimum wage legislation
- Singapore: re-employment of older workers beyond retirement age
- Australia, Ontario and Chinese Taipei: occupational health and safety.

This last area of reform provided an interesting case study of the range of reforms economies can undertake in any specific area. In Australia reform was a process of harmonising existing laws across different jurisdictions; in Canada it was protection for young and new workers; while Chinese Taipei was integrating health and safety into the overall management of organisations.

The Women's Economic Opportunity Index<sup>65</sup> – a new report from the Economist Intelligence Unit – assesses the laws, regulations and practices that affect women workers and entrepreneurs. Using 26 indicators (including labour policy and practice) it assessed and ranked 113 economies.

APEC economies rank highly in the Index. For the labour policy and practice indicator in the Americas, Canada (1<sup>st</sup>); the United States (2<sup>nd</sup>); and Peru (6<sup>th</sup>) are in the top 10 rankings. Hong Kong, China is first for the Asia grouping of economies, followed by Korea (3<sup>rd</sup>); the Philippines (4<sup>th</sup>); Japan (6<sup>th</sup>); Thailand (7<sup>th</sup>); Indonesia (9<sup>th</sup>); and China (10<sup>th</sup>).

Three APEC economies rank in the top 10 of the overall women's economic opportunities ranking table: New Zealand (8<sup>th</sup>); Canada (9<sup>th</sup>); and Australia (10<sup>th</sup>). Hong Kong, China performs the best overall in the Asia grouping of economies, ranking in the top 25 percent in most categories.

## CONCLUSION

Regulators face many challenges in enabling entrepreneurs to employ workers quickly and easily.

Best practice in this area involves implementing labour reforms which increase flexibility without compromising workers' protection. Each economy seeks to strike the right balance in its labour market regulations to achieve this.

65 The Economic Intelligence Unit. (2010). *Women's economic opportunity. A new pilot index and global ranking from the Economist Intelligence Unit. Findings and methodology*. Place of publication not specified: The Economist. Retrieved from [www.eiu.com/site\\_info.asp?info\\_name=womens\\_economic\\_opportunity&page=noads&rf=0](http://www.eiu.com/site_info.asp?info_name=womens_economic_opportunity&page=noads&rf=0)



## 10 Registering Property

### INTRODUCTION

Land is a key economic asset for many small and medium-sized enterprises.

This section focuses on what APEC economies have done, or are doing, to improve their performance to make it simpler, cheaper and faster to register property. The best practices employed by high-performing APEC economies are presented as a useful starting point for regulators considering where to focus their energies.

In September 2010, representatives from a number of APEC member economies met in Gifu, Japan to share experiences, issues and best practices relating to registering property. It was the eighth meeting in the APEC Private Sector Development – Ease of Doing Business Workshop Series.<sup>66</sup> Information shared at the seminar provides the basis of the content for this section.

World Bank and International Finance Corporation reports and other publications have also been referenced.

### REGISTERING PROPERTY – WHY IT MATTERS

#### When Registering Property is Easy

Formal property titles help promote the transfer of land, encourage investment and give entrepreneurs access to formal credit markets. Eliminating unnecessary obstacles to registering and transferring property is therefore important for individual entrepreneurs and wider economic development.

Initiatives that reduce tax evasion and property under-valuation, and ease property-related regulation can also bring a host of other benefits. They include:

- increasing the number of formal title transfers
- freeing up time and resources to allow entrepreneurs to get on with running their businesses
- encouraging people to formally register land and remain formally registered.

A recent study in Peru also suggests that property titles are associated with an increase in approval rates on public sector loans for construction materials.<sup>67</sup> Land is often used as collateral for obtaining credit.

Another study suggests that in some economies, formal land titles enable people to work away from home as they are less fearful of squatters.<sup>68</sup>

Property ownership rights can be a significant issue for women. In most economies, the majority of businesses owned by women are micro, small or medium-sized enterprises. Women are therefore likely to benefit from timely, secure and effective systems of ownership registration.

66 Refer to Appendix 1 for a full list of seminars in the APEC Private Sector Development – Ease of Doing Business Workshop Series.

67 World Bank and the International Finance Corporation. (2009). *Doing Business 2010: Making a Difference for Entrepreneurs*. Washington DC, US: Authors. pp 1-215, citing Field and Torero (2006).

