



**Asia-Pacific  
Economic Cooperation**

# **APEC Economic Policy Report**

APEC Economic Committee

# 2011

**Advancing Free Trade for Asia-Pacific Prosperity**

## PART II

# Economy and FotC Responses to the LAISR Stock-Take Survey

**Document is designed for double-sided printing.  
Blank pages have been deliberately included to allow correct pagination.**

# Collated Responses to Questions for the FotC Coordinators and the CPLG Convenor

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# Regulatory Reform

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

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

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

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

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

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

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

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

These reviews will also have the potential to reveal common underlying themes about the strengths and weaknesses of APEC economies and result in the establishment of capacity building initiatives based on empirically identified priorities.

# Competition Policy

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

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

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

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

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

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



undertake and implement competition policy would be a future direction for activities planning on competition policy.

APEC has conducted a range of **training courses** to enhance member economies' capabilities with respect to the development of robust competition policy and laws, and subsequent enforcement activities. The existing training program has been largely based on areas of particular interest to member economies identified at and between meetings. To know the needs and preference of member economies more, CPLG has sent out survey questionnaires to member economies to identify key common training priorities earlier this year. As reflected by the results of the survey, the following four areas are of the highest priorities:

- Competition advocacy
- Cartels and Bid Rigging
- Abuse of Dominance and Monopolisation
- Mergers

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

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

As mentioned above, CPLG has sent out survey questionnaires to member economies to identify key common training priorities. We suggest APEC to follow member economies' views as far as practicable.

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

# Corporate Governance

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

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

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

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

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

Looking into 2010, APEC member economies, especially developing member economies, would benefit from a renewed focus on challenges to overcome and steps needed to implement the OECD Principles of Corporate Governance. The United States urges EC members to

consider steps we can all take to advance implementation of the OECD Principles, thereby making important progress under the corporate governance work stream of LAISR. In this context, a possible collaboration with the OECD Asian Roundtable could also be explored. The United States is exploring possible approaches to strengthening goal setting and quantifying progress in improving corporate governance and would welcome discussion within the EC on this point during 2010.

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

# Public Sector Governance

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

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

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

- The *2007 APEC Economic Policy Report* (AEPR), in Chapter 1, identified nine generalised and high-level principles for good public sector governance based on the key findings of a seminar that was held alongside the 2006 ECII meeting in Da Nang, Viet Nam:
  - rule of law
  - transparency
  - accountability
  - managing the performance of public sector agencies
  - public sector ethics and probity
  - responsiveness to stakeholders
  - political and bureaucratic structures
  - good policy and institutions
  - risk management.
- Chapter 1 of the 2007 AEPR also briefly examined several key issues in public sector governance.
  - The principal-agent problem of asymmetrical information between agents (i.e., those carrying out tasks) and principals (i.e., those initiating the tasks) leading to poor performance can be overcome by creating environments that (i) contain the proper incentives, (ii) establish clear targets that are monitored, and (iii) communicate the objectives and performance in a transparent manner to all stakeholders, including the general public. .
  - Being faced with multiple and diverse objectives in the public sector is a reality so the challenge is to ensure that problems of diverse objectives do not become acute so as to create conflicting incentives for agents.
  - Encouraging performance while managing risk involves balancing managerial discretion over the use of inputs with rules and procedures.

- Clearly communicated and defined outcomes that are relevant to the responsibilities of agencies can act as a unifying force, orienting them to the wider goals of the government.
- Chapter 1 of the 2007 AEPR concluded that performance management is increasingly recognized as a core component of an effective public sector, involving the setting of targets and the measuring of progress, although there are limitations associated with this. Additionally, professional ethics of public service are seen as increasingly important alongside performance measurement and accountability.
- Chapter 2 of the 2007 AEPR discussed how public sector institutions may be used to support any type of structural reform. Structural reforms often require a better set of rules governing the operations of markets, and these rules require institutions to implement and enforce them. It is helpful if these institutions can mediate among the diverse range of economic interests involved and build a coalition for reform. Examples of effective policy review institutions include Japan's Council on Economic and Fiscal Policy and the Australian Productivity Commission, among others.
- At the 2008 ECI meeting, Canada led a policy discussion on public sector governance. It was underpinned by a discussion paper entitled "Balancing Accountability and Innovation: Practical Measures to Strengthen Public Sector Governance", which focused on practical measures used by APEC economies to improve and strengthen public sector governance, drawing from the unique and best practices identified in the Individual Economy Reports in the 2007 AEPR. It was also underpinned by the results of a questionnaire that APEC economies were asked to prepare, focusing on the cross-cutting challenge of using results-based management (RBM) to balance accountability and innovation in the public sector. Economies essentially viewed RBM as a tool to balance accountability and innovation. While public sectors are inherently risk averse, which can thwart innovation, RBM can help overcome this. RBM also allows clear reporting, emphasis on outcomes, continual assessment and course correction, intelligent assessment of risks, and, at its base, allows managers to manage. Some of the elements to follow up on included: how to measure qualitative and quantitative elements of government priorities; measuring productivity; performance pay; encouraging sub-national governments to pursue RBM, and sharing results with the public. Economies outlining their experiences with RBM included Australia; Canada; Indonesia; Japan; Mexico; New Zealand; Peru; Thailand and the US.
- A *Workshop on e-Governance*, sponsored by Chinese Taipei, was held alongside the 2008 ECI meeting. Its goal was to: raise awareness among APEC economies of the role of Information and Communications Technologies (ICT) as an enabler for good public sector governance; and share the relevant knowledge, experiences and lessons learned from different perspectives on the better use of technology to drive good public sector governance. The program focused on: (i) e-administration to make government (e.g., procurement activities) more accountable, transparent and effective; (ii) e-services for more efficient service delivery; and (iii) e-participation to allow stakeholders and citizens to contribute to better policy making. In respect of (i), the majority of APEC economies have implemented e-administration, however some have yet to create a legal framework. E-administration has engendered more competition in respect of procurement activities. Regarding (ii), the success of e-services is directly dependent on Internet penetration, which varies considerably within APEC (from 71 percent in

North America to 14 percent in Asia), and the ability of public sectors to digitize records (e.g., moving from forms to e-forms). Most APEC economies are well on their way to digitizing their records. As for (iii), the success of e-participation again depends on Internet penetration; hence, where e-participation has the potential for increasing social inclusion, the direct opposite can occur if Internet penetration is low. The ICT transformations in Chinese Taipei – ranked among the top three in the global e-government rankings – have been considerable, with e-Tax Service, e-Procurement Service, e-Job Service, e-Village Voice (to bridge the digital divide between urban and rural areas), e-Motor Vehicle Service, e-Government Portal (to facilitate e-Democracy), among other e-services provided.

- Chinese Taipei hosted a *Workshop on Government Performance and Results Management*, 26-28 March 2008. The workshop delved into the main conclusion of Chapter 1 of the 2007 AEPR, namely that performance management is increasingly recognized as a core component of an effective public sector. All international organizations recognize it as a key structural reform. It has been a work in progress in many economies over the past two decades or so, and still the performance management regimes still had room for improvement. The key is to be able to convert performance measurement to performance management system. Doing so yields positive benefits: more informed decision making based on previous performance; and the achievement of better results as the government engages in valid and accurate performance measurement that can be communicated to stakeholders. Yet, performance measurement systems need to be monitored to ensure there is not a disproportionate cost of compliance compared to expected benefits, which is the main problem of such systems. The challenge is to find the optimal balance between minimizing the cost of compliance and maximizing the net public value of public services. The main challenges of such systems include: quality of performance information; specification of outputs and outcomes (with outputs easier to specify than outcomes); and the extent of alignment and integration in the policy decision-making process. High-performing systems are comprehensive (i.e., system-wide), vertically integrated (i.e., hierarchical), balance top-down and bottom-up approaches, provide guidance to agencies, process the information through a central agency, and have political oversight and commitment. Australia; Canada; New Zealand and the US are considered to have performance management regimes.
- At the 2009 ECI meeting, New Zealand led a policy discussion on Recent Public Sector Changes and Principles of Good Public Sector Governance. Underpinning the discussion were the results from a survey of member economies to determine: the public sector reforms recently made; their motivation; the challenges encountered in making them; if they aligned with the APEC's nine good public sector governance principles; and implications of these changes for other APEC economies. The reforms varied widely across economies, often reflecting their various stages of development and thereby requiring anywhere from fundamental reforms to fine tuning. Some of the recent reforms are included below.
  - China's newly constituted National Development and Reform Commission (NDRC) to bring about more efficient macroeconomic management.
  - Canada's efforts to develop its performance and risk management system, including its Management Accountability Framework; its action plan to

- address the “Web of Rules”; and its Public Sector Renewal human resources plan.
- Indonesia’s tax reform and customs reform.
  - Chinese Taipei’s use of ICT to promote good governance, and establishment of indicators to benchmark good governance.
  - New Zealand’s efforts to measure outcomes and streamline reporting to Ministers.
  - Mexico’s fiscal reforms of September 2007, including results-based budgeting, the Performance Evaluation System, and the Management Improvement Program.
  - Korea’s downsizing of its public service and its wider use of sunset clauses on programs.
- At the 2009 ECII meeting, Chinese Taipei led a policy discussion on Improving Public Sector Governance Quality – Practice and Measurement. Underpinning the discussion were the results from a survey of member economies to determine: innovative approaches, initiatives, instruments or tools have economies recently implemented to measure good public governance; their motivation; the benefits or risks from implementing them; the challenges; and the lessons learned from economies’ experiences. Some of the recent approaches, initiatives, instruments or tools reforms are included below.
    - Canada’s required periodic reports to Parliament on its 2009 budget implementation; Strategic Reviews that use evidence-based techniques to improve the efficiency and effectiveness of direct program spending; the Web of Rules initiative’s attempt to measure the burden of the totality of rules and regulations on the government; the use of tools to make the system of grants and contributions more fair, cost-effective and efficient; the strengthening of the Management Accountability Framework methodologies; and the use of government-wide Medium Term Planning using an evidence-based approach.
    - Japan’s “Reform of Quality” initiative, which aims to raise the productivity of government service and citizen’s satisfaction.
    - New Zealand’s performance improvement framework, using indicators of good management practices, a cycle of formal performance assessments, and an improved central agency approach to assessment.
    - Chinese Taipei’s Public Governance Indicator, which consists of seven indicators under seven different public sector governance principles.
    - Mexico’s strengthening of its public sector governance indicators in respect of public management, results-based budgeting, and its National Program of Accountability, Transparency and Fight Against Corruption.
    - Indonesia’s development of a Good Governance Index that focuses on four good public sector governance principles.

### Implications of Good Governance for the Economic Environment

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

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

The post-LAISR agenda should include public sector governance as a FotC theme due to the large role the public sector plays in our economies, the strong link between good public sector governance and the economic environment, the differences in development among APEC economies, and the continually evolving reforms from which each economy can learn a great deal.



# Strengthening Economic and Legal Infrastructure (SELI)

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

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

SELI's past activities contributed to:

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

## Past activities

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

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

Seminars on Intensive Training on Commercial Laws (2002-2003) were held in Viet Nam, the Philippines, China, Indonesia and Thailand as a contribution to the Capacity and Institutional Building work program.

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

Workshops on Fighting Corruption and Ensuring Transparency, and Strengthening Private Commercial Arbitration and Dispute Resolution (2006) were aimed at improving the technical expertise of officials, and at officials with specific technical expertise, and covered issues such

as effective dispute avoidance and best practices in solving international commercial disputes through mediation and arbitration.

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

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

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

Free Access to the law of APEC developing economies in Asia, and Cambodia (2007-) Asian Legal Information Institute (AsianLII) has 202 databases from 28 Asian economies and territories via the “Free Access to Law Movement (<http://www.worldlii.org/worldlii/declaration/>)”

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

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

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

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

# Competition Policy and Law Group (CPLG)

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

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

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

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

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

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

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

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

As a training program on competition law/policy, CPLG held a series of five training courses in the past five years (2005-2009). Since the series had been concluded in 2009, the next training

courses as a successor of the series should be launched, and they have already been planned by CPLG as three training courses for the next three year (2010-2012).

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

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



# Collated Responses to Questions for Member Economies

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• New Zealand	90
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• Peru	100
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• Thailand	123
• The United States	127
• Viet Nam	130



# Australia

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

## Deregulation agenda

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

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

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

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

## Structural and microeconomic reform

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



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

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

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

In 2008, COAG agreed to the National Partnership Agreement to deliver a National Seamless Economy agenda, with the Commonwealth committing to fund a National Partnership Payment of \$550 million over the five years from 2008-2009 to facilitate reform priorities. The funding model of the National Partnership Agreement allocates \$100 million in 'facilitation' payments, which recognise net set-up costs and revenue forgone by the States and Territories, and \$450 million in 'reward' payments which are contingent upon completion of key milestones in the Agreement's Implementation Plan.

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

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

### **Federal financial relations**

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

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

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

### **Public sector administration**

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

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

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

### **Regulatory reform**

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

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

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

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

Australia's competition and consumer policy laws are contained in the *Trade Practices Act 1974 (TPA)*. On 10 November 2008, Parliament passed the *Trade Practices Legislation Amendment Act* which strengthened and further clarified the misuse of market power provisions under section 46 of the TPA. Amongst other things, this Act clarified the term 'take advantage'

used in section 46; provided additional guidance in relation to the concept of recoupment in predatory pricing cases; and extended the Federal Magistrates Court's jurisdiction to hear section 46 cases.

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

Further information about COAG can be found at <http://www.coag.gov.au>

Further information about the Australian government's regulatory reform agenda can be found at <http://www.finance.gov.au>

Further information about the *Trade Practices Act 1974* can be found at <http://www.accc.gov.au>

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

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

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

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

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

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

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

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

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

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

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

The Commission has further estimated that the National Reform Agenda competition and regulation reforms had the potential to deliver an increase in GDP by around 1.75 percent after 10 years, and in the human capital stream, could add almost 9 percent to GDP after 25 years.

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

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

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

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

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

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

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

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

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

# Brunei Darussalam

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

APEC continues to be a platform for promoting structural reform in the region. Among the initiatives that can be considered by APEC may include the support for more capacity building activities and fostering collaborations with other APEC and non-APEC fora.

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



# Canada

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

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

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

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

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

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

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

### **Regulatory Reform**

The 2007 Federal Budget moved to create a performance-based regulatory system based on three elements. First was the Cabinet Directive on Streamlining Regulation (CDSR), which came into effect on 1 April 2007, introducing new requirements for regulatory departments and agencies regarding the preparation of regulatory proposals, including enhanced international regulatory cooperation, performance measurement and evaluation, service standards, and more robust cost-benefit analysis (see: <http://www.reglementation.gc.ca/directive/directive00-eng.asp>). Second was the creation of the Major Projects Management Office to provide a single point of entry into the federal regulatory process for large natural resource projects (see: <http://www.mpmo-bggp.gc.ca/index-eng.php>). Third was the Paper Burden Reduction Initiative, designed to reduce the administrative and paper burden on small business resulting from government rules and regulations by 20 percent by November 2008 (see: <http://reducingpaperburden.gc.ca/epic/site/pbri-iafp.nsf/en/Home>).

### **Competition Policy**

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

### **Corporate Governance**

In 2005, the Canadian Securities Administrators (CSA), an umbrella organization of provincial and territorial securities regulators in Canada, established national policies and instruments that provide guidelines and disclosure requirements for publicly traded companies with the intent of improving corporate governance using a "comply or explain" regime (see: <http://www.osc.gov.on.ca/en/14206.htm>). The process responded to a series of corporate and accounting scandals in the early part of the decade and was informed by a thorough and transparent consultation process. In 2009, the CSA published proposed policies and instruments that would replace the current ones, with a particular focus on enhancing the standard of corporate governance and confidence in Canadian capital markets. The proposed regime would move away from the "comply or explain" requirements to a principles-based approach.

Publicly-traded companies would be required to disclose the practices they use to achieve nine core principles. The CSA is in the process of analysing the comments received during the consultation period (see <http://www.osc.gov.on.ca/en/24538.htm>). No decision has yet been made with respect to the proposed changes.

### Public Sector Governance

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

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

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

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

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

In implementing a new policy, guidance and outreach provided by the government to stakeholders and the public is critical to ensure that they understand it and the obligations associated with it. For example, the March 2009 amendments to the *Competition Act*, were accompanied by guideline documents, including: *A Guide to Amendments of the Competition*

*Act*, draft *Competitor Collaboration Guidelines* (for public consultation), and *Merger Review Process Guidelines*. Additionally, the Bureau organized an economy-wide outreach program to educate consumers, business people and other stakeholders about the new amendments.

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

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

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

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

### **Regulatory Reform**

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

### **Competition Policy**

Next steps beyond 2010 could include:

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

# Chile

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

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

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

## Capital Market Reforms

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## Public Sector Governance

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

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

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

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

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

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

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

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

The "Estado de la Hacienda Pública" is a comprehensive yearly report that presents the economic performance, reviews implemented structural changes, and further draws the roadmap for future economic policy. The 2010 publication defines the roadmap for Chile to growth at an average annual rate of 6 percent in future years; to create an average 200,000 new

jobs each year (2010-2014); to elimination extreme poverty by 2014; and sets the foundations for totally defeating poverty and become a developed economy by 2018.

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

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

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

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

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

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



# People's Republic of China

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

In the past five years, aiming to improve the socialist market economic system, the Chinese government has actively pushed forward structural reforms and made breakthrough in quite a number of key areas, especially in taxation system reform, which can be mainly summarized as follows:

**1. Unification of Corporate Income Tax (CIT) Treatment for Domestic and Foreign-invested Enterprises.** “Unification” has been achieved in four aspects since 1 January 2008 when the new CIT law took effect : a unified CIT law applicable to both domestic and foreign-invested enterprises; a unified and reduced statutory CIT rate (33 percent to 25 percent); unified and standardized pre-tax deduction measures and criteria; unified tax preferential policies.

**2. Accomplishment of Value Added Tax (VAT) Reform.** Since 1 July 2004, a pilot program of VAT reform has been carried out in the northeast area on equipment manufacturing and other seven industries, where the input VAT of the newly purchased equipment can be deducted from the output VAT. Since 1 July 2007, this program has been expanded to the 8 industries of 26 old industrial cities of 6 provinces in central China. Since 1 January 2009, VAT reform has been implemented all over China.

**3. Adjustment of Consumption Taxation Policy.** Since 1 April 2006, the consumption taxation policy has been significantly adjusted in terms of taxable items and tax rates. The items of the consumption tax have been increased from 11 to 14.

**4. Adjustment of Individual Income Tax (IIT).** The IIT law has been revised twice and relevant policies have been adjusted. The threshold of taxable monthly income for wages and salaries earners has been raised from RMB 800 per person to RMB 2000 per person. In addition, the IIT policies on the interest of residents’ savings have been adjusted to lower the interest tax to meet the needs of economic and social development.

**5. Overall Abolition of Agricultural Tax.** In 2003, Anhui Province took the lead to launch the pilot program of agriculture tax exemption. Along with the expansion of this program, the abolition of agricultural tax has been implemented all over China since 2006. Agricultural tax with a history of more than 2600 years in China ultimately came to an end.

The above taxation reforms over the past five years are of great significance to China: the unification of CIT treatment for domestic and foreign-invested enterprises can promote fair competition between market entities; the overall abolition of agricultural tax facilitates the unification of urban and rural tax system; reforms on VAT can help ease enterprises’ burdens and facilitate technological progress and energy saving; the adjustment of IIT and consumption tax policy brings into full play the function of tax system in directing market consumption and regulating income distribution. Generally speaking, through reforms, a tax system has taken shape to better promote scientific development and social harmony. Therefore, the progress in tax system reform is the most significant in the past five years.