68 World Bank and the International Finance Corporation. (2009). *Doing Business 2010: Making a Difference for Entrepreneurs*. Washington DC, US: Authors. pp 1-215, citing Field (2007).

### When Registering Property is Difficult

Barriers to creating a favourable environment for business owners to register property can include:

- complicated and costly land registration processes, with many layers of duplication
- costly or complicated property transfer procedures
- overlapping regulations
- poor quality or limited information on the procedures, documentation, time and costs involved to register property
- collateral laws which make mortgaging property expensive
- ineffective court systems which prevent banks from enforcing collateral if a debtor defaults
- poorly-defined property rights
- poorly-administered property systems.

If property is without title or is poorly administered, it often cannot be used as collateral or as a guarantee for loans. Without access to credit, entrepreneurs' options for growth are limited. One study showed that women can be particularly affected, especially if women's ownership rights over moveable assets (for example, crops) and immoveable assets (for example, land) are not equal to men's, or if they have fewer rights than men to mortgage them.<sup>69</sup>

### REGISTERING PROPERTY – THE PROCESS

Land/property registration is a formal way to record the ownership and transfer of property. It records all the legal interests connected to the land and property on the land (for example, rights over the land, mortgage and easements). Sellers and purchasers of land are likely to be involved in the following activities:

- pre-registration – for example, document preparation, checking for encumbrances<sup>70</sup> including liens,<sup>71</sup> notarising the sales agreement, and paying property transfer taxes
- registration
- post-registration – such as transactions with a local authority, tax agency or cadastre.<sup>72</sup>

The costs involved in property registration transfer can include land registration fees, land search fees, stamp duty, land transfer taxes and professional fees. These payments may be calculated as a percentage of the land value, or as a flat fee.

The *Doing Business* project looks at the procedures necessary for a business to purchase a property from another business and transfer the property to the buyer's name. This includes the number of procedures required to legally transfer the property title (a two-storey warehouse) to the buyer's name, the time required to complete each procedure in

69 The International Bank for Reconstruction and Development and the World Bank. (2010). *Women, Business and the Law: Measuring Legal Gender Parity for Entrepreneurs and Workers in 128 Economies 2010*. Washington DC, US: Authors. Retrieved from <http://wbl.worldbank.org/~media/FPDKM/WBL/Documents/Women-Business-Law.pdf>

70 Encumbrance is legal terminology for anything that affects or limits the title of a property, such as mortgages, leases, easement, liens or restrictions.

71 A lien is a form of security granted over a property to cover payment of a debt or some other obligation.

72 A cadastre provides information on the dimensions, use, value, tenure, ownership, and location of land parcels described in legal documentation. The cadastre is a fundamental source of data in disputes and lawsuits. It is a public record, survey, or map of the value, extent, and ownership of land as a basis of taxation.



calendar days, and the cost required to complete each procedure as a percentage of the property value. The transaction is considered complete when the purchaser can use the property, use it as collateral for taking out new loans, or on-sell it.

*Table 9: Registering Property Across Regions* in this chapter shows how APEC economies compare to other regions in these key elements of registering property.

## BEST PRACTICE GUIDANCE

Initiatives that make registering property easier vary across economies. Each economy tailors its property-related regulations to fit its particular circumstances. However, examples of best practice activities can include:

- simplifying and streamlining land registration and transfer procedures and processes, while maintaining security and controls
- introducing or enhancing online property registration procedures
- reducing property registration and transfer costs
- facilitating access to the land registry and property information.

More detail about each of these activities is provided in this section.

### Streamlined Property Registration and Transfer Processes

Initiatives to streamline property registration and transfer can take a number of forms. Those discussed at the workshop included:

- centralising procedures to a central land registry. It is useful to note, however, that *Doing Business 2010* cited several instances where economies became more efficient by decentralising some land registry administrative tasks
- centralising encumbrance and cadastre information, and making it available electronically
- digitising records – where paper-based property records are transferred to a computerised system
- introducing online procedures (see *Case Study 5* in this section)
- standardising, simplifying and reducing the number of forms
- simplifying or removing notarisational requirements
- introducing a one-stop shop or a single window facility for registering land
- enhancing the customer-service focus in agencies
- imposing time limits for activities on the land registry and on notaries
- increasing operational and administrative efficiency and effectiveness – for example, by introducing continuous improvement incentives and reorganising the land registry
- employing more staff (where necessary)
- eliminating or combining procedures or steps in the land registration process
- introducing fast-tracked procedures for simple property sales
- linking the online property registry to other agencies (for example, the valuation office) or resources (for example, cadastre information).