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

Over the past five years, China has carried out structural reforms, in particular regulatory reform, corporate governance, public sector governance, competition policy and strengthening economic and legal infrastructure. Progress and achievements are made in many areas, for example:

- Since 2003, China has successively launched reforms on six state-owned banks, including the Bank of China (BOC), the China Construction Bank (CCB), the Bank of Communications (BCM), the Industrial and Commercial Bank of China (ICBC), the China Development Bank (CDB) and the Agricultural Bank of China (ABC). By adopting joint-venture shareholding system, involving strategic and financial investors and listing in both domestic and overseas stock markets, all the banks have achieved their goals in improving corporate governance, transforming operational mechanisms, strengthening internal risk control, developing financial products, and improving financial services. BOC, CCB, BCM and ICBC have successfully got listed in Hong Kong Stock Market or Shanghai Stock Market. CDB has been transformed from a policy bank to a commercialized joint-venture, commercial one. Through shareholding transformation, ABC has accomplished its financial restructuring and became a joint-stock company.
- Since 2001, Chinese government has initiated reforms on the administrative examination and approval system. In August 2003, the *Administrative Permission Law of the People's Republic of China* was reviewed and approved by the NPC Standing Committee with purpose to restrain the discretion of government, standardize the establishment and implementation of administrative permission, as well as to define guidelines for administrative examination and approval system reforms. By October 2007, the central government had cancelled or modified 1992 items of administrative examination and approval in four batches while over 22,000 such items had been cancelled or modified by provincial governments. More than 50 percent of original items had been cut down nationwide respectively. The provincial governments and 58 central government departments had totally re-examined 25554 bases for the granting of administrative permission, among which 3981 were abolished and 2493 revised; 2389 executive bodies of administrative permission had been re-examined, among which 1932 were retained, 302 cancelled and 71 adjusted. After a series of reforms, the items subject to administrative examination and approval have been greatly reduced in governments at all levels and administrative procedures have been strictly standardized.
- Relevant materials in can be found in the following websites:  
The Central People's Government: <http://english.gov.cn>  
National Development and Reform Commission: <http://en.ndrc.gov.cn>  
Ministry of Commerce: <http://english.mofcom.gov.cn>  
The People's Bank of China: <http://pbc.gov.cn/english>

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

Reform is a complicated and systematic task. In China, the keys to the success of reform include: taking a market-oriented direction and pushing forward reform in a gradual and orderly manner, making breakthrough in key areas, properly handling the relationship between reform, development and stability, and the relationship between efficiency and equity, top leaders and governments high attention, setting up dedicated institutions, launching extensive investigations and research to and soliciting opinions from all sectors of the society, making decisions scientifically, issuing supportive measures, providing financial resources, carrying out pilot programs, making reform-related explanation and publicity where necessary, etc.

Take the health care system reform which is now underway for an example. In June 2006, the Chinese government decided to deepen the reform of medical and health care system and then set up a working group. The working group and its entrusted institutions such as the World Health Organization and Peking University launched extensive study and research. It also opened online call for proposals. On this basis, the *Opinions on Deepening the Reform of the Medical and Health Care System* (hereinafter referred to as the *Opinions*) was drafted and then reviewed at the executive meetings of the State Council twice respectively in February and September of 2008. Premier Wen Jiabao, Vice Premier Li Keqiang and other state leaders personally went down to grass-root units and convened symposiums to solicit opinions and suggestion. Upon the request of the State Council, in September 2009, the *Opinions (draft for discussion)* was open to the public for comments and suggestions again and the full text was publicized from 14 October to 14 November. After that, the working group carefully collected and re-examined all feedbacks and suggestions, and then formulated the *Plan on Recent Priorities in Carrying out the Reform of Health Care System (2009-2011)*. In early 2009, the *Opinions* and the *Implementation Plan* were finally adopted and officially issued by the government. In order to push forward this reform, the Central government and local governments at all levels have set up leading groups and offices accordingly and planned to issue 14 supplementary documents and invest of RMB 850 billion from 2009 to 2011. The priority of reform such as public hospital reform will be first piloted in some selected areas.

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

The structural reform, a way to encourage innovation and investment of market players, will surely have a positive impact on the economy. For instance, through banking system reform, the stability and security of China's banking system of China have been constantly improved. In 2003, there were only eight banks throughout China whose capital adequacy ratio can meet the international standards, whereas by the end of June 2009, the number of such banks reached 219, with their combined assets accounting for 99.9 percent of total assets of all commercial banks. Up to the end of 2008, ICBC, CCB and BOC were listed among the top 15 banks in the world in terms of Tier 1 capital. China's banking industry topped the word in terms of total profits, profit growth rate and rate of capital return.

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

Due to their different stages of development, APEC economies differ greatly in terms of the goals, contents and key areas of structural reform. Based on this reality, APEC should promote its member economies to strengthen capability building and information sharing in a voluntary, flexible and pragmatic way. Based on the achievement of the LAISR process, the possible further tasks beyond 2010 would be: focusing on the further transformation of government functions, promoting the independent innovation of enterprises, improving the provision of public services, etc. In particular, to actively push forward the structural reform, it is vital to reinforce exchange on experience and lessons learned.

# Hong Kong, China

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

Among the five themes of LAISR structural reform, HKC has made the most significant progress in regulatory reform. Over the years, the government put in substantial efforts to cut red tape, simplify regulations, eliminate outdated or unnecessary regulatory requirements, and reduce compliance cost and administrative burden to business so as to facilitate their operation and development. HKC has moved up four places from 7th to 3rd in the World Bank's Doing Business 2010 Report. HKC was complimented by the World Bank as one of the "most consistent reformers".

A Business Facilitation Advisory Committee (BFAC) has been established to advise and report the development and implementation of programmes and measures to facilitate business, and review government regulations and procedures impacting on business. With the support of the BFAC, the government has been conducting sector-specific regulatory reviews in the real estate development, retail, food business and entertainment sectors. Through these regulatory reviews, the government has come up with various measures to streamline licensing processes and remove unnecessary regulatory controls. The BFAC has also provided an effective forum for the government to consult the business sector on regulatory proposals and thrash out their implementation details with a view to minimizing the regulatory impact on business.

As a new government regulatory reform initiative, the government has also been taking forward the "Be the Smart Regulator" Programme since early 2007 to further enhance HKC's business environment and competitiveness. The Programme aimed at improving efficiency, transparency and customer-friendliness of our business regulatory and licensing arrangements while safeguarding public interest. Through introduction of new measures such as business liaison groups, business impact assessment, business consultation e-platform, business process re-engineering and wider use of IT and e-Government, good progress has been made to improve the overall licensing environment for doing business in Hong Kong, China particularly the food business and the hospitality business.

Besides regulatory reforms, notable progress has also been made in the area of corporate governance. Since 2003, the government, together with the relevant financial regulators, has implemented a number of corporate governance initiatives. They include –

- rolled out the Securities and Futures Ordinance in 2003, modernising the regulatory regime for listed companies and the securities and futures markets and providing for effective enforcement against market misconduct;
- introduced statutory derivative actions in 2004 to enhance protection of minority shareholders' interests;
- amended the Listing Rules to require listed companies to have a minimum of three independent non-executive directors from 2004;

- upgraded the regulatory system of intermediaries (including sponsors) in initial public offerings;
- promulgated the Code on Corporate Governance Practices for listed corporations in January 2005; and
- established a new independent statutory body, the Financial Reporting Council, to investigate accounting and auditing irregularities of listed companies. The Council came into full operation in 2007.

For corporate governance of SMEs, the recent development in HKC include the issuance of the *Guidelines on Corporate Governance for SMEs in Hong Kong (2nd edition)* (<http://www.hkiod.com/sme-guidelines.html>).

For competition policy, HKC is on the way of putting in place a cross-sector competition law. In order to ensure that our competition policy keeps pace with times and continues both to serve the public interest and to facilitate a business-friendly environment, the Competition Policy Advisory Group (COMPAG) appointed the Competition Policy Review Committee (CPRC) in 2005 to review and to make recommendations on the future direction for competition policy in Hong Kong, China. The CPRC recommended the government to introduce a cross-sector competition law to be enforced by an independent Competition Commission. Since 2006, two rounds of extensive public consultation about the direction and detailed proposals for the competition law have been launched. On 14 July 2010, the government introduced a draft law (the Competition Bill), which takes into account the circumstances of HKC, into the Legislative Council for scrutiny.

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

Regarding corporate governance, the launch of the Code on Corporate Governance Practices (Code) and the Corporate Governance Report in 2005 represented a significant move towards adoption of international benchmarks of corporate governance, best practice and disclosure. The Code sets out the Hong Kong Exchanges and Clearing Limited (HKEx)'s views on the principles of good corporate governance and two levels of recommendations, namely Code Provisions and Recommended Best Practices. The Code required issuers to include a Corporate Governance Report in their annual reports containing prescribed information on their corporate governance practices. In the review conducted by HKEx on corporate governance practices disclosures in listed companies' annual reports for 2005, 2006 and 2007, a high level of compliance was noted in general. (for details of the 2007 review, please refer to the following link: [http://www.hkexnews.hk/reports/corpgovpract/rpt\\_cgpd.htm](http://www.hkexnews.hk/reports/corpgovpract/rpt_cgpd.htm))

HKEx is currently reviewing whether to update the Code, and is also considering how to introduce a Corporate Social Responsibility (CSR) Code for Hong Kong listed companies. It is aiming to publish consultation papers on these proposals by the end of 2010.

On the side of regulatory reform, significant progress has been made through the government and business partnership model. Some notable achievements include:

- the replacement of multiple licensing requirements for different types of ready-to-eat food with a composite food shop licence that will provide more flexibility to the food retail trade and reduce the processing time;
- the shortening of application time for cinema licences by 50 percent;
- the decrease in registration time for new drugs by 35 percent;
- the reduction in processing time of straight-forward liquor licence applications by 50 percent;
- the simplification of lease conditions and streamlining of lease modification procedures to facilitate earlier commencement of real estate development and reduce the cost of development; and
- the relaxation of food room requirements for licensed restaurants and factory canteens to keep up with the changes in the operation of food business.

Under the “Be the Smart Regulator” programme, we have enhanced business licensing efficiency and communication with business and devised measures to simplify regulations. For example:

- Nine Business Liaison Groups (BLGs) for major business sectors to facilitate communication and resolution of regulatory and licensing issues between the business sectors and government bureaux/departments have been established. So far, over 400 issues raised at the BLG meetings have been clarified or resolved.
- A Business Impact Assessment (BIA) framework has been developed to help bureaux and departments assess the implications of their regulatory proposals and explore ways to minimise the regulatory impact on business. Through conducting BIAs, unreasonable regulatory or licensing requirements can be avoided and the compliance costs and administrative burden to business can be minimised.
- A business consultation e-platform (<http://www.gov.hk/en/theme/bf/consultation/calendar.htm>) has been established under the GovHK portal to provide an additional channel for the business community to access to relevant business consultation information on new regulations, administrative measures and procedures that would impact on business and to provide their comments on the proposals direct to the government bureaux/departments concerned.
- The government has set up application tracking systems in three licensing authorities to facilitate the applicants in tracking their application status and provide useful management information for process reviews. The government will continue to improve regulatory efficiency through wider use of IT and e-Government.
- The government has stepped up efforts to promote business facilitation and customer-centric culture within the civil service.
- Details of the work of the BFAC and its Task Force and the “Be the Smart Regulator” Programme can be accessed through the following links –  
<http://www.gov.hk/en/business/supportenterprises/bf/advisory/index.htm>  
<http://www.gov.hk/en/theme/bf/smart/>

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

Political will, high level involvement and effective communication with the business sectors are the major factors for the success of regulatory reform. Our business facilitation and regulatory review programmes under the leadership of the Financial Secretary helps to coordinate the business facilitation efforts of all government bureaux and departments. Our Chief Executive has also given his support to our business facilitation work. In particular, he steers the "Be the Smart Regulator" Programme. The government has proactively reached out and worked in partnership with the business community in resolving regulatory and licensing issues through the BFAC, its Task Forces and the BLGs.

For policy with wider impact on the society as a whole, like competition policy, public engagement and public consensus for reform are essential for its successful implementation. The government launched two public consultations in 2006 and 2008 with the objective of gauging the views of the community. The government conducted briefings for the Legislative Council Panel on Economic Development, political parties, chambers of commerce and other interested parties, and took part in public forums and programmes organised by the electronic media to explain the proposed competition law framework and to listen to the views of stakeholders.

On the other hand, the process of regulatory and legislative changes is complex and time-consuming. Building public consensus for reform is essential for its successful implementation. The general public tends to be less receptive to legislative changes that have an impact on their level of economic well-being and issues related to public health and safety. The government also has to either wait for a right climate to implement changes or proactively engage the public to formulate the reform programmes.

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

The introduction of a cross-sector competition law will establish a statutory framework for regulating anti-competitive conduct, with the objective of promoting free and healthy competition to the benefit of the economy and consumers, and enhance HKC's overall economic efficiency. Experience from other jurisdictions suggests that small businesses would not face a significant increase in compliance costs, given that they would unlikely be targeted by competition regulation. Large businesses might look to engage additional resources to help ensure compliance, especially at the initial stage. Multi-nationals, which already have to comply with competition regulatory regime elsewhere, should be able to adapt to the new legal regime. For the economy as a whole, any additional cost to businesses should be more than offset by the longer-term benefits of a more effective and credible competition regime.

As for regulatory reforms, improvement in licensing efficiency would also save time and money, and facilitate the flow of trade and investment.

The strengthening of corporate governance would, on the other hand, have underpinned Hong Kong's position as an international financial centre. Such impact is demonstrated by the recognition of HKC as a regional leader in corporate governance by Asian Corporate



Governance Association (Hong Kong ranked first in the 2007 Survey of Corporate Governance in Asia conducted by the Association in conjunction with the CLSA).

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

Given the diversity of growth among APEC economies, there is no single correct strategy for all the economies concerned. Member economies are encouraged to work together and share experience with each other, which facilitates each economy to develop its policy framework.

It is also proposed to further explore collaboration opportunities with the World Bank and deploy the World Bank's Doing Business indicators to further assess the impact of regulatory reforms.

# Indonesia

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

Among the five LAISR areas, Public Sector Management is considered to be the sector that has significant progress in Indonesia. The reforms cover a variety of areas in public sector management such as bureaucracy reform, governance reform and public service reform.

The pioneer in the bureaucracy reform is the reform under the Ministry of Finance (MoF). This reform has been conducting in line with the reform of the National Budgeting System that calls for a more efficient, transparent and accountable service under the Ministry of Finance's jurisdiction. To achieve this objective, reward and punishment are enforced accordingly to all levels of bureaucracy under the Ministry of Finance.

Another public governance reform that has been proved to have a very significant impact to the accountability of the public sector is Performance-based Budgeting System. In this system, every government agency is required to have a Strategic Plan (RENSTRA) and a Work Plan (RENJA). At the end of the Fiscal Year, all of government agencies are obliged to submit Performance Accountability Reports (LAKIP) to the President. The performance of the current year will be used as a reference in approving the proposed funding of the respective agency. The reform of the financial management also covers some important measures in establishing good governance in local governments.

The massive implementation of corruption eradication as it is stipulated in the Presidential Instruction No. 5 of 2004 and the National Action Plan for Eradication of Corruption (RAN-PK) of 2005 have contributed enormously on redesigning and improving public services, strengthening transparency, supervision and sanctions on government activities and empowering people in preventing corruption. In this case, the role of the Corruption Eradication Commission (KPK) is outstanding. KPK has recovered a large amount of state funds as a result of its operations: from 2005 to June 2009, the amount of state funds recovered or prevented from potential loss mounted to some IDR 3.7 trillion. In conducting its mission, KPK works in close relationship with the Ministry of Justice and Human Rights, the National Police Office, the Supreme Court, the National Ombudsman Commission and the Audit Board of the Republic of Indonesia and other agencies. The latest agency is empowered by Law No. 15/2004 on Audit Board to expand its jurisdictions to cover audits of central and local governments, SOEs and the judicial system.

Decentralization, which was restructured by Law No. 32/2004 and Law No. 33/2004, results in increasing the competition of local governments to provide better services, which brings more innovation. Many local governments currently provide excellent services such as in issuing the citizen identity card and any kind of local licenses for businesses. Some local governments also are able to provide free education up to high-school level.

Tax Reform and Customs Reform, which include reforms in tax offices and Custom Offices, also contribute significantly to the improvement of public service especially to the tax payers, exporters and importers.

The latest reform is the issuance of Law No. 25 year 2009 on Public Service. This is the law which regulates how people conduct their rights and obligations in getting the service. Combined with the Law on Ombudsman No. 37 of 2008, which regulates how public raises complaints on a government office's conduct and its service, the law on Public Service is expected to be a very powerful law.

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

### **Regulatory reform**

Major economic reforms in Indonesia were generally a result of external shocks and pressures which compelled the government to introduce regulatory changes. With the aim of encouraging investment in export sectors, government reforms mostly focused on liberalizing investment and trade policies and simplifying administrative procedures for investment.

Under President Yudhoyono's administration since 2004, regulatory reforms have remained on the government's agenda. The president introduced three economic packages in 2006 aimed at improving the investment climate, reforming the financial sector, and encouraging infrastructure development, followed by two additional packages in 2007 and 2008.

Regulatory reform has had a prominent place in the governments' development's strategy. The Plan for 2004-2009 listed priority reform areas which included (1) legal reform to establish a mechanism for review and reform of laws and regulations and improve transparency in legal enforcement and (2) better public services delivery by enhancing transparency, openness and accountability of civil service. Regulatory reform for improving the investment climate is also one of the important focuses in the Plan and is supervised by the Vice President's Office.

The implementation of regulatory reform takes strong commitment and political will, sufficient capacity to implement and coordination among different ministries and at different levels of government. Most reform initiatives have been taken up at an institutional level, led by a highly reform-oriented head of institution. For example, the introduction of a performance-based budgeting system has been conducted based on the initiatives of Ministry of Finance.

Many regulatory reforms have been introduced via presidential instructions (INPRES) since 2003. They have been limited in scope, applying to specific sectors or objectives, and were assigned to respective government ministries/departments.

Currently, Bappenas and related agencies are taking the initiative to inventory and to review laws and regulations and both central and local government level.

### **Public Sector Governance**

As it is mentioned above, Public Sector Governance reform is considered to be the most significant reform in Indonesia in the last five years. The success and the lesson learned from this reform can be summarized as follows:

- In some regions (Kabupaten/Kota) decentralizations has led to innovations in public services provision, the result is a very positive improvement in the public services of local governments.

- Decentralization of functions and budget to local governments, brings greater authority to local government officials that make local politicians and citizens interested in good governance.
- The fight against corruption has been progressing; the legal framework to fight corruption has been strengthened and stronger efforts are being made to pursue legal cases against corruption.
- The accountability and the effectiveness of government activities are increasing, due to the effort to implement the Performance-based budgeting and the close supervision of the internal system as well as the external supervision bodies.
- Public awareness for good governance is increasing. The involvement of civil society participation as well as the media helped people in monitoring the performance of agencies, the process of stipulating the laws and regulations and how public service is delivered.

The websites that could be visited are all government agencies website, especially <http://www.depkeu.go.id>, <http://www.menpan.go.id>, <http://www.bappenas.go.id>, <http://www.kpk.go.id>, <http://www.depdagri.go.id>.

## **Competition Policy**

Indonesia started its reform in the Competition Policy with the enactment of Law No. 5/1999 on Competition and the establishment of the Commission for the Supervision of Business Competition (KKPU) in 2000. The main task of KPPU is as an independent body to enforce the Competition Law. The law is in line with international norms and practices in competition policy. The implementation of the law is to put in place the good and sound competitive process which is expected to attract more investment.

The competition policy reform is accompanied by reforms in other related areas including investment policy reform, sectoral reforms and reforms of state-owned enterprises (SOEs).

Various guidelines have been developed and disseminated by KPPU which also plays an active role in building a competition culture among enterprises, government agencies and the general public. The guidelines include guidelines on tender conspiracy, determination of the relevant market, application of administrative sanctions, mergers and issues related to Intellectual Property Rights (IPR), franchises and SOEs.

Policy advocacy and recommendations made by KPPU have reformed government policies and regulations into the policies and regulations which accommodate competition.

One latest product of KPPU is a regulation on voluntary pre-merger notification, issued in 2009, which allows enterprises to obtain an advance binding clearance from KPPU. This regulation contributes to a better legal framework for investment.

The government has also implemented sectoral reforms to promote competition and productivity, such is in infrastructure and utility sectors; which result in the termination of monopoly and monopsony of SOEs. These reforms have opened important sectors to private sector participation.

Experience and knowledge in competition policy have been steadily accumulating in a wider area such as in the universities and law schools, research centers, also in the courts.

The reports received and the cases handled by KPPU are increasing. The number of reports received by KKP increased to 232 in 2008 and reached a total of 1,019 over 9 years (200-2008) of KPPU's operation. KPPU has handled 204 cases and has issued more than 50 judgments; and the total amount of fines and compensation imposed by KPPU reached IDR 1,001 trillion by end-2008.

The examples of successful implementation of Competition Policy is in the mobile telecommunication, fuel retailing and airline industries where originally were dominated by State-Owned Enterprises. At the end, consumers are the ones who enjoy the benefit of competition.

The website of KPPU is <http://www.kppu.go.id>. KPPU has also published a textbook on the Competition Law as the main reference in competition law study.

### **Corporate Governance**

Indonesia has made significant progress in developing a corporate governance framework based on its concept of Good Corporate Governance (GCG). GCG principles were first introduced into law in Law No. 1 of 1995.

Corporate governance problems were a major contributor to Indonesia's economic collapse in 1997-1998. In 1999, the Indonesian government signed a Letter of Intent with the IMF that encouraged the establishment of an institutional framework to ensure the implementation of the GCG Principles. It then established a National Committee on Corporate Governance Policy (KNKCG) to formulate and propose national policy recommendations on GCG principles. Following that, the government set out a programme that includes adopting a new code of corporate governance, strengthening capital market regulation and improving the oversight of non-bank financial institutions,

The main regulatory measure to ensure good corporate governance is the Company Law enacted in 2007 that replaced the previous Law of 1995. The 2007 Law stipulates a two board system consisting of a Board of Directors and a Board of Commissioners and the General Shareholders meeting (GSM). These three bodies share equivalent and proportional roles and functions in the company. There is no one of these three bodies higher than another. GCG principles of transparency, accountability and fairness also feature in the Capital Market Law and in regulations governing state-owned enterprises (SOEs) and banking.

The role of the National Committee on Corporate Governance Policy (KNKCG) is to create a general code and sectoral codes and to publish best practices of corporate governance and technical guidelines for a whistle-blowing system (issued in 2008). The KNKCG published General Guidelines on Good Corporate Governance in 2001 and Corporate Governance Guidelines for the Banking Industry and for insurance and reinsurance companies in 2004. The government renamed KNKCG the National Committee on Governance Policy (KNKG) in 2004 with the intention to include public sector.

In its 2004 report on the Observance of Standards and Codes (ROSC) in Corporate Governance in Indonesia, the World Bank recognized that Indonesia had put its place an "elaborate system of formal corporate governance rules". Since then, there has been major development of corporate governance in Indonesia. For example, there have been some revisions to several regulations concerning internal audits and annual reports which require companies to report on GCG implementation. In 2009, this programme was continued through ROSC Financial Services Assessment Programme (FSAP), which covers corporate governance practices in Indonesia.

Improvement on corporate governance issues helps creating a better climate for investment and develops more active capital markets, contributing to its economic growth and financial stability.

The website of KNKG is <http://www.knkg-indonesia.com>.

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

The economic crisis that hit Indonesia in mid-1997 triggered the government to reform the business law and enacted Law No. 4 of 1998 on Bankruptcy which then was reformed by Law No. 37 of 2004 on Bankruptcy and the Suspension of Obligation for Payment of Debt. Indonesian bankruptcy law is pro-creditor and provides a wide range of creditor remedies.

The law regulates that a debtor that has two or more creditors can be declared bankrupt if it is failed to pay at least one of its matured debt, either by its own petition or by one or more of its creditors.

From a debtor's standpoint, this law helps prevent an instant asset's execution requested by the creditor. It also avoids an arbitrary action of creditor in relation to a debt payment.

The law sets up two mechanisms to deal with insolvency: (i) the first mechanism includes the provision of the petition to declare a debtor bankrupt with the aim to liquidate the debtor's assets, (ii) the second mechanism is the suspension of payment, with the aim is to encourage debtors and creditors to restructure their debts and payments schedules.

Another important element of the law is the establishment of special court (commercial court) to handle commercial cases especially corporate bankruptcy cases.

The availability of this law reduces the uncertainty of legal procedures for the investors in the case of bankruptcy. This is one important measure in improving the investment climate in Indonesia.

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

The key success for the reform in Indonesia depends to each reform. Reforms in the competition policy, public sector governance and corporate governance are formulated and implemented successfully mostly due to two factors, institutional framework and the consultation process. On the other hand, bureaucracy reform under the Ministry of Finance is considered to be succeeded because of the leadership and the good institutional framework.

The factors that might be considered as the impediment of reforms are the problem of coordination among related agencies and between central government and local governments. In addition, the abundant numbers of regulations which might be conflicting one and another are also a kind of obstacle in reforms. The difference in awareness and understanding of reforms among executives, legislatives and judicative agencies also may discourage the reforms.

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

The impact of the reform is very positive to the economy. The economic growth in the last quarter of 2010 was 5 percent compared to 4.5 percent in the 2009, with the inflation rate of 2.85. Foreign debts are declining. Both domestic and foreign investments have been increasing in the last five years. There are also increased in exports; exports are returning to the level before crisis.

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

The Forward Work Program (FWP) on LAISR 2010, which is mostly in the forms of capacity building activities such as seminars, roundtable discussions, workshops, has been really raising the awareness on how important structural reform is for improving trade and investment of economies, especially for developing economies like Indonesia. The APEC-agenda of structural reform also brings the attention of the high-levels of government to this issue, which is not always easy.

On some possible next steps beyond 2010, one thing is to continue with the capacity building activities on some issues of the structural reform. Regulatory reform and public sector governance are the two issues that should be continued to work on. Following that, Strengthening Economic and Legal Infrastructure is also one area of reforms that need to be pushed.

Since Growth Strategy is one of the APEC 2010's agenda mandated by APEC Leaders, structural reform which supports growth strategy should also be explored.

# Japan

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

Among five LAISR themes, Regulatory reform and Competition policy have been making significant progress in Japan.

## **Regulatory Reform**

Regulatory reform has been making significant progress in Japan, particularly in the non-manufacturing sector in recent years. The underlying concept of regulatory reform is to shift the society and economy from a government-led system to one based on the market mechanism and social discipline.

For this purpose, the government promoted regulatory reform aiming at: promoting innovation to improve productivity; increasing openness of the economy; promoting reform in the labour market and social services to ensure flexibility and security of living; encouraging the efforts of regions to build attractive and vibrant communities; and providing more efficient and better public services through encouraging public and private partnerships, and so on. Current areas of reform cover various areas such as environment and energy, medical and elderly care services, agriculture, and so on.

The progress in regulatory reform has been significant in various ways. First, the discussion between the central reform agencies and the line ministries has become much more intense and transparent in recent years. Second, initiatives by the local government and private sector have come to play an important role. Third, new horizontal schemes, such as Special Zones for Structural Reform and No-Action Letters, have been introduced.

## **Competition Policy**

There were significant amendments of “Act on Prohibition of Private Monopolization and Maintenance of Fair Trade” (Antimonopoly Act) twice in the past five years in Japan. First one was 2005 amendment (enacted in April 2005, came into force in January 2006), and the second one was 2009 amendment (enacted in June 2009, came into force in January 2010).

2005 amendment formed an important part of structural reform and greatly contributed to efficiency and effectiveness in the Japanese economic society based on market mechanism, and 2009 amendment is expected to greatly contribute to a vigorous implementation of competition policy in order to realize fair and free economic society.

The main features of these amendments include introduction of a leniency program, introduction of compulsory measures for criminal investigation, revision of the surcharge system, etc.



More details on the 2009 amendment are available at: <http://www.jftc.go.jp/e-page/pressreleases/2009/June/090603-2.pdf>

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

### **Regulatory Reform**

The Special Zones for Structural Reform initiative, the idea of allowing specific geographical areas to act as a testing ground for regulatory changes, was first proposed by advisory councils comprised of private sector members representing businesses and academia. Under this initiative, all the interested parties, such as local governments, private firms and citizens, are invited to submit regulatory reform proposals, which are then reviewed by a committee of cabinet ministers. Many of such proposals have been accepted, while others have been rejected. Examples of successful reforms include:

- Kita-kyushu international physical distribution special zone: special measures including relaxed land use regulation has attracted new businesses with 190 billion yen of new investment and 4,800 new employments.
- Shodoshima • UchinomiTown olive promotion special zone: special measures to allow leasing of agricultural land to corporations have vitalised agricultural activity and tourism.
- Kobe advanced medical industry special zone: special measures to accept foreign researchers have attracted new businesses including university-launched venture businesses.
- Ota foreign language special zone: establishment of an integrated elementary and secondary school where most of the curriculums are taught in English has proved to be very popular.

Examples of relevant websites include:

<http://www5.cao.go.jp/keizai/index-e.html>

<http://www.cao.go.jp/en/reform/reform.html>

[http://www.meti.go.jp/english/report/data/Startups\\_Finalreport.pdf](http://www.meti.go.jp/english/report/data/Startups_Finalreport.pdf)

### **Competition Policy**

Leniency program<sup>13</sup> was introduced in 2005 amendment. Since violations such as cartel, bid-rigging, etc. are committed behind closed doors and it is difficult to detect and investigate them, leniency program has been greatly contributing to Japan Fair Trade Commission (JFTC)'s investigation activities.

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<sup>13</sup> Leniency program is a system whereby surcharges are immunized or reduced on condition that the entrepreneurs involved in cartels and bid-riggings voluntarily report to the Japan Fair Trade Commission (JFTC). Besides, leniency program not only helps detecting the violations but also gives violators a great incentive to terminate their violation.

Based on this program, 349 applications were received since its inception in January 2006 (as of the end of FY2009). For more effective implementation of leniency program, it was amended to permit joint application by violators within the same company group and expand number of leniency applicant in 2009 amendment.

More details on the 2009 amendment regarding the leniency program are available at (slide 8): <http://www.jftc.go.jp/e-page/pressreleases/2009/June/090603-2.pdf>

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

Main key factors of success for reform in the field of competition policy are the following.

- Active promotion of amendment of Antimonopoly Act by the JFTC
- Independence of competition authority (it makes the JFTC possible to demonstrate its active initiative in the promotion of competition.)

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

A study by the Cabinet Office indicates that regulatory and institutional reforms in 15 areas between 2005 and 2008 created 5.4 trillion yen of consumer benefits.

According to this study, the consumer benefits have been substantially increased in the following sectors as their markets are relatively large and the price decline brought about by regulatory and institutional reforms is also significant. The largest consumer benefit was recorded in mobile communications sector (1.4 trillion yen, as a result of the relaxation of entry regulations, etc.), followed by petroleum products (1.2 trillion yen, as a result of the full liberalisation of the petroleum industry, etc.) and electricity (1.0 trillion yen, as a result of the introduction of competition in the retail market, etc.).

Reference (in Japanese):

<http://www5.cao.go.jp/keizai3/2010/10seisakukadai06-3.pdf>

<http://www5.cao.go.jp/keizai3/2010/10seisakukadai06-4.pdf>

## **Competition Policy**

Introduction of leniency program leads to good compliance of Antimonopoly Act by businesses. Now, JFTC is able to enforce Antimonopoly Act more efficiently and more effectively than ever.

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

Considering the diversity of APEC economies, many economies can share good practices from other economies.

For example, in the field of the Competition policy, current situation is that some economies do not have comprehensive competition law. Besides, many economies which have competition law have little experiences in enforcing the law. In order to achieve further developments and the proper and steady implementation of competition law and policy, APEC should hold meetings or training programs regularly, thereby accumulating knowledge and expertise on competition laws and policies. Every competition authority should enhance their domestic competition law and policy by utilizing knowledge and expertise acquired through such meetings or training programs. These contribute to improvement of fair and free economic society based on market mechanism in whole APEC region.

Although APEC member economies have made a significant progress in structural reform through the LAISR process, there remains room for further reform. This LAISR stock-take exercise would provide a good insight into which areas APEC has made good progresses in, and which of the five LAISR priority areas should be of relatively higher importance in the future activities.

As for beyond LAISR process, we should note that structural reform can be a main policy approach for the APEC comprehensive long-term growth strategy which has been developed in 2010.

Also, it would be important to strengthen collaboration with other APEC fora/groups to further promote structural reform in key areas.

Besides, involvement of businesses and academia as well as collaboration with other international organizations will bring fresh insights and perspectives beyond LAISR process.

# Republic of Korea

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

Korea has exerted great efforts and achieved much progress so far in the regulatory reform. The most outstanding reform activities are as follows: to expand the application of the **Sunset (Review) Clause** from newly enforced regulations to existing regulations, to launch a **Temporary Regulatory Relief Mechanism** and to adopt the **Regulatory Information System**. The Korean government decided that the Sunset Clause would be applied not only to newly enforced regulations, but also to existing ones. Within the sunset mechanism, regulations shall terminate their effect after a certain period of time (“Sunset Clause”) or be reviewed regularly on their sustainability (“Sunset Review Clause”) for the improved effectiveness of regulations. It is likely that this mechanism will enhance the transparency and effectiveness of regulations and reduce the effects of unnecessary burdensome ones.

The recent global economic crisis provided a renewed impetus to implement reform activities within Korea. The Korean government made an active response to the economic crisis by introducing new types of regulatory reform such as the **Temporary Regulatory Relief (TRR)** and the **Regulatory Reform for New Growth Engine Industries**. With the leadership and the coordinated efforts of the government, Korea could take quick action and help many companies and individuals, especially SMEs, in weathering through the economic crisis.

**Temporary Regulatory Relief (TRR)** is a mechanism to waiver or to mitigate the implementation of burdensome regulations for a certain period of time. The TRR mechanism is expected to expedite business activities and increase private investments even in the current post-crisis era. Unlike the Sunset (Review) Clause, which takes time to show effects, the TRR will have an immediate effect on the regulatory reform. Also, **Regulatory Reform for New Growth Engine Industries** cleared various stumbling blocks that hindered the development of future growth industries such as new and renewable energy and green technology.

In addition, more systematic support has been provided with the adoption of the **Regulatory Information System** in all parts of the regulatory process from the review and registration to the management of reform projects. This new system, the entire process of a regulatory review - from the initial review request by each ministry to the preparation of the review report for notification of results by the Regulatory Reform Council (RRC) - has been moved onto the internet. Since it is an integrated and comprehensive management of regulations, from their introduction to termination, it has definitely contributed to the enhancement of transparency and quality of regulatory information with increased user satisfaction, effective reviews on regulation, and the implementation of the regulatory reform projects.

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

First of all, in terms of regulatory reform, Korea launched the TRR and decided to broaden the application of the Sunset (Review) Clause. Also, Korea reduced relevant regulations on starting businesses, which helped many people to establish their own companies with ease. Through the website (<http://www.startbiz.go.kr>), individuals can build their own companies in about seven days, without having to visit all the institutions, banks, etc. This is expected to lower the barriers for both domestic and foreign investors to start businesses in Korea.

With regard to public sector governance, Korea has made great achievements in installing an E-government system. Koreans can now solve their civil affairs on the internet (<http://www.egov.go.kr>). This helped to improve people's access to public services and enhanced the transparency and effectiveness of public governance. Recently, Korea ranked first in the UN E-Government Survey. Korea's E-governance system comprises of three categories: Government for Business (G4B), Government for Citizens (G4C), and Government to Government (G2G). Among these three, the G4C has been most helpful to the daily lives of the general public.

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

In Korea's case, the institutional framework and its accompanying leadership played key roles in driving structural reform activities. The Lee Myung-bak administration established an advisory institution, the 'Presidential Council on National Competitiveness (PCNC)', that serves as a driving force in carrying out government-wide regulatory reform activities. There is also a Regulatory Reform Council (RRC), a control center for regulatory reform. With the help of these institutions, the coordination among different ministries and agencies has become much easier.

In addition, the high-level leadership is significant in carrying out preemptive reform activities. President Lee Myung-bak considers regulatory reform (structural reform) as a key to improving national competitiveness, especially from the business point of view. Such interest from the Economic Leader has made possible the nation-wide regulatory reform efforts.

Another significance of the recent reform activities is that they have tried to incorporate the actual needs of businesses. While diagnosing, identifying and designing the reform policies, the government has carried out public consultations that significantly contributed to increasing the suitability of the reform and the customized approach towards the reform.

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

Since the policies were introduced and went into effect recently, information on their numerical effects have not yet cumulated. However, the recent survey undertaken by the Federation of Korean Industries of businessmen and relevant experts on User/Business Satisfaction indicates that businesses are content with the overall regulatory reform activities, with a considerable improvement from 8.9 percent (2008) to 49 percent (2010).

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

In order to sustain the initiative on structural reform within APEC beyond 2011, APEC should develop a post-LAISR framework that reflects the current situation and encompasses various issues on relevant structural reform. The EC can contribute to the development of the APEC Growth Strategy by giving comments on the significance of structural reform in the backdrop of the current economic crisis and its recovery. It will enhance the relevance of structural reform in the changed environment.

Furthermore, organizing the second SRMM would show the continuous commitment to the structural reform within APEC. In the post-LAISR, APEC should focus on 'bringing about change and action.' Under the LAISR framework, APEC contributed greatly to raising awareness among APEC economies on the significance of the structural reform by sharing best-practices. The framework beyond the LAISR, however, should go a step forward to include ways such as introducing a 'peer-review' mechanism, which will enhance the involvement of the APEC economies and their following efforts within each economy.

# Malaysia

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

Regulatory reform initiatives in Malaysia have always focused on maintaining the economic growth and stability as well as protecting consumers' interest. Malaysia has been consistent in continuously improving its business environment to be predictable and conducive in encouraging foreign direct investment and facilitating businesses. The government is also determined to upgrade public delivery system and significantly reduce bureaucracy in government dealings.

Public consultations are routinely used by government agencies to gauge feedback from the public on issues of public policy. Formal Dialogues are held with the relevant associations to obtain feedback and proposals to undertake necessary improvements measures so as to ease raise the impediments faced by the business community.

The government has also established a Special Task Force to Facilitate Business, PEMUDAH. This task force was formed through a public-private sector partnership and assumes advisory and advocacy roles as it cooperates with Ministries/Agencies, states and local governments in recommending, implementing and overseeing any reforms initiatives to enhance Malaysia's business environment. Under PEMUDAH, various task forces and focus groups are also established to help identify areas of improvements and undertake reforms process more effectively.

Among notable achievements include improvements in local government by creating one stop centre for processing of development proposals, greater utilisation of ICT in applications for licenses and payments, reduction of the processing time for various government procedures, and deregulation of equity requirements for foreign investors.

Improvements implemented will continuously be monitored by respective Ministries and government agencies to ensure the effectiveness of public delivery system.

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

## Regulatory Reform

Among the successful reforms that have taken place are:

(i) Reduction in time taken to register standard property from 41 days to 2 days at a cost of between 1-3 percent of the value of the property, (ii) improvement made in the time taken to start a business from 11 days to 3 days and consolidation of nine procedures identified by the World Bank into three procedures; (iii) establishment of a Single Corporate Identity Card

(MyCoID) to facilitate Business-to-Government and Business-to-Business transactions; (iv) improvement in income tax system where tax refunds are now made within 14 to 30 days compared with 1 year previously; (v) and establishment of a single gateway called myBayar to assist users to be routed to other government Agencies for payment.