Property registration in Thailand used to be a manual process involving many steps and agencies. With the aid of a computer-assisted system and streamlined processes, the registration process has been reduced to four sections within the land office and 10 steps. Processing now only takes one hour and 30 minutes.

Recent reforms undertaken by the Public Registry of Property in the state of Aguascalientes, Mexico, illustrate the benefits of streamlining land registry practices. In the three years to 2009, the Public Registry of Property:

- simplified procedures by providing standardised forms
- digitised its procedures
- introduced online payments
- reduced transfer tax rates
- signed collaborative agreements between itself and local notaries.

Work did not stop at reform, however. Having instituted a range of innovative reforms, the state's officials then had the additional challenge of promoting their use among stakeholders.

Their success prompted other Mexican states to introduce measures to improve their property-related regulations. Examples of other initiatives included:

- introducing a bar code to allow computerised tracking of property records
- simplifying the property registration process
- reducing registry fees
- establishing formal and informal mechanisms to consult with business associations, chambers of commerce and citizens
- communicating reforms through information campaigns
- setting up customer-focused service centres.

In 2009, APEC, the World Bank and the International Finance Corporation produced a joint publication titled Sub-national Doing Business: Driving Reform of Local and Regional Business Environments in APEC.<sup>73</sup> The sub-national reports are useful because they capture differences in business regulations and their enforcement across locations in a single economy or region. They also provide data on the ease of doing business in each location and recommend reforms to improve performance.

*Doing Business* sub-national reports have been instrumental in driving the changes seen in Mexico and elsewhere.

### **Online Land Registration and Transfer Procedures**

The most popular reform in 2008/09 was to put land registration procedures online, according to *Doing Business 2010*.

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73 The International Finance Corporation. (2009). *Sub-national Doing Business: Driving Reform of Local and Regional Business Environments in APEC*. Singapore: APEC. Retrieved from [http://publications.apec.org/publication-detail.php?pub\\_id=907](http://publications.apec.org/publication-detail.php?pub_id=907)

### CASE STUDY 5: ONLINE PROPERTY REGISTRATION IN NEW ZEALAND

New Zealand is consistently one of the top 10 performing economies for registering properties in the *Doing Business* reports.

The government has a fully automated online title registration and survey lodgement system called Landonline.<sup>74</sup>

Up until the late 1990s, New Zealand ran a regionally-operated, paper-based land registration system. Then, in 1996, a number of land-based functions came together to create a new department: Land Information New Zealand (LINZ).

Recognising that expanding a paper-based system would become unworkable, LINZ ventured down the automation path by computerising its land registration and survey functions.<sup>75</sup> A law change allowed this to happen.

By 2002, all title information was maintained electronically and available online to licensed customers.

Enabling conveyancers to register title transactions online was the next major step in LINZ's automation programme. Since 2003, New Zealand has operated an online property registration service, called e-dealing.<sup>76</sup> This system is partly modelled on Ontario's 'E-Registration' system. It allows for routine transactions (for example, transfers, mortgages and discharges) to be automated under pre-defined business rules. More complex transactions (for example, easements and leases) can be lodged electronically but are examined and processed manually. Once settlement has occurred, the vendor's lawyer releases the transaction into the control of the purchaser's lawyer who may then submit it online for registration. The transaction is registered automatically and the title information updated with the new ownership details.

Landonline also incorporates a survey-accurate digital cadastre database and a sophisticated online plan lodgement service for surveyors. Several key changes were necessary to achieve this, including:

- abolishing duplicate certificates of title
- allowing electronic instruments through legislation
- introducing a certification regime, which provides the necessary assurance that proper authorisation has been obtained from the relevant parties and that transition has been made in good faith
- authorising audit powers to the Registrar General of Land to audit conveyancers' certifications
- requiring mandatory use of the e-dealing system by conveyancers. Free additional training and support was offered to assist uptake.