Establishment of Business Licensing Electronic Support System (BLESS) to facilitate on-line application for licenses in manufacturing, construction and services. The system will show the time taken by the various departments to process the applications, thus ensuring government departments and agencies adhere to their respective client's charter. It provides on-line feedback between the government departments and the applicants it enables on-line tracking and monitoring of applications and on-line payment of fees;

Establishment of One Stop Centre (OSC) in local government to expedite and streamline development and construction approvals process. This system enables all applications to concurrently submit for processing. Prior to 2007, the rules and regulations for processing development proposals are under the purview of the respective local government. With the inception of OSC, the procedures and regulations that govern the processing of development proposals have been streamlined. This reform has ultimately reduced the time taken to process development proposals to less than 180 days, from 261 days previously;

Establishment of New Commercial Courts to speed up in resolving commercial disputes. The court will utilise more IT applications and appoint judicial commissioners who specialised in commercial matters. The Courts are expected to reduce the time taken to resolve commercial disputes to only 270 days from 600 days previously;

Various tax administration improvements such as on-line services for companies to file tax return and provide clear guidelines for tax payment requirement for better transparency; and

Repeal of Foreign Investment Committee (FIC) guidelines on acquisition of equity stake, mergers and takeovers. The functions of FIC on equity matters will be done by sector regulators i.e., the respective Ministries and Agencies.

Examples of relevant websites include:

<http://www.pemudah.gov.my>

<http://www.epu.gov.my>

<http://www.lhdn.gov.my>

<http://www.bless.gov.my>



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

Engagement of the relevant stakeholders is necessary to garner the necessary support for the successful implementation of reforms. Most government agencies practice consultations with relevant stakeholders as and when necessary during the planning stage for important public policies. Many ministries adopt an open policy and encourage feedback from the private sector or public with regards to problems faced on a daily basis. Issues raised by them are brought forth by members to be discussed in forums such as the PEMUDAH meeting in attendance of various ministries and agencies with the authority to make decisions pertaining to those issues. Subsequent to the discussion of the issues raised at length, the relevant Ministry or Agency will carefully undertake a study and evaluate the suggestions raised during the meeting to determine the cost and benefit of such a proposal.

One of the biggest obstacles of the government is to change the mindset of the public service from playing the role of just implementer, to pacesetter and facilitator. It is important to be sensitive and responsive to demand of the private sector as the economic engine of growth. In addition, the government will need to continue promoting a conducive environment for doing business through continuous and systematic monitoring to ensure effectiveness of the reform initiatives implemented and can be replicated across the public sector.

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

So far, there is no direct analysis on the impact of regulatory reforms implemented. However, feedbacks from the private sector are generally supportive of the reforms. The reforms have managed to improve many areas of doing business i.e. reducing time taken, processes and cost in starting a business, closing a business, dealing with permits and etc. The government understands the need to increase the pace of reforms in order to stay competitive. In addition, the current global economic crisis has also made it difficult for the government to gauge the impact of regulatory reforms implemented as lower external demands is the bigger factor in the flow of trade and investment.

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

Capacity building programmes encourage the sharing of best practices to educate and assist other APEC members to strengthen their economy and competitiveness. It is a necessity to prioritise and define steps to encourage the members' participation in developing, conduct analysis, provide financial support, planning and monitoring the programmes.

APEC needs to identify the necessary Key Result Areas (KRAs) for the region to ensure that the required structural reforms are implemented and well achieved. KRAs could be used as a guiding tool for APEC economies to work toward the KRA deliverables with intensive

progress monitoring. The set up of pilot project or “labs” are new ways of working towards the deliverables by experimenting and identifying the issues of implementation. This way would reduce problems in implementation and ensure a more effective, transparent and faster way of achieving result as solutions are already formulated for issues identified.

APEC Business Advisory Council (ABAC) could also play a more substantive role in facilitating respective governments in their reform efforts as there are many areas on reforms particularly those involving cost reduction requires action from the private sector. ABAC must advise its members look into process and procedures that are out of governments control so that a more holistic reform is achieved.

# Mexico

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

In the last five years, Mexico has achieved progress in regulatory reform through:

- The implementation of mechanisms to hinder the issuance of unnecessary or high-cost new regulation;
- The use of public-consultation mechanisms to identify priority areas for reform;
- The reduction of administrative burdens imposed by regulation in starting up a business;
- The institutionalizing of regulatory reform in the States;
- The identification of specific needs for regulatory reform and actions to address them; and
- The promotion of transparency in the relationship between the public and private sector.

Other example of recent efforts by the Mexican government to improve the regulatory framework:

In September 2007, Mexico and the OECD signed an agreement to conduct a special project called “Process for the Strengthening of the Regulatory Framework for Competitiveness”, known as “Proceso Marco”.

Proceso Marco entails an assessment of existing laws, regulations and policies in key sectors and areas, as well as the crafting of specific proposals aimed at reducing the administrative burden to firms by improving the regulatory framework, fostering economic competition, and thereby enhancing productivity and economic activity. In order to separate political considerations from the technical analysis, the project includes a High Level Consultative Group (HLCG) and a Technical Group.

Proceso Marco plays a catalytic role in stimulating discussion on reform proposals and accelerating reform by all actors. In order to take bigger steps to improve the sectoral regulatory framework, coordination with the Ministry of the Economy and sectoral regulators has been critical.

Also, in the design of Proceso Marco, international best practices have been taken into account, in particular the experience of other economies that have already implemented similar exercises such as Australia, New Zealand, the Netherlands, and the United Kingdom, among others.

These actions represent a step towards achieving Mexico’s vision to have an integral, transparent and inclusive regulatory management system.

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

Some examples of success in regulatory reform might be the following:

- On February 2007, President Felipe Calderón issued the Presidential Regulatory Quality Order (RQO)<sup>14</sup>, aiming at: (i) guaranteeing that regulations do not affect citizens or productive activities; and (ii) inhibiting overregulation that hinders investment, employment and, in general, competitiveness.

According to the RQO, Federal Governmental Bodies (FGB) may issue new regulation only when the latter complies at least with one of the following criteria:

- (i) The draft regulation derives from an emergency situation.
- (ii) The FGB is complying with either an obligation established in law or with regulations issued by the President;
- (iii) The draft regulation is complying with an international obligation;
- (iv) The regulation has to be updated periodically because of its nature; or
- (v) The benefits of the proposed regulation are higher than its compliance costs.

FGB produced 431 draft regulations with compliance costs in the first year of application of the Order (i.e. 2007). However, 33 of these draft regulations were rejected because they did not fulfill the criteria for the issuance of new regulations. In 2008, only 370 draft regulations with compliance costs were produced, of which five were rejected on the basis of non-compliance with the RQO criteria<sup>15</sup>.

The lesson learned from this experience is that regulatory reform and, in particular, quality regulation standards establish a set of principles to follow in order to make good regulation. It does not hinder the governmental ability to regulate.

- Since the opening of the first office of the Rapid Business Start-up System (SARE) on May 2002, Mexico got itself involved in a continuous, intensive effort to improve the business environment and, thus, its competitiveness, through the reduction, simplification and standardization of the times and procedures, at the Federal and local levels of government, to start up low risk businesses. The SARE's goal is to facilitate the creation of businesses in a maximum of 72 hours.

In 2008, a number of elements of the original SARE were revised in order to guarantee the quality of its services. Nowadays, the SARE operates in 149 municipalities<sup>16</sup>. Moreover, from May 2002, to June 2009, this scheme fostered the creation of 160,982 new enterprises which, in turn, generated 449,713 new jobs and an investment of approximately US\$1.9 billion<sup>17</sup>.

<sup>14</sup> Acuerdo de Calidad Regulatoria.

<sup>15</sup> 6<sup>th</sup> and 7<sup>th</sup> COFEMER's annual reports, available for download in: [http://www.cofemer.gob.mx/index.asp?tipo\\_nav\\_bar=2&contenido=2&content\\_id=26&menu\\_id=20&submenu\\_id=12](http://www.cofemer.gob.mx/index.asp?tipo_nav_bar=2&contenido=2&content_id=26&menu_id=20&submenu_id=12)

<sup>16</sup> Pertaining to 30 of 32 Federal Entities (states) in Mexico.

<sup>17</sup> The President of Mexico's third government report available at the following website: <http://www.informe.gob.mx/informe/>

With regard to competition policy, in May 2008, the Federal Commission for Competitiveness (CFC) presented to the Ministry of the Economy its opinion on foreign trade which included the following recommendations that were enacted by the Ministry in December 2008: an ambitious unilateral reduction of tariffs; simplification of customs procedures; simplification of administrative procedures for foreign trade and customs operations; and the reduction of barriers to entry for the provision of customs clearance services.

Other recommendations adopted of the CFC have already shown pro-competitive results. For example, reforms to the banking activity legal framework have succeeded in reducing obstacles to entry and expanding market penetration. New players have entered the market focusing on providing services to consumers segments unattended by the traditional banks. The CFC has also encouraged competition and free access in the air transportation sector through the promotion of the reduction of barriers of entry for low cost carriers. Consequently, several low-cost airlines have entered the market over the past years. Hence there has been an important increase of passengers using this kind of transport.

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

Success in reform requires the commitment and willingness of both government and private sector. In order to achieve this, the institutional and legal frameworks should establish appropriate and transparent communication tools which facilitate the involvement of all relevant actors in the decision making processes and, in particular, in the prioritization and implementation of structural reforms.

Mexico's last five years experience in the area of regulatory reform shows that joint efforts with relevant actors may help to foster competitiveness, as it is an efficient way of sharing ideas, conveying concerns and designing strategies to properly address those concerns.

In this context, regulatory reform in Mexico has developed important tools to make the participation of the public sector more efficient (e.g. through SAREs or biennial regulatory improvement programs<sup>18</sup>); the civil society has also had a meaningful role (e.g. through the establishment of legal mechanisms to allow their participation in the decision making processes), in the creation of quality regulation and in the implementation of specific regulatory reforms.

Furthermore, Proceso Marco guarantees the independence of the experts groups' analysis by avoiding interference from interest groups, while providing the high level political commitment to carry out necessary actions.

To accomplish the objectives of Proceso Marco we've had to:

- Achieve a collaboration environment among all actors involved (the executive, legislative, judiciary, private sector, states and municipalities) to be able to achieve substantive agreements.

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<sup>18</sup>The Federal Administrative Procedures Law bounds each Federal Ministry and governmental agency to prepare and submit to COFEMER, at least every two years, a biennial regulatory improvement program in order to: (i) assess and report on regulatory reform progress and, accordingly, (ii) plan in advance the new regulatory reform measures to be taken.

- Defeat the resistance of privileged sectors and industries with particular interests. The benefits of the pending reforms to society and consumers (the majority) are overwhelmingly greater than the private cost of conducting such reforms.
- To involve all governmental entities in a review and reform dynamic, strengthening competition and reducing the administrative burdens to firms.

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

From May 2002 to June 2009, SARE scheme fostered the creation of 160,982 new enterprises which, in turn, generated 449,713 new jobs and an investment of approximately US\$1.9 billion. An estimation of Kaplan, Piedra and Seira in 2007 also suggests that the SARE generated a 4 percent increase on new firm start-ups<sup>19</sup>. This, in turn, may be linked to the World Bank's appreciation that the presence of new competitors in the market lead to an increase of 6 percent of the registered enterprises, 2.6 percent of employment and a decrease of 1 percent in prizes<sup>20</sup>.

Proposals emerging from Proceso Marco will assist to set the basis for fair competition and better regulation, attracting investment, fostering growth and employment. For example, with respect to the foreign trade opinion, the results in the reduction of tariffs, for the highest tariff rate applicable to industrial products, will go from 10.4 percent to 4.3 percent (over 4,300 tariff will be reduced to zero).

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

APEC could take advantage of its leadership in the promotion of dialogue in order to elaborate an inventory of good practices of structural reform, identify which elements are necessary in order to follow them, and to assess which practices might have the better results in the short, medium and long terms.

An example is the 5th APEC Training Course on Competition Policy, which will be an important contribution to the APEC Principles to Enhance Competition and Regulatory Reform by measures such as providing technical cooperation and assistance on competition policy and sharing legislation as well as enforcement experiences concerning competition policy and law.

<sup>19</sup> Kaplan, David, Eduardo Piedra y Enrique Seira, (2007)/ Entry Regulation and Business Start-Ups: Evidence from Mexico, Enterprise Analysis Unit, WPS 4322, World Bank, Washington, DC.

<sup>20</sup> *Doing Business in Mexico 2009*, World Bank, Washington, D.C.

# New Zealand

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

## Regulatory Reform

Although New Zealand rates well on some international measures of regulatory quality and the ease of doing business<sup>21</sup>, the combination of a significant amount of new regulation in recent years and improvements in other economies means that many economies are catching up to, or surpassing, us in international indices of regulatory impact and competitiveness. The pace of new legislation and regulation has increased, and the quality, pace and implementation of some of this new regulation has been uneven.

There is also an ongoing need to improve existing regulation, including assessing whether it is still required and in what form, in the light of experience of how it is working in practice, new evidence and knowledge of the impact of regulation on economic performance, and the development of new approaches to regulating which achieve societal outcomes at least cost.

With this in mind, in June 2008 the previous government took several decisions to strengthen New Zealand's regulatory quality management system, and to put in place a more strategic approach to managing the impact of regulation on economic performance. This included assigning responsibility for New Zealand's regulatory quality management system to the Treasury, and expanding its role into three areas:

- Regulatory impact analysis (previously undertaken by the Ministry of Economic Development)
- Responsibility for setting a prioritised regulatory review work programme and coordinating across government agencies to deliver on this programme
- Strategic co-ordination of the regulatory quality management system.

Part of the rationale for assigning these roles to Treasury was the view that its role as one of the three "central agencies" in the New Zealand state sector provides it with a broad and strategic perspective, enabling it to make connections across policy areas and facilitating early engagement in the policy development process.

In November 2008 there was a change in government and this has resulted in a renewed focus on regulatory reform (encompassing improvements to the regulatory quality management system, the overall regulatory environment, and specific regulatory frameworks). Regulatory reform is one of six policy drivers that form the core of the current government's economic programme. Amongst other things the new government has:

- Established a new Ministerial portfolio for Regulatory Reform

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<sup>21</sup> See, for example, the World Bank's *Doing Business 2010: Reforming through Difficult Times*.

- Commenced reviews of major regulatory regimes (Air Quality Standards, Building Act, Consumer Law, Electricity institutional arrangements, Employment Relations Act, Food Act, Foreshore and Seabed Act, Holidays Act, Overseas Investment Act, Resource Management, Securities Act, Telecommunications Act, Weathertight Homes Resolution Services Act, Climate Change Response Act and Dairy Restructuring (Raw Milk) Regulations) and a programme of work to cut unnecessary red tape on business
- Established an annual Regulatory Reform Bill, which will provide a regular opportunity to reduce unnecessary red tape for business.

New Zealand has recently made several further enhancements to already existing policies, rules and institutions to help ensure effective and efficient regulation. These include the release on 17 August 2009 by the Minister of Finance and Minister for Regulatory Reform of a Government Statement on Regulation: Better Regulation, Less Regulation. The Statement is backed up by a number of supporting measures, including:

- systematic and ongoing regulatory scanning by departments to identify regulation that is, or may be, unnecessary, ineffective, or excessively costly
- annual regulatory plans of all known and anticipated proposals to introduce, amend, repeal or review legislation
- enhancements to the regulatory impact analysis (RIA) regime
- regular reporting on how the government is meeting the commitments in the Statement.

Further structural and other reforms are underway, or are under consideration include:

- the possible enactment of Regulatory Responsibility Act aimed at increasing accountability and transparency around law making by putting principles of responsible law making into legislation
- legislation has been introduced to establish a New Zealand Productivity Commission.

Further information on New Zealand's regulatory quality management system, and its regulatory reform agenda, can be found on the Treasury's website: <http://www.treasury.govt.nz/economy/regulation>.

## **Public Sector Governance**

New Zealand has made significant progress toward improving the accountability and transparency of the public sector regime over the last five years. New Zealand, at the request of Ministers and the Parliament, reviewed the accountability documents that underpin its public sector regime. The Review of Accountability Documents (RoADS) was about focusing accountability documents better on the needs of Ministers and Parliament.

Ministers and the Parliament felt the existing arrangements were burdensome and did not provide adequate information to allow informed judgement on the performance of the public sector. Parliament and Ministers in particular felt they were not getting the right information in the right forms, and performance documents were not helping the situation. Some problems identified by key users included: that the documents were seen as too long and difficult to engage with; there was duplication between documents; poor reporting of non-financial performance information; and the documents often focused on style rather than content.



Under RoADs the structural changes to accountability documents were implemented as part of the Budget 2008. The focus now is on improving the quality of the material in the accountability documents. One direct benefit of the review has been to reduce the amount of reporting material needed by Parliament.

Since then, the public sector has made a number of other complementary changes that increase the focus on supporting delivering better, smarter frontline public services funded primarily from within public agencies' existing operating baselines as part of the government's commitment to rebalance and strengthen the economy.

- Central agencies have implemented a Performance Improvement Framework (PIF) where agencies are reviewed against predetermined criteria, with the results and action plans coming out of the process being published. The first reviews will be published in September. Early evidence suggests PIF is likely to be an effective tool for lifting agency performance. <http://www.ssc.govt.nz/pif>
- The Better Administrative and Support Services (BASS) programme has completed an initial investigation comparing the cost and quality of administrative and support functions of 14 state sector departments against international benchmarks. The programme is preparing for Phase Two which will involve working on quick wins, the roll out of high level measurement across a broader group of agencies, and the development of a business case to identify and assess options for realising cost saving and quality improvement goals.
- Over the last two years there have been changes in the approach to capital asset management including the application of new standards, gateway assurance and information requirements to inform decision making so Ministers will have early engagement on options, assurance that appropriate business case preparation has been done, and clear, consistent preparation of information. For more information see <http://www.infrastructure.govt.nz/publications/betterbusinesscases> and <http://www.dpmc.govt.nz/cabinet/circulars/co10/2.html>.

## Competition Policy

In September 2008, the regulatory control provisions of the Commerce Act were amended. These amendments significantly improved the law relating to the regulation of monopolies with the aim of improving incentives on regulated firms to invest and innovate while protecting consumers from monopoly pricing and poor service quality.

The changes include generic provisions that enable price and quality control to be imposed where competition is limited. In addition, it provides for the regulation of electricity lines, gas pipeline services and airports and includes transitional provisions for these sectors. Key amendments include:

- the addition of a purpose statement specific to Part 4 clarifying the importance of incentives for regulated businesses to invest;
- the integration of the tests for determining *whether* and *how* to regulate goods or services and measures to streamline the inquiry and implementation processes of regulation;
- a requirement that the Commerce Commission sets 'input methodologies' for the regulatory rules, processes, and requirements that apply to regulated businesses; and

- allowing fit-for-purpose regulation to meet the circumstances of specific suppliers and sectors. The forms of regulation that may be applied are information disclosure, a negotiate/arbitrate regime, or default/customised price-quality regulation;

Proposed amendments to the competition legislation include the Commerce Commission (International Cooperation, and Fees) Bill. The Bill was introduced to Parliament in 2008 and is currently being considered by a Parliamentary select committee. It provides for enhanced cooperation between the Commerce Commission and its overseas counterparts, allowing the Commission to share confidential information or use its statutory powers to assist overseas regulators, subject to certain criteria and safeguards. Also, the Ministry of Economic Development released a discussion document on the penalty regime for cartel conduct in January 2010, considering whether criminalisation of cartels would be appropriate in the New Zealand context.

### **Corporate Governance**

Over the last five years, New Zealand has reformed its insolvency law, implemented a Limited Partnerships Act and commenced reviews of the financial reporting framework and the regulation of auditors. These reforms are making a significant contribution to an efficient and robust corporate regulatory environment that does not unnecessarily impose burdens on business.

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

The main examples of regulatory reform and public sector governance reform are outlined above.

The lesson that has emerged from New Zealand's experience with both regulatory and public sector reforms is that commitment to reform needs to be continuous - the regulatory quality management system and public sector governance system should be under constant review. It is also important from time to time to step back and revisit and revitalise the respective overall approaches. Without this focus on continuous improvement and periodic "revitalisation" it's entirely possible that systems and practices can become ossified and irrelevant.

This is particularly important in the regulatory area given ongoing pressures for more regulation, especially in times of heightened fiscal constraint.

More information on New Zealand's regulatory management system and public sector can be found on the New Zealand Treasury website at the following links:

<http://www.treasury.govt.nz/economy/regulation>

<http://www.treasury.govt.nz/statesector>

### **Corporate Governance**

*Insolvency Law:* The Insolvency Act 2006, Companies Amendment Act 2006 and Insolvency (Cross-border) Act 2006 were enacted in November 2006. The main features of the reforms were:

- to introduce a business rehabilitation regime based on the Australian voluntary administration provisions;
- to address the phoenix company problem by introducing further criminal penalties and restrictions on the re-use of insolvent company names by company directors;
- to provide a mechanism to enable streamlined procedures to be implemented under the UNCITRAL Model Law for Cross-Border Insolvency;
- to implement an alternative to the current bankruptcy procedure for insolvent individuals with no realisable assets.

New Zealand is currently working with Australia to further streamline the law relating to cross-border insolvency between the two jurisdictions. The effectiveness of New Zealand's insolvency regime will be further enhanced by legislation due to be introduced this year to strengthen the provisions in relation to the appointment and replacement of insolvency practitioners. The amendments will provide a greater level of confidence in the skill of such practitioners.

*Limited Partnerships:* New Zealand introduced a new form of legal structure, the limited partnership, to encourage the development of the New Zealand venture capital industry, and encourage domestic and international investment in New Zealand. The Limited Partnerships Act, which enables New Zealand businesses to compete internationally on a level playing field for venture capital funds, came into force in May 2008.

*Audit regulation:* Following the collapse of a significant number of corporations internationally, many governments concluded that self-regulation of the audit profession was no longer appropriate and introduced government regulation, independent oversight or a combination of the two. New Zealand currently relies on self-regulation, but in light of the risk that New Zealand auditors are de-recognised overseas, decisions have been taken to strengthen auditor regulation. Audit standards will be set by a government regulator, and there will be government oversight of the licensing of auditors. The reforms are due to be implemented in 2011.

*Financial reporting:* The review of the New Zealand financial reporting framework aims to achieve a framework that is appropriate for all types of entities and is enduring. The government has made a decision to consolidate all accounting and auditing standards setting responsibilities within a new government standard setting agency. Further issues being considered are whether to remove preparation requirements for small and medium companies, and how to rationalise the reporting requirements in the non-profit sector. Legislation to implement the review is intended to be introduced into Parliament in 2011.

Further information on these reforms can be found on the New Zealand Ministry of Economic development website: <http://www.med.govt.nz>

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

The recent changes to New Zealand's regulatory management system are still bedding in, and it will take time to assess the full extent to which they have been successful in lifting the quality of regulation. However, a key lesson learned to date (in addition to the point made above about the need for a focus of continuous improvement and periodic revitalisation) is that ultimately cultural change is essential to the success of regulatory reform efforts.

Changes where appropriate to regulation-making policies, rules, institutions, and incentives, and efforts to build capability in departments, will support this required cultural change, but strong leadership and advocacy from senior Ministers is vital for driving it through.

New Zealand now has both a Minister responsible for regulatory reform, as well as a senior Minister acting as a champion for regulatory quality within Cabinet (the Minister of Finance). We have found that having this Ministerial advocacy can be very effective in encouraging the development – by Ministers and their departments – of regulatory proposals that meet the government's expectations of regulatory quality.

This Ministerial advocacy is also important for embedding and driving a culture of continuous improvement of existing regulation, and ensuring that all possible opportunities for regulatory reform and review are identified and taken forward.

Leadership from within the public sector is also an important factor in successful reform. In the case of RoADs, leadership from the three central agencies in the New Zealand public sector (The Treasury, the State Services Commission and the Department of Prime Minister and Cabinet) was a key factor because of the breadth, depth, and long-term nature of the project. This was especially important since the project has spanned across the 2008 elections.

There is also a need for specialist "centres of excellence" in the public sector, and New Zealand's Ministry of Economic Development provides this in relation to assessing the impacts of regulation on business.

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

It is difficult to measure the direct impact of reforms on the flows of trade and investment, and as such we are unable to provide reliable data or statistics.

However, the aim of the regulatory reform measures is intended to create a better regulatory environment in order to help attract and retain increasingly mobile talent, skills, capital, technology and entrepreneurship, and close the prosperity gap with other economies to which we compare ourselves.

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

Beyond 2010 APEC should continue its focus on structural reform given its importance to the economic growth of the region. Some steps that could be explored further are whether we could prioritise different aspects of reform and explore them in more detail (e.g. specific areas of regulatory reform) or explore issues that are cross-cutting in nature (e.g. sharing good practices on how to implement reforms). We would also encourage that APEC ensures its structural reform activities beyond 2010 are focused on the needs of its member economies, and the EC should retain its policy focus.

# Papua New Guinea

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

The most significant and notable reform progress has been made in the area of improving competition policy. Through this, regulatory improvements have been made to improve competition law. The obvious economic benefit of this has been the increased competition in the mobile telecommunications and aviation sectors on international routes leading to increased economic activity and growth. Competition in these sectors has increased consumer choices, reduced costs and improved services.

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

## Competition policy

The government acknowledges and supports the benefits of increasing competition in key service sectors of the economy because of the positive impact this has on the economy in increasing efficiency, productivity, lowering prices and improving the quality of service delivery and promoting innovation.

The government has made good progress in providing an enabling environment for competition by removing the impediments which affect fair competition in key service sectors. Some of these include removing monopoly powers, reducing burdensome regulation, tackling difficult licensing and cumbersome administrative procedures including various other protective measures. The government will undertake further action to address areas that still require its support. The Independent Consumer and Competition Commission (ICCC) has carried out reviews into the regulatory contracts of the State-owned Enterprises to complement their transition to commercialization in a pro-competitive environment. This is in addition to the past reviews conducted by the Commission into the aviation, coastal shipping, tourism, telecommunications and General Insurance industries including the Wholesale and Retail trading sectors.

The recent industry-specific reviews have been submitted to the Treasurer and the Department of Treasury will assess the recommendations of the reviews, and will be taking them into consideration in its continued efforts to enhance competition and drive productivity in these sectors.

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

The keys to the success of reform in Papua New Guinea have been the political will; leadership; and commitment that has been driving the reform agendas with assistance and cooperation from stakeholders. The reform agendas have been incorporated into the previous economic and development policies (Medium Term Development Strategy & the Medium Term Fiscal Strategy) of the government and currently into the PNG Vision 2050 and the Papua New Guinea Development Strategic Plan (PNG DSP) and Medium Term Development Plan (MTDP).

Through reviews and consultation process involving public and private sector stakeholders including NGOs and donors (World Bank, Asian Development Bank, AusAID, JICA, etc), the government through its relevant institutions and agencies were able to identify reform issues including their implementation.

The Public Sector Reform Unit, which is directly under the Department of the Prime Minister, was created to coordinate a number of critical reform activities. The Department of Treasury monitors and evaluates critical reviews to improve service delivery in the districts and to address structural impediments to business including reforms to improve efficiencies of Statutory Authorities.

However, implementation of the reforms has been constrained to some extent due to the lack of capacity of implementing agencies; funding constraints and duplication of functions and resource leading to wastage, confusion and accountability issues.

In order to achieve the desired or best results, reform areas need to be clearly identified, sequenced, costs and benefits determined and its implementation carefully strategized.

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

**Positive impacts**

- Increased competition in the mobile telecommunications and aviation sectors leading to increased economic activity and growth.
- Tariff Reduction Program has reduced costs for businesses.
- Customs modernisation program enables smooth flow of goods.
- Removing cumbersome laws/regulations that serve as unnecessary bottlenecks impeding private sector operations.
- Improvement in patent/copyright laws gives security to innovation ownership.
- Financial sector reform, especially the liberalisation of foreign exchange allows greater flexibility for businesses to conduct their transactions.

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

Some of the ways that APEC can better promote structural reform in the region include:

- Capacity building initiatives and programmes such as training, conferences, seminars, workshops, etc.
- Consultation, research, surveys, awareness, etc regarding structural reform issues of common interest to APEC economies.

It is important that consideration of some possible next steps beyond 2010 needs to be based on the achievement of the LAISR process. It is very critical to ensure that there is some level of uniformity in the achievement of the LAISR initiatives so that every APEC member is in a better position to undertake the next level of reforms or address some issues that constraint them from achieving the LAISR objectives.



# Peru

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

Over the last few five years, Peru has made progress in relation to the issue of regulatory reform. This progress has been related to incorporation into the design process of regulations, public consultation mechanism. Among the main examples of the reform are in the customs procedures, in government procurement regulations and the institutionalization of mechanisms to promote private investment through public-private partnership mechanism.

In this case, the mechanism transparent and open consultations have enabled the design regulations and to approximate the real impact of these on the various participants and affected.

Furthermore, this process has been incorporated into the recurrent mechanism design regulations through special administrative regulations. These regulations provide for the consultation mechanism through pre-publication of regulations to collect the views and comments of those involved.

On the other hand, Peru's Congress, joined to the Executive branch efforts, has done extensive debugging existing regulatory framework, purged around 2,000 outdated or unnecessary regulations, which allow greater transparency and predictability of the regulatory framework in Peru.

Alongside the consultation mechanism of the Peruvian government has supplemented these efforts administrative simplification programs implemented at all levels of government. This was done through administrative regulations purification, reorganization of internal processes of public institutions, transparency of administrative procedures. The enactment and design methodologies for the costing of services, reorganization of functions are allowing these efforts will translate into improvements in the Doing Business indicators World Bank.

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

Some examples of success in regulatory reform might be the following:

## Regulatory Reform

- The government has promoted several reforms to improve the regulatory environment for businesses. One example is the enactment of the Legislative Decree N° 1029 – “Law that modifies the General Administrative Procedure”. The main objectives of this new norm are to simplify requirements, eliminate bureaucratic obstacles and give speed to several procedures between the citizens and the State. In addition, in 2010, the

government enacted the Law N° 29566 – “Law that modifies different requirements to improve the climate of investment and to facilitate the compliance of tax obligations”, which introduced reforms to simplify procedures to start a new business, deal with construction permits, register property and pay taxes.

- In order to promote competitiveness of Peruvian exports, the government enacted the Legislative Decree N° 1053 – “General Customs Law”. It aims to facilitate international trade through the simplification and speed up of different customs procedures. It is expected that this law will help firms to take advantage of all the commercial agreements signed by with different economies such as the United States of America and China.
- In 2008, the government passed the Legislative Decree N° 1012 – “Law of private and public associations”. This norm provides a new framework of public participation in companies originally in the private sector. It is expected that this norm will: increase private investments in areas such as public infrastructure and public services provision, create new job opportunities and increase the competitiveness of firms in different regions of the economy.
- Also, in 2008, the government passed the Legislative Decree N° 1012 – Procurement and government Contract Law. This norm aims to promote competitiveness of private firms that sign public contracts and maximize the value of taxpayers’ money. It is expected that this new framework will help public agencies to buy goods and services under better conditions of price and quality.

### **Competition Policy**

- The Executive Branch has done improvements to the legal framework that regulates market competition. In the 2008, the government passed the Legislative Decree N° 1034 – Repression for Anticompetitive Practices Law, which main goal is to promote economic efficiency as a mechanism to reach consumer’s welfare. This norm constitutes a modern framework to sanction anticompetitive practices and the abuse of dominant position.
- The government has also done important reforms to guarantee consumer’s rights. In 2010, the Congress has enacted the Consumer’s Code (Law N° 29571) that compiles the main regulations on this subject and, at the same time, introduces new regulations to reduce asymmetric information between consumers and producers and remove any practices that can violate consumer’s rights.
- Finally, to guarantee that competition and pro-consumers policies will be respected by producers and consumers, the government has promoted and institutional reform of the National Institute for the Defense of Competition and the Protection of Intellectual Property (INDECOPI). This reform was done with the enactment of the Legislative Decree N° 1033 – “Law on Organization and Functions of the National Institute for the Defense of Competition and Protection of Intellectual Property – INDECOPI”. It is expected that this law will help INDECOPI to improve their capacity to comply its functions in a more efficient way.

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

Perú's last five years experience in structural reforms shows that the success in reform requires the commitment and willingness of both government and private sector. The involvement of all relevant actors in the decision making processes depends on the transparent communication tools and the appropriate institutional and legal frameworks should. With those elements permits the balanced and efficient reforms that boost competitiveness of the economy.

Another key aspect to the success of a structural reform initiative is a thorough, transparent and wide-ranging consultation process that includes all stakeholders. In Perú's experience on Customs, Government Procurement and PPP regulations design the consultation of those provide legitimacy, buy-in and ownership to the reform process.

The coordination in design, drafting and implementation of reforms is crucial for the success of the policy. In Perú's experience the Ministerial Commission is a good practice to coordinate policies and reforms, in 2008 the CIIACE, a special commission to implement the recent FTAs, design, coordinate, draft and enact regulations. This mechanism reduces the transaction cost of the policy and reform implementation, and contributes to assess the impact of new regulations.

One challenge that Peruvian government faced in the implementation of structural reform is to change the "culture" of the public service from passive role (implementer) to active role (facilitator, problem-driven implementer). In addition to this new role, Public Sector activities will focus on continue create a good environment for doing business through continuous and systematic monitoring to ensure effectiveness of the reform initiatives. The change of "business as usual" criteria in the public sector is the main challenge for the Peruvian government for next years.

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

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

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

APEC could take advantage of its leadership in the promotion of dialogue between economies and continues to be a platform for promoting structural reform in the region. Among the initiatives that can be considered by APEC may include the elaboration an inventory of good practices of structural reform and the support for more capacity building activities and fostering collaborations with other APEC economies and other foras.

# The Philippines

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

The potential for rapid growth from successful reform is illustrated by the experience of deregulating telecommunications in the 1990s, which not only transformed the industry from single operator dominance to one of competition dynamism and vastly improved service. It has paved the way for vital investments in telecommunications infrastructure, and facilitated the growth of broadband services; e-commerce; e-business; and, offshoring and outsourcing. The offshoring and outsourcing industry has become a significant contributor to economic growth, in terms of services exports and employment. The growth of the BPO industry also spurred the rise of private construction, as it increased demand for office spaces, and fostered the growth of IT hubs in other major cities.

Meanwhile, airport development and the liberalized air transport environment promoted domestic and international travel, with competition encouraging the growth of budget airlines offering cheaper airfares. This led to the development of regional centers and domestic tourism.

The last five years also saw significant reforms in the transport sector, as the government pushed for the development of the nautical highway system and the Roll-On Roll-Off Terminal System (RRTS), the various domestic and international airports, and the rail transport system. This has resulted in significant reductions of transportation costs and travel time. The RORO, in particular, facilitated trade especially for products from Mindanao and the Visayas to reach Luzon, particularly Metro Manila, increased tourism destination access and also increased access for social services.

Laws increasing excise taxes on tobacco and liquor products and establishing a system of rewards and penalties in revenue collection agencies and the expanded value added tax (which reduced the VAT exemption and increased the VAT rate from 10 percent to 12 percent) has helped to increase revenue generation and restore fiscal stability.

A December 2004 Supreme Court decision upheld the constitutionality by the 1995 Mining Act, thereby allowing up to 100 percent of foreign owned companies to invest in large scale exploration, development and utilization of minerals, oil and gas. Although world metal prices continue to fluctuate, this landmark development is seen to make a reality the tapping of the vast mineral reserves of the Philippines when needed, for the exports market and domestic industries; and bring in the expertise and investments from local and foreign investors.

The government is also pushing for energy independence, with the attainment of energy self-sufficiency level of 60 percent by 2010 and beyond, through the increased use of renewable, alternative, and fuel blends in the energy mix. This includes the development of hydropower, wind power, biomass, solar power, geothermal wave, and tidal energy technologies. In 2007, RA 9367 or the Biofuels Law was enacted, requiring blends of biodiesel and bioethanol in diesel and gasoline, respectively. This is expected to ease the pressure and external shocks due

to petroleum price fluctuations, and fulfil RP's efforts in clean development mechanism (CDM).

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

Reforms to strengthen the financial infrastructure have been implemented. These include aligning domestic banking standards with international best practices to strengthen regulation and supervision of the banking system prescribed under the General Banking Act of 2002. The implementation of the Special Purpose Vehicle Act of 2003 has improved the asset quality of banks and has reduced the problem of assets of the banking system. A credit information system was likewise established to improve the overall availability of credit especially to micro, small and medium-scale enterprises, and provide mechanisms to make credit more cost-effective and reduce the excessive dependence on collateral to secure credit facilities (Republic Act 9510, 2008).

The Securities Regulation Code, meanwhile, prescribed mandatory tender offers, defined listing rules, provided prohibition on insider trading and separation of broker and dealer functions to prevent the exploitation of investors through the sale of unsound or fraudulent securities. A Pre-Need Code was established (RA 9829) in December 2009 to protect plan holders and ensure the viability of the industry. Moreover, a legal and regulatory framework was created to govern real estate investment trust (Republic Act 9856, 2009).

Together with the government procurement law, which redefined procedures in government purchasing, a government Electronic Procurement System has been implemented to create greater transparency, accountability, efficiency and equal opportunity.

The government has also enacted laws designed to curb corruption such as the Anti-Red Tape Act (enacted in 2007). The law aims to improve efficiency in the delivery of government service to the public by reducing bureaucratic red tape, preventing graft and corruption and providing penalties for those caught violating the law.

The regulatory capacity of the Bureau of Food and Drugs (now known as Food and Drug Administration) has been strengthened and rationalized with the enactment of RA 9711 in August 2009. The law provides among others, the establishment of adequate testing laboratories and field offices and upgrading its resource complement.

Documentation procedures have been simplified and export clearances and fees eliminated (Executive Order 554, 2006). In 2009, RA 9853, amending the Customs Brokers Act of 1994 (RA No. 9280) was signed into law. RA No. 9853 amends sections concerning further reduction of procedures, which could lower transaction costs.

*Sources:* Office of the President website for the specific laws: [http://www.neda.gov.ph/plans and reports/MTPDP/Updated MTPDP%202004%20to%202010.pdf](http://www.neda.gov.ph/plans_and_reports/MTPDP/Updated_MTPDP%202004%20to%202010.pdf)

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

Leadership has foremost role in making credible development results that translate to lowering of uncertainties (government, business, consumer confidence) and poverty. Improving confidence in governance is top leadership issue especially in light of recent reports placing the Philippines in a precarious position in its perceived anti-corruption efforts. Such governance means consistent policy stance, improved government procedures, minimized regulatory capture and credible anti-corruption measures. Following the global crisis and apparent recovery, effective fiscal management through careful stimulus package exit strategies, tax revenue improvements and containing deficits are current governance challenges.

The government's communications strategy could complement its notable accomplishments through effective advocacy to make known to stakeholders and beneficiaries, what programs and projects are implemented. Seriously taking stakeholders' needs and suggestions, feedback mechanism, criticism management and proactively doing something to international perceptions surveys (e.g. competitiveness, ease of doing business, corruptions perceptions rankings) are examples of a good communications strategies where RP could do more.