74 [www.landonline.govt.nz](http://www.landonline.govt.nz)

75 [www.landonline.govt.nz/esurvey/index.asp](http://www.landonline.govt.nz/esurvey/index.asp)

76 [www.landonline.govt.nz/edealing/index.asp](http://www.landonline.govt.nz/edealing/index.asp)

The reform process involved extensive consultation with the legal profession and the banking industry. In particular, the extensive input and support provided by the New Zealand Law Society was instrumental to the success of the automation programme.

The reform improved security, reduced storage requirements, increased transparency (users pay per transaction), lowered registration fees and improved property registration timeframes.

### Reduced Costs

*Doing Business 2011 APEC* reports that lowering transfer taxes and government fees was globally the most popular reform in the six years to June 2010.

Approaches to reducing costs vary across economies but some measures taken included:

- setting fixed registration fees, independent of property value
- simplifying fee and tax requirements
- reducing stamp duties
- reducing transfer taxes as a percentage of the property value.

In a survey undertaken by Australia prior to the Gifu seminar, New Zealand noted the flow-on effect of reforms, observing that reducing the number of procedures and the time taken to complete them could also reduce the cost to business when a professional was required to undertake transactions.

### Easy Access to Property Registry Information

Easy access to comprehensive property registration information and documentation is useful for entrepreneurs thinking about buying or selling property.

The pre-seminar survey found that 82 percent of respondents had at least one property registration procedure available online. The majority also provided online checklists for property transfer.

## REGISTERING PROPERTY – APEC PERFORMANCE

New Zealand ranks third in the world for registering property, according to *Doing Business 2011*. Malaysia ranked fourth out of the most-improved economies.

The report also gave examples of how APEC economies are taking action to put into place effective measures to administer land.<sup>77</sup> One example was Malaysia, which introduced online stamping facilities and consequently reduced the time and cost of transferring property. Peru introduced fast-track procedures at the land registry, cutting by half the time needed to register a property.

77 World Bank and the International Finance Corporation. (2011). *Doing Business 2011: Making a Difference for Entrepreneurs APEC*. Washington DC, US: Authors. pp 1-44.

**Table 9: Registering Property Across Regions**

This table shows how the APEC region performs against other regions in registering property.

Region	Procedures (number)	Time (days)	Cost (% of property value)
APEC	4.5	25.4	3.4
East Asia & Pacific (EAP)	4.7	82.6	3.9
European Union (EU)	5.0	35.2	4.8
Latin America	6.9	43.0	3.7
Organisation for Economic Co-operation and Development (OECD)	4.8	32.7	4.4
South Asia (SA)	6.3	99.8	6.9

Source: *Doing Business 2011* database.

## CONCLUSION

There are advantages in making it easier to register property. Gaining efficiencies through streamlining property registration processes and procedures is high on the list of best practice initiatives. So too are introducing or enhancing online property registration procedures, reducing costs and facilitating access to comprehensive property registration information.



## 11 Appendices

### APPENDIX 1: CALENDAR OF APEC PRIVATE SECTOR DEVELOPMENT – EASE OF DOING BUSINESS WORKSHOP SERIES (2007-2010)

Theme	Activity	Date	Lead Economies (venue in bold)	Forums Involved <sup>77</sup>
<b>2007</b>				
Starting a Business	Survey and Symposium on Establishing a Business SCE 01/2007T	March 2007, Hobart, Australia	<b>Australia</b> New Zealand Canada	<b>SMEWG</b> ABAC GFPN ECSG
<b>2008</b>				
Paying Taxes	Survey and Symposium on Paying Taxes SME 04/2007A	April 2008, Kaohsiung, Chinese Taipei	<b>Chinese Taipei</b> New Zealand Canada	<b>SMEWG</b> ABAC CTI EC GFPN
Obtaining Licenses	Survey and Symposium on Obtaining Business Licenses SME 04/2007T	August 2008, Chiclayo, Peru	<b>Peru</b> New Zealand Canada	<b>SMEWG</b> ABAC ECSG CTI EC GFPN
<b>2009</b>				
Trading Across Borders	Symposium on Trading Across Borders SME 01/2009T	February 2009, Wellington, New Zealand	<b>New Zealand</b> Canada Singapore	<b>ABAC</b> SCCP SMEWG CTI EC ECSG GFPN
Enforcing Contracts	Survey and Symposium on Enforcing Contracts CTI 28/2009T	July 2009, Singapore	<b>Singapore</b> Japan US New Zealand Canada	<b>IEG</b> EC SMEWG ABAC CTI GFPN
Access to Credit	Survey and Symposium on Access to Credit SME 02-2009T	October 2009, Singapore	<b>Singapore</b> New Zealand Canada	<b>SMEWG</b> IEG ABAC EC CTI GFPN

78 See Acronyms and Abbreviations for APEC Committees and Working Groups.

Theme	Activity	Date	Lead Economies (venue in bold)	Forums Involved <sup>77</sup>
<b>2010</b>				
Employing Workers	Survey and Symposium on Employing Workers SME 06-2009T	June 2010, Hong Kong China	<b>Hong Kong, China</b> Australia New Zealand Canada	<b>SMEWG</b> ABAC
Registering Property	Survey and Symposium on Registering Property SME 05-2009T	October 2010, Japan	<b>Japan</b> Australia New Zealand Canada	<b>SMEWG</b> ABAC

### APEC Ease of Doing Business Action Plan Workshops (coordinated by EC<sup>79</sup>)

#### Phase I

- Reducing Start-up and Establishment Time of Businesses – Hiroshima, Japan, March 2010
- Reforming the Regulatory System for Construction Permits – Singapore, October 2010
- Trading Across Borders – Sendai, Japan, September 2010
- In-depth Seminar on Enforcing Contracts – Seoul, Korea, June 2010
- Getting Credit Seminar – Sendai, Japan, September 2010
- Seminar on the First Steps of Successful Reform in Doing Business – Taipei, October 2010

#### Phase II<sup>80</sup>

- Starting a Business – Indonesia, July 2010; Peru, March 2011; Thailand, June 2011
- Enforcing Contracts – Indonesia, January 2011 and Peru, July 2011

<sup>79</sup> Economic Committee

<sup>80</sup> Experts from the Champion Economies have visited participating economies for initial diagnosis/seminars. Subsequent capacity building initiatives are underway in some economies.



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## Acronyms and Abbreviations for APEC Committees and Working Groups

### *Senior Officials' Meeting Task Groups*

GFPN Gender Focal Point Network

### *Committees*

SCE SOM Steering Committee on ECOTECH

CTI Committee on Trade and Investment

BMC Budget and Management Committee

EC Economic Committee

### *Committee on Trade and Investment Groups*

ECSG Electronic Commerce Steering Group

IEG Investment Experts' Group

SCCP Sub-Committee on Customs Procedures

SCSC Sub-Committee on Standards and Conformance

### *Working Group*

SMEWG Small and Medium Enterprises Working Group

### *Advisory Group*

ABAC APEC Business Advisory Council

## APPENDIX 2: LIST OF APEC MEMBER ECONOMIES

The Asia-Pacific Economic Cooperation (APEC) has 21 members spanning four continents. They are:

- Australia
- Brunei Darussalam
- Canada
- Chile
- China
- Hong Kong, China
- Indonesia
- Japan
- Korea
- Malaysia
- Mexico
- New Zealand
- Papua New Guinea
- Peru
- The Philippines
- Russia
- Singapore
- Chinese Taipei
- Thailand
- The United States of America
- Viet Nam.

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## APPENDIX 3: APEC'S SMALL AND MEDIUM ENTERPRISES WORKING GROUP (SMEWG)

APEC's SMEWG was set up to encourage the development of small and medium-sized enterprises in the Asia-Pacific region and build their capacity for international trade. The SMEWG does this by sharing information on best practice initiatives, running workshops and seminars, and producing publications.

The working group was established in February 1995 and was initially called the Ad Hoc Policy Level Group on Small and Medium Enterprises (PLGSME). In 2000, the group was renamed the SMEWG and was granted permanent status by APEC.

The SMEWG collaborates with other APEC forums, in particular the Economic Committee<sup>81</sup> (EC), the APEC Business Advisory Council<sup>82</sup> (ABAC) and the Policy Partnership on Women and the Economy (PPWE).<sup>83</sup>

The SMEWG meets twice a year.

81 <http://www.apec.org/Groups/Economic-Committee.aspx>

82 <http://www.apec.org/Home/Groups/Other-Groups/APEC-Business-Advisory-Council.aspx>

83 <http://www.apec.org/Home/Groups/SOM-Steering-Committee-on-Economic-and-Technical-Cooperation/Task-Groups/Policy-Partnership-on-Women-in-the-Economy>



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