Consultation process to effect reforms should go beyond mere consultation steps but through the higher stage of partnership and cooperation. Clear public-private partnership (PPP) is crucial. A case in point on partnership is the formation of the National Competitiveness Council (NCC)<sup>22</sup> in October 2006 as a Public-Private Task Force on Philippine Competitiveness through Executive Order (EO) No. 571, to address the improvement of the economy's competitiveness from the bottom third of competitiveness rankings to the top third by 2010.

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

The economy performed strongly, reaching a 7.1 percent growth in 2007. However, the global rise in commodity prices in 2008, and the global crisis in 2009 undermined gains in previous years, and the economy posted slower growths. Still, communications and business services showed significant improvement in the performance.

From 2005 to 2007, inflows of direct investments to the Philippines were growing briskly on account of several reforms implemented at the onset of the new administration in 2004. Approved investments for that period grew at an average rate of 22 percent, peaking at 54 percent in 2006. Likewise, foreign direct investments (FDI) and net foreign portfolio investments (FPI), as reported in the balance of payments, posted continuous net inflows during the same period. The economy also sustained the net inflow of FDIs in 2008 and 2009, albeit the steep decline of the global economy.

<sup>22</sup> Available in <http://www.dti.gov.ph/dti/index.php?p=483> (last accessed 23 March 2010).

**Table 5. Foreign direct investments (FDI) and net foreign portfolio investments (FPI) in the Philippines**

Year	Approved FDI (billion PhP)	Net FDI (billion US\$)	Net FPI (billion US\$)
2005	231.2	1.9	3.6
2006	357.0	2.9	4.6
2007	385.8	2.9	3.8
2008	182.7	1.5	-4.4
2009	121.8	1.9	1.8

Sources: Updated MTPDP 2004-2010, NSCB, BSP

Note: Net FPI for 2009 is for January-September only.

The improving trend may be partially attributed to the positive effects of different reforms instituted in the past years. In general, the more robust ability of the economy to attract investments from abroad may be broadly traced to the “relative strength of the economy’s underlying macroeconomic fundamentals and economic growth showing resilience amidst the strength in domestic demand”<sup>23</sup>. Moreover, “the positive performance could be attributed to the favorable investment climate during the period with investors citing improved fiscal performance”<sup>24</sup>.

However, there are still lots of rooms for improvement as the Philippines still ranks low in terms of the ease of doing business. From 2008 to 2009, the economy’s rank based on the World Bank-led study further slid to 144 from 141, with particularly low ranks in such aspects as starting a business, getting credit, protecting investors, and closing a business.

On the other hand, if not for the collapse of world trade in late 2008 up to 2009, the economy’s trade performance would have sustained the robust growth demonstrated in the previous years. Between 2005 and 2007, exports and imports of goods and services, increased at an average growth of 12 percent and 9 percent, respectively. In 2006, after consecutive years of trade-in-services deficit, the economy turned into a net service exporter, on account of the surge in receipts from travel and business services. Against the background of the weak global economy in the past two years, trade in services continued to buoy the economy’s external account position, with exports and imports of services staying relatively resilient compared to cross-border transactions involving merchandises. The relative strength of the services sector may be attributed to the intensified government and industry efforts to promote tourism in the Philippines, policies and programs supporting the business services sector (e.g., contact centers), and the competitiveness of human resources in the outsourcing industry. For merchandise trade, the pre-crisis years witnessed continuous growth of electronic exports. Emerging growth drivers like petroleum and mineral products also helped accelerate the rise of exports. Explicit government policies on promoting electronic exports (e.g., privileges in special economic zones and in customs), and more liberal rules on mining operations in the economy (e.g., the affirmation constitutionality of the Mining Act of 1995) supported the robust growth of said commodities. Continuous efforts to improve customs procedures also contributed to the easier facilitation of trading activities.

<sup>23</sup> <http://www.bsp.gov.ph/publications/media.asp?id=2282>

<sup>24</sup> Updated MTPDP 2004-2010

**Table 6. Exports and imports of goods and services in the Philippines**

Year	Exports of Goods and Services (billion US\$)	Growth	Imports of Goods and Services (billion US\$)	Growth
2005	44.8	4.6	53.9	7.2
2006	53.0	18.3	59.6	10.5
2007	59.3	11.9	65.4	9.8
2008	58.4	-1.4	69.9	6.9
2009	33.8	-26.4	39.5	-29.0

Source: BSP

Note: Exports and imports for 2009 are for January - September only.

Recent moves to improve customs procedure have a positive impact on the competitiveness of the economy's trade logistics system. The Philippines' global ranking based on the World Bank's Logistics Performance Index (LPI) improved from 65 (2007) to 44 (2010). The economy's scores in all aspects, namely customs (efficiency of clearance process), infrastructure (quality of trade and transport related infrastructure), international shipments (ease of arranging competitively-priced shipments), logistic competence (quality of logistic services), tracking and tracing (of consignments), and timeliness (in reaching destination within the scheduled or expected time delivery), improved.

**Table 7. The Philippines' global ranking on Logistics Performance Index (LPI)**

	Gobal LPI Ranking	LPI	Customs	Infrastructure	International shipments	Logistics competence	Tracking and tracing	Timeliness
2010	44	3.14	2.67	2.57	3.4	2.95	3.29	3.83
2011	65	2.69	2.64	2.26	2.77	2.65	2.65	3.14

Source: World Bank

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

By and large, APEC should continue initiatives it has started on structural reform. Further, it should continue to adopt best practices of other institutions, such as the OECD to achieve the LAISR goals.

APEC could complement the global surveillance work of organizations like the IMF, to anticipate crises, bubbles and other negative externalities. Maintenance of a good APEC information and database infrastructure is key.



# The Russian Federation

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

There was significant progress in the sphere of competition policy, legislation and enforcement for the last five years. Changes in the competition law provided for the basic trends in competition development.

The Federal Law “On Protection of Competition” (hereinafter referred to as the Law on protection of competition) came into force on 26 October 2006. It incorporated two pre-existed laws: the Law of the RSFSR (1991) “On Competition and Limitation of Monopolistic Activity in Commodities Markets” and the Federal Law (1999) “On Protection of Competition in Financial Services Markets”.

Although the Law on protection of competition introduced some new tools, changed some key notions, judicial and procedure instruments, the necessity to react on the changing situation in competition policy and enforcement in Russia required introduction of further amendments to the Russian competition legislation.

A year-long process of agreeing on the wordings of the amendments resulted in adoption by the President of the so-called “second antimonopoly package” – three Federal Laws amending the Law on protection of competition (2006) and some other Laws and containing about 150 amendments aimed to strengthen the control over competition law observance and at the same time promote steady economic development, transparent mechanisms of public procurement and more successful implementation of anti-corruption measures.

Taking into consideration amendments introduced to the Russian competition legislation from 2006 till 2009 the present competition legislation contains many significant achievements:

- extraterritorial principle of competition enforcement was extended;
- collective dominance was introduced; natural monopolies are *a priori* dominant; companies with market share less than 35 percent can be admitted as dominant provided they significantly impact market;
- administrative burden on economic entities was reduced (now only 10 percent of companies fall under the FAS Russia control compared to 90 percent before that; thresholds of assets merger review were considerably increased from 3 billion rubles to 7 billion rubles);
- antimonopoly control procedures were defined in detail;
- the list of agreements prohibited “per se” was shortened;
- the rule of reason was introduced with regard to certain actions and agreements; block exemptions were introduced;

- powers of the competition authority, including when conducting inspections were detailed;
- requirements to the general rules on non-discriminatory access to the infrastructure of natural monopolies were set, basing on which the sectoral rules are to be elaborated;
- other specific provisions aimed at competition development.

Moreover the administrative and criminal liability for violation of competition law was toughened:

- size of fines was considerably increased;
- turnover fines from 1 to 15 percent were introduced;
- disqualification for officials was introduced;
- imprisonment for up to seven years is now a reality;
- leniency program with detailed procedure was introduced as well.

All these measures, on the one hand, provided the competition authority with more powers to reveal infringement of competition law and to bring the violators to liability, and on the other hand deterred the potential violators to refrain from infringement. Moreover extensive advocacy resulted in gaining much support for competition principles introductions and implementation in various sectors both by the government of the Russian Federation and by the business community, academicians and civil society institutions.

All the above described changes provided for more effective competition enforcement practice. For instance, the number of initiated cases on anti-cartel enforcement raised in 2008 by 52.5 percent compared to 2007 (183 cases in 2008 against 120 cases in 2007). The size of fines on cartel infringement made up about US\$170,000 in 2007, more than US\$54 million in 2008, and already US\$28 million in the first half of 2009.

Moreover the on-going reforms of natural monopolies aim at provision of shift away from the state price-setting regulation and financial policy in this sphere, which became obsolete, to the market mechanisms of ensuring competition and balancing interests of producers and consumers through regulation of access at any point in the integrated process of provision of natural monopoly goods and services where the natural monopoly limits it and where access is necessary to develop competition.

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

The day to day regulation of natural monopolies and the elaboration of plans for structural reform are an important part of the work of the Russian competition authority. There were conducted a number of pro-competitive reforms of natural monopolies in such sectors, as power energy, telecommunications, railway, public utilities, airport services sectors.

One of the most successful examples of such structural reforms was the reform of power energy sector. Its main idea was to increase the effectiveness of the sector enterprises, to create conditions for its development basing on investment stimulation and to provide reliable and no-break power for consumers.

Therefore the power energy system in Russia faced radical changes, in particular the system of sector state regulation was changed, the competitive market of power energy is being formed, new companies are being created.

The structure of sector is being changed during the reform: a separation of natural monopoly (transmission of power energy, operative-dispatch administration) and potentially competitive (production and sale of power energy, repair and service) functions is being executed, and the new structure specializing on certain types of activity are being formed instead of the vertically-integrated companies that executed all those functions.

The power energy sector reform was completed in 2008 by completing structural modifications and reorganization of the RAO "UES Russia" (United Energy Systems of Russia - the monopolist in power energy sector of Russia). During the next three years wholesale and retail market will operate under the transition rules, envisaging step-by-step market liberalization keeping tariff regulation under power energy transmission to citizens and types of consumers that are considered as citizens.

Presently the structure of generating companies created on the assets of RAO "UES Russia" is fully completed.

All transactions on creation of generating companies and stock sale were executed under the FAS Russia control according to the Law on protection of competition.

The generating companies are formed under the exterritorial sign taking into consideration the necessity to restrict market power of OGK (generating company of wholesale market) and TGK (territorial generating company) so that each of them will not be able to influence wholesale power energy market prices. This configuration of the generating companies had an independent expertise and on the whole is recognized as permissible from the perspective of creating conditions for real competition development on the wholesale market.

Thus the conditions for development of competitive power energy market were created, where the prices are not regulated by the state and are being formed due to the demand and supply and its participants compete reducing their costs.

Moreover the FAS Russia provides the control over observance of prohibition set forth the in the Federal Law No.36-FZ of 26 March 2003 to simultaneously have property for transmitting power energy and operative-dispatch administration and property for production and purchase and sale of power energy.

Reform of natural monopolies is ultimately aimed at providing the consumer with the right to select the supplier of the relevant services that will promote price growth constraint and establish quality standards for service rendering.

Examples of other actions undertaken in order to ensure competition development:  
<http://fas.gov.ru/english/decisions/15841.shtml>

<http://fas.gov.ru/english/decisions/22405.shtml>

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

There are several factors that contributed to success of various reforms. Firstly this is effective advocacy that provides for social and political understanding of the necessity of the reform. Regular joint discussions with the representatives of business community, civil society institutions and sectoral experts within the frameworks of various consultation and expert councils provide for transparent mechanism of elaboration of relevant regulations.

Secondly this is the support by the government of the Russian Federation. Without a strong political will it would have been much harder to overcome lobby by stakeholders. For instance during the last 4 years reform of competition policy and enforcement has gone at a rapid speed due to the respective support of the President and Prime Minister of the Russian Federation.

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

Review of macro-economic indicators that reflect the rate of competition environment in the Russian economy and the respective interview of entrepreneurs testify that competition is a significant factor for economic activity.

The significant growth of the number of foreign companies that entered the various Russian markets since 2004 shows the high level of market openness and minor number of barriers in order to ensure stable competition.

For instance enter to the Russian power energy market of such foreign companies as Fortum, E.On, Enel was a result of the main goal of the reform – attraction of investments. Before the reform there was only one company working in power energy sectors, now there are 21 OGK and 14 TGK successfully working in this sector.

Moreover the new amendment to the competition legislation provided for further reduction of administrative barriers for economic activity. For instance, thresholds of assets for merger review were increased from US\$120 million to US\$280 million, notifications for mergers within one group of persons was made informative.

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

The first option is to enhance sharing of best practices. An opportunity to learn about potential problems and their solutions in advance can prevent from unnecessary mistakes and loss of time.

The second option is to elaborate certain recommendations on various aspects of structural reform basing on the APEC members experience.

# Singapore

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

Regulatory reforms have evolved to meet the needs of businesses and create a more conducive business environment for our enterprises. Singapore has made significant progress in all five areas under LAISR2010: Competition Policy, Regulatory Reform, Corporate Governance, Public Sector Management, and Strengthening Economic Legal Infrastructure.

- (1) Competition policy: The **Competition Commission of Singapore (CCS)**, an independent and transparent investigative body, was established in 2005 to maintain competitive markets in sectors which were previously unregulated and have now been included in our Competition Act. Singapore previously only had regulatory bodies that ensured competition in sectors which tended to have natural monopolies (e.g. telecoms, rail transport, etc.). An example of CCS's work in maintaining fair competition is the recent \$1.69 million fine on 16 coach operators and association for price-fixing in 2009. Besides this, CCS also issued a new set of guidelines on "Competition Impact Assessment for government Agencies" last year, bringing the current total to 13 (for the full set of guidelines, please refer to the website: <http://www.ccs.gov.sg/Guidelines/index.html>). These guidelines provide advice for businesses and contribute to fairer and more competitive business climate for enterprises.
- (2) Regulatory reform: The **Smart Regulation Committee (SRC)** replaced the Rules Review Panel (RRP) in 2005. Its primary function is to develop a regulatory regime that is friendly to business and investment by reducing the cost and burden of regulation on stakeholders (i.e. citizens and businesses) while safeguarding and maximizing public interest and creating a competitive and innovative business environment. It promotes a more consultative regulatory style and works closely with the private sector, such as the Action Community for Entrepreneurship (ACE) movement. This improves the quality of government regulations and removes outdated or unnecessary regulations. Agencies are encouraged to carry out regular regulatory reviews to continually improve the quality of our regulations. Agencies that did well are invited to share their practices with other government agencies which created a positive reinforcing loop.
- (3) Corporate governance: The **Council for Corporate Disclosure and Governance (CCDG)** was subsumed under the Accounting Standards Committee (ASC) in 2007 to strengthen credibility and transparency in financial reporting. It sets legal requirements for companies to comply with accounting standards which encourages enterprises to be fiscally responsible and accountable to its shareholders.
- (4) Public sector management: The **Public Service Division (PSD)** manages the talent pool in the public service. PSD launched the Public Service for the 21st Century (PS21) movement in 1995 to promote an attitude of change-readiness within the Public Service. Initiatives implemented under PS21 includes its emblematic project, *The Enterprise Challenge (TEC)*, a central fund for trial-testing innovative and promising projects which are "experimental"

in nature; and the *ExCEL* (Excellence Through Continuous Learning and Enterprise) initiative which looks into harnessing the creativity and diversity of the Public Service, reinforcing the spirit of continuous improvement, innovation, and learning as part of our officers' life. New ideas or suggestions can be made through two channels: Work Improvement Teams (WITS) and Staff Suggestion Scheme (SSS). A tangible outcome is an attitude of service excellence as a way of life and PS21 serves as a reminder to Public Service employees' core purposes which is to serve the public with nothing less than the highest standards of Courtesy, Accessibility, Responsiveness, and Effectiveness (i.e.: CARE). In addition, **World•Singapore**, which provides an overarching framework of new growth strategies for Singapore, was started in 2006. It is a service-wide movement that serves as an impetus to energise work in these areas by getting public officers to think globally and work as a networked government, so as to identify and seize opportunities for Singapore.

Lastly, finance prudence is important in ensuring that there are no profligacy and pork and barrel spending in the public service. The *Economy Drive* movement was initiated in May 2003 to reinforce the mindset of fiscal prudence in every public officer to stretch every public dollar. Our Ministry of Finance manages the initiative to guide public agencies to build a trim, efficient and excellent public service. The Agencies are required to review public programmes and expenditure to scale back or remove those which are less useful or cost-ineffective. Each dollar saved is then channeled into newer or more important projects so that the agencies' effectiveness is not compromised. A Value-for-Money Office has been set up to systematically examine whether government expenditures are achieving good value for money and meeting the intended outcomes. The observations and recommendations from these reviews are shared with top management as well as public sector agencies.

- (5) Strengthening economic legal infrastructure: Singapore is committed to build a strong and dynamic regime for the protection and exploitation of Intellectual Property Rights. We review our IP legislation regularly to consider changes brought about by technological developments. In 2008, we made amendments to the **Trade Marks Rules** which allows electronic communication with the trade mark agents and vice versa in relation to trade mark prosecution matters. Besides that, we are committed to issuing certificates of registration or statements of grant of protection for objection-free and opposition-free trade marks within four months from the date of national filing or within four months from the date of notification from WIPO for applications filed through the Madrid Protocol. Applicants are thus granted rights expeditiously where possible.

To raise awareness about IPR, IPOS educates the general public through its **HIP Alliance** initiative via broad-based advertising and collaborations with like-minded partners to encourage the public to respect IP. Collaborations include partnering with the Motion Picture Association (Singapore Office) to launch an anti-piracy trailer in April 2008 and organizing an anti-piracy trailer contest among pre-tertiary students in 2009. In addition, the **Intellectual Property Education and Resource Centre** (IPERC) is a training facility cum resource library designed to meet the information and training needs of users of all levels, such as the *Knowledge Kaleidoscope* for businesses which features a series of IP management factsheets that provides businesses with an insight into the many facets of their intellectual assets and helps businesses to better incorporate intellectual property in their overall business strategy to help improve their competitiveness and strategic advantage.

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

**(1) Pro-Enterprise Panel (PEP):** <http://www.ace.sg/site/Page.aspx?id=D2D859B3-0ACF-4A43-818F-D02C0F7C17B2>

Lessons learnt:

PEP's vision of sustainable economic growth through the cultivation of a pro-enterprise environment has not only allowed businesses to be innovative and to seize opportunities timely, but allowed the government to re-invent itself effectively. The key lesson is that participation from all levels of the government and the private sector is critical. The pro-enterprise movement has been successfully driven from the top by public sector leaders and business leaders. Within the Public Service, the PEP had to manage concerns faced by individual agencies. For some agencies, the nature of their regulatory activities and overarching priorities (e.g. security) makes it more difficult for them to be pro-enterprise. To secure buy-in from these agencies, the PEP had to manage their specific concerns. Where possible, the commitment from their senior management was secured to ensure effective review throughout the agency. The active commitment of the business leader volunteers is also crucial for the PEP. Business leaders do not simply champion the suggestions put up by businesses as a matter of course. There have been cases where they have defended the need to regulate certain activities, in the interest of public good. These business leaders help the rest of the business community realise that there is a need to maintain a balance between the need to regulate certain activities with the interests of businesses. Together with their Public Service counterparts, they know that it is not just about eliminating rules, but finding an optimal balance that avoids both over-regulation and under-regulation. And together, they work towards a win-win approach, which ensures the interests of both businesses and the general public are taken care of. This win-win approach has led to a policy to regulate only critical aspects smartly, and the removal of many unnecessary regulations, making Singapore the most pro-enterprise economy in the world. However, the effort cannot stop. With many agencies already adopting a pro-enterprise mindset, the PEP is focusing its effort on cross-agency issues and ensuring that the lead agency approach (where one agency takes the lead to push forward efforts to improve a cluster of regulations which are overseen by a group of agencies) takes root. It has also started seconding officers from "lower ranking" agencies in the Pro-Enterprise Ranking survey to be actively involved in the PEP, so that these officers can share and impart the pro-enterprise mindset when they return to their agencies. By enhancing Singapore's economic edge through welcoming diversity and enterprise, its ultimate contribution is in helping Singapore thrive as a nation of people connected and working together.

**(2) Competition Commission of Singapore (CCS):** <http://www.ccs.gov.sg/>

Lessons learnt:

Engaging the public as a stakeholder who can help to keep a lookout for uncompetitive behaviour in Singapore is an important component of CCS' regulatory efforts in ensuring that our economy remains competitive and fair. Complaints are useful in providing the CCS with information on potential anti-competitive activities in Singapore. The public can lodge complains with regard to a suspected breach of any of the three prohibitions under the Competition Act through the Complaint Forms. There are two types of complaint forms – the General Complaint Form (for complaints relating to anti-competitive agreements and abuse of dominance) and the Mergers Complaint Form (for complaints relating to mergers that will, if

carried into effect, infringe, or which have infringed, the prohibition against mergers which substantially lessen competition). Both Forms provide guidance on the information the complainer will need to submit to assist the CCS in an adequate assessment of the complaint. Forms can be submitted through email, post or fax. One example is the case against the Express Bus Agencies Association (EBAA). CCS issued a Proposed Infringement Decision (PID) against the EBAA and 16 companies for fixing the prices of express bus tickets from Singapore to various destinations in Malaysia from 2006 to 2008 on June 2009. Publicised cases like these act as a powerful deterrent against anti-competitive behaviour, and results in more choices for consumers and improves overall society welfare.

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

- (1) Agencies have learned the **importance of public consultation** with pre-policy consultation exercises such as: focus groups, surveys, feedback forms, forums, telephones, forms and consultation paper channels. This helps agencies to focus on areas of priorities and meet performance targets that meet the needs of businesses and key stakeholders. As the various industries grow and become more complicated, it is imperative that regulators collaborate with private sector specialists and professionals to draw up effective and beneficial regulations. Engaging stakeholders also helps ensure that regulation is effective in helping its intended beneficiaries and encourage deeper engagement with the business community. These all serve to support our regulatory reform agenda.
- (2) Committees and councils act as valuable and **competent institutional bodies** which direct and facilitate regulatory reforms. It is one of the key ways Singapore implements its reforms, which was why we introduced the Whole-of-Government (WOG) approach towards dealing with cross-agency issues to ensure that the concerns of all stakeholders will be taken into account as much as possible.
- (3) **Flexibility** ensures that we are not tied down to specific models of reform and allows us to adapt a reform based on local dynamics. Some regulations can be relatively blunt but useful for most generic cases but there may be circumstances where there is a need to make an exception.
- (4) **Consistency** in the form of "policy consistency", particularly consistency between at-the-border and behind-the-border measures and treatment of domestic and foreign firms, has ensured that no "regulatory arbitrage" exists (i.e., there are no loop holes in another area when one area seeks to close it). This also ensures that there is ownership of particular issues and lead agencies are systematically identified at the onset to provide leadership and coordination which helps to break down agency silos.
- (5) A **market-driven culture and public consultation** changes the orientation of civil servants by making changes become a market-driven process. This helps to address cultural attitudes within the civil service.
- (6) **Accessibility** encourages stakeholders to submit their feedback which facilitates and improve regulations. For example, any business can make a submission to the PEP online. Hence the issues that the PEP handles cover both larger and small enterprises. The government response is then documented online and is available for public review.



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

Several initiatives such as the Smart Regulation Committee (SRC), Pro-Enterprise Panel (PEP), and Zero-In-Process (ZIP) help the Singapore Public Service to find many ways to improve its regulations by simplifying, dropping or relaxing rules.

Since PEP's inception, it has received over 1,800 suggestions and more than half of the suggestions received have resulted in pro-enterprise changes. Through the PEP, public agencies have acquired a better understanding of business needs. Some examples of suggestions from the business community which have been nominated and awarded the Excellence in Public Suggestions Award (EPSA) are the *Qualifying Ex-offenders for SEEDS Funding* (EPSA 2006) where ex-offenders are now given a second chance and can qualify for Start-up Enterprise Development Scheme (SEEDS) funding and this change has brought our incentives in line with the "Yellow Ribbon Project" goals of inspiring community action to support rehabilitation and reintegration of ex-offenders; *Remove MES requirement for small traders to submit audited financial accounts* (EPSA 2005) where business cost has been reduced for Major Exporter Scheme (MES) applications so the need for annual audited accounts has been dispensed which lowers business costs substantially; and the *Halal certification for health product* (EPSA 2005) where manufacturers of pharmaceutical products are now able to get Halal certification in Singapore. Other instance of PEP's good work includes *Reducing multiple licenses to one-year license* for clinical diagnostics companies. Previously, clinical diagnostics companies had to apply for a permit for every consignment of diagnostic kit that is imported or exported, but with the rule change, they only need to apply for a one-year permit which saves businesses substantial time and manpower costs. Another example is *Allowing an employment agency to extend the security bonds*. Previously, an employment agency would need to produce a security bond each time it renewed its license. With the rule change, agencies are allowed to extend existing security bonds upon license renewal, leading to yearly savings of S\$70,000 (US\$52,000). In total, the cost savings of the rules reviewed thus far is estimated at more than S\$50 million.

ZIP addresses issues raised by the public that cut across multiple agencies or have no clear ownership by any government department. A lead agency would be appointed to drive the matter to its resolution. Since 2000, more than 110 cases have been identified, with 22 inter-agency teams formed to resolve the more complex cases.

The **Pro-Enterprise Ranking (PER)** ranks the government agencies on their compliance cost, transparency, review of rules, customer responsiveness and pro-enterprise orientation, and identifies key areas of improvement requiring actions across the public service. It raises the bar across the board for all regulatory agencies in a peer-pressure exercise to spur each other to make continuous improvements. The overall performance index has improved significantly from 64.7 in 2004 to 74.6 in 2008.

Based on the World Bank Study on the quantitative impact of the EoDB indicators, trade and investment flows are likely to improve in Singapore, brought about by improvements in the EoDB rankings.

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

The work that APEC has done thus far is a stepping stone towards the APEC's **Inclusive Growth** agenda. Consistent with the Inclusive Growth agenda, Singapore is supportive of initiatives by both the public sector and private sector to hire aged workers; and Singapore's decision to push back the retirement age to 65 in 2012 will encourage higher job participation amongst the older workers.

Initiatives under the Competition Policy, Regulatory Reforms, and Strengthening Economic Legal Infrastructure will help to promote SMEs, which is an important component of the Inclusive Growth agenda. For instance, a robust Competition Policy will encourage competition and liberalise previously monopolistic markets (such as Singapore's postal services illustration). This lowers barriers to entry and provides a legal platform for smaller companies to seek redress when larger companies behave in a manner which compromises market competition. Lastly, initiatives to improve regulatory reform will make it less onerous for SMEs, such as PEP's work on reducing multiple licenses to one-year license for clinical diagnostics companies which cuts substantial time and manpower costs for businesses. In addition, these initiatives can complement APEC's **Ease of Doing Business** agenda vis-à-vis reforms such as cutting down the number of procedures, time, and cost of starting a business and etc.

# Chinese Taipei

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

Chinese Taipei has made significance progress in the following areas for SR:

In the area of Regulatory Reform, Chinese Taipei embarked on institutional reform early in the mid-1980s. During the subsequent period, the government revised the Securities and Exchange Act and adopted a new labour retirement pension system, substantially improving the efficiency of its capital and labour markets. Since 2008, Chinese Taipei has designated deregulation as a key task of legal reform. The government has set up a rolling deregulation mechanism, operating on a two-way bottom-up and top-down basis, aimed at loosening and rationally adjusting inappropriately restrictive measures. As of September 2009, Chinese Taipei had completed 385 items of deregulation concerning financial and economic matters. These included: opening Chinese Taipei to investment from mainland China; easing entry and exit restrictions for foreign nationals; lowering taxes on estate, gift, commodity, business income, and individual income; allowing Hong Kong ETFs to be listed in Chinese Taipei; cancelling the minimum capital requirement for company registration; and abolishing the uniform certification system for profit-seeking enterprises.

In the area of Public Sector Governance, Chinese Taipei has been actively promoting public sector governance and achieved significant results in terms of increasing government efficiency, public participation, and government transparency. Specific practices include: (1) Continuously promoting government reform, and enhancing a horizontal and vertical coordination and integration to strengthen our government's strategic thinking capabilities and efficiency; (2) Toward increasing public participation, our executive agencies not only conduct studies on public participation mechanisms and promote citizen conferences, but also use public opinion surveys, online interactive platforms and other channels in order to understand public opinions while establishing major policies; (3) The government is committed to creating a government information disclosure platform so as to increase information transparency. The Freedom of Government Information Law was promulgated in 2005, stipulating that all government administration plans, budget and final account reports, function statistics, research reports, procurement contracts, and other information about government functions be disclosed. Our government accepts public applications for such information and provides relevant documents in accordance with laws and regulations, in order to achieve the goal of a transparent government.

Competition policies and laws are an important element of economic reforms in Chinese Taipei with its increasing emphasis on market-driven mechanisms. To achieve the goal of enhancing economic efficiency and consumer welfare, Chinese Taipei has adopted different approaches, which includes vigorous enforcement of competition laws and regulations, introducing the "OECD Competition Assessment Toolkit" so as to assist government agencies in evaluating the competition impact within laws and regulations, issuing enforcement guidelines for particular industries or sectors (e.g. Guidelines on Handling Merger Filings in 2006) so as to establish transparent and predictable standards and encourage law compliance as well.

In the area of Corporate Governance, in order to promote operations and management of the security investment trust and consulting industry, improve the market integration of assets management, and protect investors' interests, the Securities Investment Trust and Consulting Act and its relevant rules were enacted and went into effect on November 1, 2004. Also, to be in line with the international standards and to improve the quality of CPA practices, a comprehensive amendment to the Certified Public Accountant Act (CPA Act) was promulgated and went into effect on December 28, 2007. The key points of the amendments include: allowing the establishment of the CPA firm with the status of a legal person; introducing the CPA professional indemnity insurance; enhancing the self-disciplinary function of the CPA profession; strengthening the CPA independence; and improving the supervision of CPA firms.

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

In the area of Regulatory Reform, to create a friendly business-operating environment, Chinese Taipei has been putting great efforts into economic and financial deregulation, by using the World Bank's *Ease of Doing Business* report as reference for domestic reform and international comparison, and has already yielded notable results. We have worked actively to streamline administrative procedures and abolish the minimum capital requirement for setting up a business. For starting a new business, the number of the application procedures has now been reduced to just six, the time required for completion slashed to 23 days, and start-up costs cut to 3.9 percent of per capita income, significantly enhancing Chinese Taipei's ranking in the World Bank's *Doing Business 2010* report. For more details, please refer to the following website:

<http://www.cepd.gov.tw/encontent/m1.aspx?SNo=0000082&view=0>

In the area of Public Sector Governance, two successful examples are provided here. One is the construction of the Government Project Management Network (GPMnet) in 2006, which establishes a comprehensive knowledge management system for government programs covering program management, control and evaluation information disclosure, and decision support functions and represents a cornerstone for good governance. The other is the "Government Portal, My e-Gov" (<http://english.www.gov.tw>), which integrates the Internet resources of all government agencies and provide electronic forms, agency news, events, publications, online payments, tax filing and other high-quality online government services and increase public participation by developing government blogs for soliciting public opinions in all areas of public policies.

In the area of Competition Policy, to enhance public awareness Chinese Taipei has been promoting the concept of fair trade through a diverse range of channels, including promotion conferences, training courses, publishing bilingual newsletters, as well as establishing the Competition Policy Information Research Center, etc. In 2007, a three-year plan was set up to review government regulations as a whole that may be harmful to competition for the purpose of building a more proactive competition culture. Please refer to the following websites for further info:

<http://www.ftc.gov.tw/internet/english/index.aspx>

<http://www.apeccp.org.tw>

In the area of Corporate Governance, successful reforms include firstly the amendment of the Securities and Exchange Act in 2006, whose main points are (1) introducing independent directors system, (2) reinforcing the independence of directors and supervisors, (3) strengthening the responsibilities of companies' management for false financial reports, (4) emphasizing the responsibilities of the management team, and (5) improving transparency measures for information disclosure. Another example of good reform measures are the establishment of the Information Disclosure and Transparency Ranking System and Corporate Governance Framework Assessment System. The former publishes company ranking based on the latest publicly available information and the latter is to monitor the implementation of corporate governance of listed companies.

Examples of relevant websites include:

<http://www.sfi.org.tw/english/>

[http://www.sfi.org.tw/english/2008\\_Result.pdf](http://www.sfi.org.tw/english/2008_Result.pdf)

<http://www.cga.org.tw/index.php?content=english>

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

For Chinese Taipei, key factors for the success of structural reform include high-level government support and commitment, effective inter-agency coordination and implementation mechanisms, and timely communication with the stakeholders concerned.

In the area of Regulatory Reform, at a Cabinet conference convened in 2008, "deregulation and reconstruction" were presented as the main axles of mid-term policy implementation, with deregulation to serve in creating a "new platform of competitiveness." This clearly demonstrated the government's commitment to pursuing reform. In the same year, to carry out deregulation efficiently and continuously, Chinese Taipei also set up a comprehensive coordination mechanism for deregulation, which combines calls for suggestions from the public and the private sector, evaluation of deregulation suggestions, policy-making models, supervision and evaluation. In addition, to help the government enhance the economic and financial legal environment, the Council for Economic and Planning Development (CEPD) has set up a web portal on the CEPD's website, which provides a fast and convenient channel for the general public and various experts to present their suggestions on deregulation through the Internet.

In the area of Public Sector Governance, in addition to the emphasis placed by our leaders in this regard, our achievements in implementing good public governance can be attributed to the designated agency responsible for this area. The Research, Development and Evaluation Commission acts as the facilitator for implementing high-quality governance measures and continuously promotes government efficiency, public participation, government transparency and other principles of good governance. The Taiwan Public Governance Research Center and Taiwan e-Governance Research Center were also established to conduct research and international exchanges and to boost communications among stakeholders so as to enhance the quality of public governance.

In the area of Corporate Governance, via the public consultation process, we are determined to resolve various issues concerned by gathering opinions from market players, collecting information regarding regulations and practices in other economies, and working through possible pressure from opponents as well.

In the area of Competition Policy, we maintain the importance of inter-agency coordination and efficient review of laws and regulations so as to minimize potential conflicts.

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

Structural reform has helped enhance productivity and promote economic growth, and also provided needed flexibility and adjustments that could boost trade and transnational investment so as to fully tap into the benefits of trade and investment liberalization.

In recent years, Chinese Taipei has carried out a broad range of administrative reforms to lower all kinds of taxes, streamline work permit, visa and residency procedures for foreign citizens, and so on. By enabling the freer cross-border movement of capital, goods, personnel and services, these reforms have been conducive to the growth of trade and investment. Statistical data shows that Chinese Taipei's foreign trade in 2008 (US\$496 billion) was 30 percent higher than in 2005 (US\$381 billion), and that average annual inward FDI from 2006 to 2008 (US\$12.4 billion) was more than triple its level from 2003 to 2005 (US\$3.8 billion).

In particular, in the area of Competition Policy, a representative study by Dr. Gee San & Dr. Changfa Lo analyzed 1992-1998 data to assess the impact of the implementation of the Fair Trade Law on Chinese Taipei's export competitiveness and foreign direct investment (FDI). The study indicates that the annual total number of decisions with sanctions made by FTC has a significantly positive impact on the flow of FDI to Chinese Taipei and the export competitiveness as well.

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

Through the years, APEC has accumulated significant achievements in promoting structural reform. To better promote structural reform in the region, we need to look up to the valuable experiences from international organizations such as the OECD and the EU for pursuit of excellence in this regard.

In view of the various changes and challenges being brought about by the recent global financial crisis and economic slowdown, the Asia-Pacific region might have to take advantage of this opportunity to reflect on their growth strategy for the foreseeable future. The pursuit of a more balanced, sustainable and inclusive growth pattern might be the solution. We need to ponder upon this policy theme further and explore the possible policy implications so as to figure out a feasible policy framework for implementation and cooperation within the APEC. On this front, we would like to once again refer to our previous inputs to the EC Chair Office with regards to the concept of IG as well as the SOM Chair's discussion paper at SOM2 (2009/SOM2/R/004).

As for the possible post-LAISR agenda for EC, Chinese Taipei would like to suggest a consolidation among the five existing structural reform priorities and the addition of major IG policy themes as follows:

1. Better regulatory environment

This would incorporate and better integrate themes of enhancing EoDB and regulatory reform in general; reducing administrative burdens; public sector governance; corporate governance; SELI; and competition policy etc. under one single roof by emphasizing the necessary interactions and repercussions among them so as to tackle various issues in a holistic manner.

2. Major IG policy themes, falling under the two broad categories of economic restructuring and social resilience, to be determined collectively within EC

This would be accomplished by Japan's host of the EC High Level Policy Round Table being scheduled in August 2010.

# Thailand

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

Public sector governance has been making significant progress in Thailand in recent years. Prior to December 2008, there was only one classification scheme with 11 grades for ordinary servants. However, in December 2008, this single classification scheme was changed with the implementation of the new Civil Service Act (2008). It aims to introduce modern HRM practice into the Thai civil service with the line ministries being responsible for the implementation of a newly designed structure of the Civil Service Commission. The Act stresses the importance of the merit principle, a focus on performance and on ethical behavior.

New ethical values harmonized with the new orientation of management in public administration are being formulated, with the ultimate goal of yielding a positive impact on public administration. Generally accepted ethical values and principles are incorporated into the code of ethics for public sector officials aiming to advance the national development in the right and sustainable way.

The moral and ethical standards became nation policy that reflected the legal structure of the society, laws and regulations serve as the basis for communicating the minimum obligatory standards and principles of behavior for civil servants.

Moreover, the most significant progress includes the good governance principles. The good governance principles have been specified in the State Administrative Act and have been further reinforced in the Royal Decree on Criteria and Procedures for Good Governance. The Royal Decree comprises of nine sections: (1) the concept of good governance, (2) responsive Public Administration, (3) result-based management, (4) effectiveness and value for money administration, (5) lessening unnecessary steps of work, (6) mission review, (7) convenient and favorable public services, (8) performance evaluation, and (9) miscellaneous section.

The progress in public sector governance has been significant in various ways. Firstly, with regard to the Royal Decree on Good Governance, the Thai government has installed the Results-Based Management (RBM) system which aims to promote efficient and effective implementation. Within the RBM system, a Strategy Map had to be elaborated, comprising vision, mission, strategic issues, objectives and strategies. Moreover, the use of Balanced Scorecard will measure the organization's performance in four dimensions. Key Performance Indicators (KPIs) will be used to evaluate each dimension to meet objectives in conjunction with vision and mission. These tools are used to transform organizational strategies into action and will also be used as the basis for making performance agreement between Ministers and Permanent Secretaries for the further evaluation. Secondly, based upon the principle of putting the customer first, several programs have been launched to streamline the work process for faster action and higher customer satisfaction. For instance, all government agencies were expected to reduce their work processes and achieved cycle-time reduction by 30-50 percent. In addition, a one-stop service called Service Links was established in all ministries and provinces. The Government Counter Services (GCS) further increases convenience by locating



service counters of public agencies that provide basic services (such as identification cards, household certificates, name change certificates, birth and death certificates, and passports) in populated areas, especially shopping complexes and sky-train/subway stations. Thus, all citizens should be able to contact, request information, and apply for permission or approval at a one-stop service center or through the modern e-service facilities. In order to ensure the public service quality for business operations, all government agencies have pushed forward to shorten service delivery time, streamline processes, reduce burden costs, and enhance the business climate. Furthermore, according to the annual survey conducted by the World Bank on the ranking of counties in terms of ease of doing business from starting to closing, Thailand is ranked 12th (of 183 economies) in 2010, moving up from 13th (of 181 economies) in 2009 and 15th (of 178 economies) in 2008.

Finally, opening up the bureaucratic process has been laid out to provide opportunities for public participation. Citizen engagement is seen as an appropriate and necessary part of policy implementation in the democratic system. Public administrators should be held ethically responsible for encouraging the participation of the citizenry in the process of planning and providing public goods and services. Therefore, people are able to monitor and evaluate public performance in order to increase transparency. Concurrently, a Thai government seeks better incorporation of citizens into participatory governance through mechanism called people's audit.

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

### **Public sector Governance**

The Ethics Promotion and Information Center (EPIC) was established to improve the human resource management and develop performance with ethical standards for ministries, departments, and provinces. The EPIC has enhanced core values: moral courage, integrity and responsibility, transparency and accountability, nondiscrimination, and result-orientation for civil servants and public service officials, by coordination and networking with the private sector and other institutions. It acts as a center for the coordination of activities relating to the promotion of ethical standard and good governance with five main missions.

- (i) Government policy integration and strategic planning. Formulate strategy, coordinate and integrate government policy related to ethics promotion and anti-corruption efforts for public departments and other agencies.
- (ii) Research and development. Undertake research studies in ethics promotion and anti-corruption efforts coordinate the research and academic studies both domestic and abroad. Serve as an information center for study and gather any information relating to ethics promotion and anti-corruption to disseminate on website.
- (iii) Establishment of ethics promotional networks. Coordinate and cooperate with all involved sectors such as government and private sectors, civil societies and non-government agencies for collaborating in ethics promotion and anti-corruption for clean and transparent government.
- (iv) Training and development. Provide recommendation and advice to the government agencies both central and local levels for ethics promotion training in accordance with

the government policies. Developing training courses for ethics promotion as a tool for expanding the ethical concept and understanding in other areas.

- (v) Enhancing public awareness on ethics promotion and anti-corruption. Create public awareness through activity campaigns and media such as advertisements, published books, DVD, leaflets, posters, and other small symbolic items.

Examples of relevant websites include: <http://www.ocsc.go.th>

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

The keys to the success of structural reform in Thailand are the continuity of policy and the support from leadership. Political leadership is one of an important factor in establish a strong policy and in implementing their recommendations. However, all related participants such as government agencies, private sector, academic and people have played an important role in advancing structural reform. Their contributions include identifying key problems, enhancing transparency of discussions, disseminating information, and making effective and timely recommendations.

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

The positive impacts of the structural reform on the economy are as follow:

- Create synergy within organization.
- Effectively response to all consumers especially private sector.
- Develop capacity building for public system and government officers.
- Create public participation in government processes.
- Diminish working process and timeliness such as one stop service, decentralization.
- Regularly evaluate working process.

Sixty-six percent of government agencies had decreased steps of service to public which reflected to the decreased in service time and had decreased unnecessary steps of work with the raised in quality of service.

(Source: Annual report, 2009, <http://www.opdc.go.th>)

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

APEC should disseminate and enhance members to recognize the important of structural reform as a development tool for improving economic and social aspect within the region. By doing these, APEC should organize seminar or workshop for members to share their experiences and best practices regarding to structural reform. Moreover, disseminate the result from the seminar or workshop in APEC website to better promote structural reform knowledge within the region.

APEC should maintain all five issues of LAISR as a long term development tool to promote trade and investment facilitation within the region. Keep up the achievement by stimulating their economy to do structural reform. Together with five issues of LAISR, APEC should broaden their awareness in social aspect such as social safety net, retrain worker and transfer to prospect industries. This would finally affect to the increase in trade and investment value and volume.

# The United States

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

Of the five priority areas set out in the LAISR (i.e. Regulatory Reform, Corporate Governance, Public Sector Governance, Competition Policy, and Strengthening Economic Legal Infrastructure (SELI)), regulatory reform has probably seen the most prominent progress in the United States. U.S. objectives for regulatory reform are to (1) ensure that the American people have a regulatory system that protects their health, safety, environment and well-being and improves the performance of the economy without imposing unacceptable or unreasonable costs on society; (2) develop regulatory policies that recognize that the private sector and private markets are the best engines for economic growth; (3) develop regulatory approaches that respect the role of State, local and tribal governments; and (4) write regulations that are effective, consistent, sensible and understandable. We have noted increasing disclosure and transparency on regulatory actions, greater public participation in regulatory processes including through advent of e-Rulemaking, greater identification of regulations with international impacts, and more reform activities, particularly in the manufacturing sector, traditionally one of the most heavily regulated sectors of the US economy.

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

One key lesson learned by the United States is the importance of government accountability and public consultation. On 21 January 2009, President Obama issued a Memorandum on “Transparency and Open Government.” The memorandum reaffirmed the Administration’s commitment to innovation in government, and called for the development of recommendations for a directive to be issued by the Office of Management and Budget (OMB). After soliciting recommendations from agencies and the public, OMB issued its Open Government Directive on 8 December 2009 ([http://www.whitehouse.gov/omb/assets/memoranda\\_2010/m10-06.pdf](http://www.whitehouse.gov/omb/assets/memoranda_2010/m10-06.pdf)).

Among other things, the Directive requires agencies to take prompt steps to publish government information online. It requires them to consult with the public and open-government experts during the formation of open government plans, to solicit input from the public about which information to prioritize for publication, and to maintain an ongoing dialogue with the public during the entire process. The Obama administration believes that regulatory analysis should be developed and designed in a way that supports the commitment to open government. Modern technologies should be enlisted to promote that goal. Existing websites – <http://www.regulations.gov> and <http://www.reginfo.gov> – have been improved to increase transparency, participation, and collaboration.

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

In the US, there are three key aspects to our approach to regulatory policy, all of which are necessary to achieve good regulatory outcomes: (1) leadership, (2) rigorous analysis, and (3) regulatory transparency.

First, for three decades, the Executive Office of the President has provided centralized management and leadership of Federal rulemaking. Since the Nixon Administration, six succeeding Presidents from both political parties oversaw their administrations' regulations by increasing transparency and analytical rigor. This has allowed OMB to emphasize the importance of and adherence to regulatory principles and procedures.

Second, OMB has stressed the need for high quality regulatory impact analysis. OMB coordinates interagency review of draft, "significant" regulations, and oversees the regulatory impact analyses (RIAs) agencies prepare for their economically significant regulations. RIAs can help ensure that we maximize net benefits to society, or at least know that the benefits of rules justify their costs. They promote economic efficiency by regulating only where markets fail and, when regulating, by using cost-effective and market-based approaches instead of command and control remedies. Strong analysis contributes to more informed policy decisions and promotes economic efficiency, and RIAs also increase transparency by, for example, stating key assumptions and showing the sensitivity of the estimates to changes in those assumptions.

Third, the US program provides for a transparent rulemaking process that makes government officials accountable to the public. Transparency and accountability help address concerns about undue influence and allow all interested parties to be heard. Regulations that are transparent and accountable, and based on an understanding of likely consequences, are more likely to be effective at achieving desired goals and minimizing adverse impacts. In the US, the Administrative Procedure Act (APA) of 1946 provides the foundation for our approach to developing regulation. Most importantly, the Act requires that agencies go through a notice and comment process open to all members of the public, both US and foreign. Final regulations must be a logical out-growth of the proposal and the public record, and not arbitrary or capricious. The information in the public record, and agencies' use of this information, is used by the courts in settling any challenges to regulations brought by the affected public.

More recently, the rapid expansion of E-Government in the US has further enhanced the public's ability to participate in the rulemaking process. A visitor to Regulations.gov can find regulations on a particular subject, determine whether they are open for comment, access important supporting documents, file comments on proposals, and even read comments filed by others. We also provide advanced notice of upcoming regulations through our annual Unified Agenda of Federal Regulations, and have recently required agencies to identify upcoming regulations that may have an international trade or investment effect.

One of the lessons of the US experience is the difficulty of quantifying all of the likely impacts of regulations. This is particularly true with respect to certain benefits and the effect of regulations on human behavior. The United States therefore approaches regulatory problems not with dogma or guesswork, but with the best available evidence of how people actually behave. It uses cost-benefit analysis not as a way of reducing difficult questions to problems of arithmetic, but as a pragmatic tool for cataloguing, assessing, reassessing, and publicizing the

human consequences of regulation. Finally, cost-benefit analysis is viewed as a central part of the United States' broader effort to promote open government.

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

In its recent annual Reports to Congress on the Benefits and Costs of Federal Regulations, OMB has reported on trends in *ex ante* cost and benefit estimates. For data on the years 1981 to 2007, see Chapter II of the 2008 Report:

[http://www.whitehouse.gov/omb/assets/information\\_and\\_regulatory\\_affairs/2008\\_cb\\_final.pdf](http://www.whitehouse.gov/omb/assets/information_and_regulatory_affairs/2008_cb_final.pdf)

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

In the field of regulatory management, strengthening engagement with the public has become an increasingly important aspect. First, the global financial and economic crisis has intensified legitimate demands for greater transparency and open government, and many governments are looking to well-established legal and administrative procedures to engage the public in the rulemaking process. Second, "Web 2.0" technologies that make the internet far more interactive are now commonplace in commercial applications and are ready for use by governments that want to promote citizen participation.

APEC may want to consider how open government and e-rulemaking activity, including the use of Web 2.0 technologies, can make the regulatory process more accessible, comprehensible, and participatory. A key focus could be how new web-based tools can provide convenient, citizen-centered ways of obtaining public input throughout the rulemaking process. Engaging the public with these technologies will allow more people to participate in rulemaking and allow governments to learn more from them when considering new regulations. Ultimately, this will make regulations more beneficial and less costly. In this context, we believe the APEC Workshop on Public Consultation in the rulemaking Process in Indonesia on October 2009 contributed to deepen understanding of the benefit of utilization of technologies in rulemaking.

Concerning possible next steps beyond 2010 on structural reform in general, there is a need to shape the Post-LAISR agenda to better fulfill our Leaders' goal for structural reforms and their instruction to plan strategically for the next phase of structural reform to support new growth strategies. Ministers have also instructed us to design a Post-LAISR work program to respond to medium-term challenges, such as the need to foster more inclusive growth, and Finance Ministers directed the senior finance officials to identify priority areas for structural reform in economies. In view of this, one option would be to make priority areas on structural reforms in LAISR more explicitly linked to achieving inclusive growth. In addition, more thought should be given in the post-LASIR agenda to encouraging and assisting economies to implement reforms they identify as beneficial.

# Viet Nam

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

## **Regulatory reform**

This is the area with most rapid progress in Viet Nam. As Viet Nam does not have a complete legal framework in place, regulatory reform in Viet Nam progresses on both improving the quality of new regulations and reviewing, augmenting and improving existing regulations. The reform focuses on improving the socialist market-oriented institutions, building up socialist rule-based state of the people; radically renovating mechanism of making and implementing legislations; maximising the role and effectiveness of the legislation in governing the society; maintaining political stability; promoting economic development and international integration; making the state strong; executing human rights, citizen freedom and democracy; facilitating Viet Nam to transform into an industrial economy in 2020.

A crucial document that put a milestone in the regulatory reform in Viet Nam is Resolution 48-NQ/TW issued by the Politburo of the Communist Party of Vietnam in 2005 on “*The Strategy for Establishment and Improvement of the Legislative Framework to 2010 and Major Orientations to 2020*”. Under this resolution, the objectives, viewpoints, orientation, major measures and implementing institutions for regulatory reform up to 2010 have been announced. The latest Law on Issuing Procedure for Regulations promulgated in 2008 and was in effect since 1 January 2009 further promotes regulatory reform in Viet Nam through an improved procedure through which the quality of the regulations is improved and the involvement of stakeholders has been widened.

## **Competition policy**

To prevent anti-competitive and unfair competition among enterprises, the Competition Law was enacted and came into effect in July 2005. Implementation of the law has been administered by Vietnam Competition Administration Department (VCAD) of the Ministry of Industry and Trade of Vietnam.

Two State authorities have been established for the law implementation – the VCAD (with investigative powers) belonging to Ministry of Industry and Trade of Vietnam, and the Vietnam Competition Council (VCC) with adjudicative powers.

However, the progress has been rather slow. The key sectors are still controlled by big enterprises and, despite the State control over their prices, the price behaviour still lacks substance of competition.

## Public sector governance

To improve public sector governance, Viet Nam has strived to accelerate its administrative reform. The economy has adopted the master plan for administrative reform in 2001-2010, and recently approved the Project on Simplifying administrative formalities in public administration. At this stage, Viet Nam has completed the stocktaking of all administrative procedures, 30 percent of which are to be cut down. However, numerous works remain to be done, as the problem lies not in the number of administrative procedures itself, but instead in the weak incentive for civil servants to streamline administrative procedures for the sake of the people.

## Corporate governance (see question 2)

### Strengthening economic and legal infrastructure (SELI)

As mentioned above, the legal infrastructure has been strengthened significantly along with the fundamental market-oriented reforms that Viet Nam has pursued. The basis for promulgating legal documents has been institutionalized, while various new laws and associated under-law documents have been promulgated, with others currently in preparation.

Progress in regulatory reform has been most rapid. First, this has been via the effective policy review. Second, Viet Nam has enforced more effective public policy consultation. For instance, the draft legal documents are to be put upon the website of the government for public comments before revision and/or official promulgation. Finally, Viet Nam has also adopted regulatory impact assessment (RIA) to identify measures complementary to its regulatory reform.

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

Among the key examples of successful structural reforms over the past years is the promulgation and implementation of the (unified) Enterprise Law. This Enterprise Law has the scope of adjustment of all enterprises, regardless of their ownership type. Accordingly, this Law enhances the business freedom for both foreign and local enterprises. In addition, the Law shortens the time required to process the application for business registration, whilst making provisions for better corporate governance, including the protection of small shareholders, etc. As such, it provides an attempt towards more equal treatment of all enterprises, making the structural reform better in line with the market-oriented reforms in Viet Nam.

Among others, the Law has brought about positive results. The number of newly established enterprises has gone up from almost 39,900 in 2005 to about 46,700 in 2006, over 58,900 in 2007, over 65,300 in 2008, and approximately 34,500 in the first half of 2009. Of which, the number of one-member limited liability companies has gone up rapidly, while that of private enterprises has decreased considerably. This might have reflected the choice of investors over enterprise type to minimize risks and to enhance development potential. The State-owned enterprises decreased in number and were present in a smaller number of areas, notwithstanding their irreplaceable role in the economy. Foreign-invested enterprises became an indispensable part of the economy, with significant and increasing contribution to the economy.



Several lessons can be drawn from the example of the (unified) Enterprise Law. First, the reform should be placed in a broad framework of market-oriented reforms, seeking to enhance the allocation and utilization efficiency of resources. Second, political will is required for effective implementation of reform; otherwise, the credibility of subsequent reform measures may be undermined. Finally, the reform measures should be implemented gradually, taking due consideration of the development context. In doing so, the role of effective public consultation and communication should be emphasized.

Source: Institute for Business Development Studies, 2009, *Report on the Implementation of the Enterprise Law and Investment Law* [Báo cáo thi hành Luật Doanh nghiệp và Luật Đầu tư]. In Vietnamese.

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

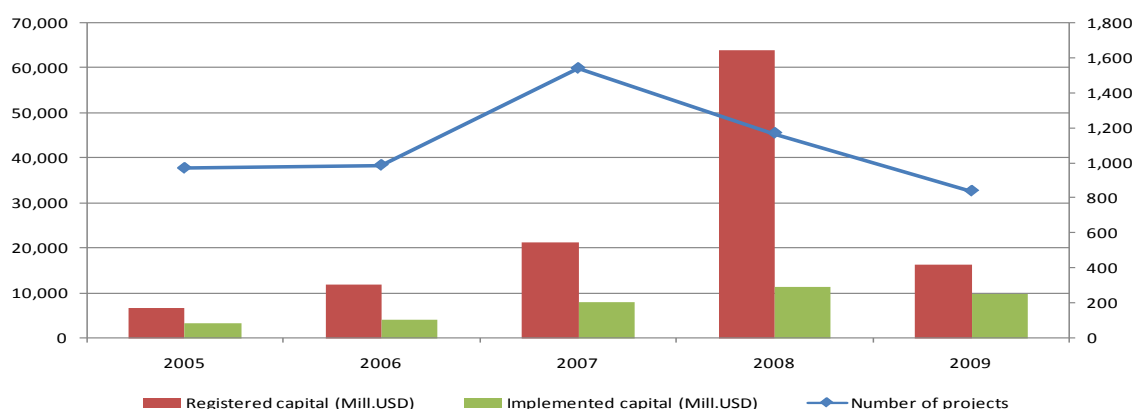
From our experience, effective leadership and public consultation have been among the keys to successful reform. Without effective leadership, Viet Nam would not have had a politically stable environment for sound policy reforms. Also, the leaders are aware of the necessity of reforms, and their anticipated impacts on the economy. Meanwhile, effective public consultation facilitated the transmission of people's ideas and desires to the policymakers, thereby making policies more relevant to actual development needs.

However, the reforms were to some extent impeded by various factors. Many reform measures were slowed down, and even reversed as they undermine the interest of some social groups. The slowdown of SOE equitization in some periods partly resulted from this. Besides, the reforms may fail to make good progress without reasonable (and feasible) reform objectives. Furthermore, the reforms were sometimes inconsistent, and have therefore been amended. This raised doubt about the credibility and effectiveness of subsequent reforms.

Among the key lessons, the reforms need strong political will and effective implementation roadmap to be effectiveness. Besides, making the objectives of reforms clear and transparent helps enhance public confidence in the reforms themselves. Finally, the scope of reforms should be reasonable and relevant to the development needs.

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

The reforms contributed significantly to the impressive economic performance over the past years. In the years prior to and subsequent to the WTO accession, GDP growth has been high, with increasing contribution by the domestic private sector and foreign-invested enterprises. Substance of competition enforced by new regulations also helped raise the efficiency of resource usage. Attracted by the new investment and business environment, foreign investors have increased their presence in Viet Nam (Figure 1). Driven significantly by foreign-invested enterprises, export growth accelerated, and reached 29 percent in 2008.

**Figure 1: FDI flows in Viet Nam, 2005-2009**

Source: Ministry of Planning and Investment.

Even in the time of the global financial crisis and economic recession, Viet Nam's economic growth still reached 5.3 percent in 2009. Among others, this stemmed from the fact that small enterprises were flexible in their production and business activities, with rotation of workers from time to time. Accordingly, the number of laid off workers were smaller than expected.

A problem with the reforms could have been the emergence of macroeconomic instability due to inappropriateness of the roadmap for liberalization of capital account and the presence of market power in several key areas. For instance, State control over retail prices of oil and petroleum products was gradually relaxed, without due consideration of the market dominance of several big firms, particularly the state-owned general corporation Petrolimex. This resulted in the recent rises in their retail prices, which threatened the attempt to control inflation.

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

Structural reforms still need to be continued and, in fact, should be accelerated in the region. In the current context of global economic recovery, possible next steps could be those activities of structural reform that facilitate trade and investment flows and enhance connectivity at least within the region. Within each economy human resource upskilling is crucial to raise growth. Social protection to cushion adverse impact of the crisis is another issue which deserve attention.

Cooperation between APEC member economies, particularly between more advanced ones and developing ones, should be further enhanced, where less developed economies not only learn experience from more advanced economies, but also adapt it to their specific conditions in their economies. Therefore, under the APEC framework, more technical assistance should be provided. Moreover, the technical assistance programs should not be common to all member economies; instead, they should be designed to meet the specific needs of each member economy or, at least, a group of less developed economies.