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Review of APEC's IAPs: Competition Policy and Deregulation

Focussing on Non-OECD Economies of APEC

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INTERNATIONAL ECONOMIC POLICY

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Executive Summary

This paper reviews and evaluates Individual Action Plans (IAPs) of the non-OECD member economies of APEC. APEC adopted a unique modality of trade and investment liberalization and facilitation, called IAPs, in which individual member economies announce their liberalization plans unilaterally and voluntarily. Then, they jointly review the IAPs and their implementation to encourage the member economies to achieve measures to be carried out over the immediate, medium and longer term in fifteen specific areas.

This paper focuses on competition policy and deregulation. Competition policy is included in IAP to enhance the competitive environment in the Asia Pacific region through the review of respective competition policies, implementation of technical assistance, and establishment of appropriate cooperation arrangements. Deregulation in IAPs promote transparency of regulatory regimes in APEC member economies and eliminate the distortions arising from domestic regulations. In particular, the focus is on the trade and investment effects of domestic regulations.

There is a growing consensus that competition oriented policy framework would be instrumental in achieving the Bogor goal of trade and investment liberalization. But at the same time, there is no consensus on the specific goals or scope of competition policy among member economies because they are at various stages of industrialization, and have different institutional, legal and cultural heritages. This is evident in the IAPs submitted by member economies. To partly resolve the problem of lack of a common principle in the area of competition policy among APEC member economies, the APEC Principles To Enhance Competition and Regulatory Reform was adopted in September 1999 at the Auckland APEC Leaders Meeting.

Similarly, IAPs for deregulation is limited in advocating comprehensive regulatory reform in the economies studied under the current APEC charter. While many countries carry out comprehensive program of regulatory reform, including deregulation, to improve efficiency of business and government, and raise consumer welfare, APEC's deregulation deals mostly with market opening deregulatory measures. Thus, APEC overlooks some of the most important aspects of regulatory reform such as reforms of public administration, or the possibility of systematic adoption of tools to examine usefulness and efficiency of regulations (e.g. regulatory impact analysis). Part of the problem is that there is no clear definition of "deregulation" for IAPs. The deregulation component acts as a "catch-all" listing of various deregulation measures which are not listed in many other, better defined areas of IAPs (eg. customs procedures, technical standards and conformity, sectoral regulations) which have not been covered in this paper. Consequently, deregulation process in these economies can seem incoherent and haphazard, if only looked at through the IAP for deregulation.

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I. Introduction

APEC leaders at Bogor, Indonesia in 1994 delivered the ambitious 'Bogor Declaration' of achieving free and open trade and investment in the region by 2010 for industrialized member economies and 2020 for developing member economies. In 1995 at Osaka, Japan, leaders agreed on the so-called "Osaka Action Agenda" for achieving these targets. These two initiatives, Bogor Declaration and Osaka Action Agenda, set the vision and agenda for the Asia-Pacific Economic Cooperation. Subsequently, at Manila, the Philippines in 1996, they adopted the Manila Action Plans for APEC(MAPA) and put these plans into action thereafter.

The Osaka Action Agenda(OAA) is a blueprint for the implementation of APEC's commitment to free and open trade and investment. The OAA consists of two major parts: liberalization and facilitation, and economic and technical cooperation. Part one specifies nine general principles, a framework, and actions to be undertaken in fifteen key areas[1] for liberalization and facilitation. Part two deals with the essential elements, policy concepts and joint activities to be pursued in thirteen specific areas[2] of cooperation, as well as further development of economic and technical cooperation. Nine general principles are comprehensiveness, WTO-consistency, comparability, non-discrimination, transparency, standstill, simultaneous start, continuous process and differentiated timetables, flexibility and cooperation.

Comprehensiveness means the comprehensiveness of APEC liberalization and facilitation, addressing all impediments to achieving the long-term goal of free and open trade and investment. WTO-consistency implies the liberalization and facilitation measures undertaken in the context of the APEC Action Agenda will be WTO-consistent. Comparability ensures the overall comparability of trade and investment liberalization and facilitation of APEC economies, taking into account the general level of liberalization and facilitation already achieved by each APEC economy. Non-discrimination means APEC economies will apply or endeavor to apply the principle of non-discrimination between and among them in the process of liberalization and facilitation of trade and investment. Transparency ensures the transparency of respective laws, regulations and administrative procedures which affect the flow of goods, services and capital among APEC economies to create and maintain an open and predictable trade and investment environment in the Asia-Pacific region. Standstill implies each APEC economy will endeavor to refrain from using measures which would have the effect of increasing levels of protection, thereby ensuring a steady and progressive trade and investment liberalization and facilitation process. Simultaneous start, continuous process and differenticated time tables ensures APEC economies will begin simultaneously and without delay the process of liberalization, facilitation and cooperation with each member economy contributing continuously and significantly to achieve the long-term goal of free and open trade and investment. Flexibility is to consider the different levels of economic development among the APEC economies and the diverse circumstances in each economy. Finally, cooperation ensures the active pursuit of economic and technical cooperation contributing to liberalization and facilitation. The APEC process of liberalization and facilitation consists of actions by individual APEC economies, actions by APEC fora, and APEC actions related to multilateral fora. The process is to be conducted in accordance with general principles addressing the fifteen areas.

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[1] Fifteen areas for liberalization and facilitation are tariffs, non-tariff measures, services, investment, standards and conformance, customs procedures, intellectural property rights, competition policy, government procurement, deregulation, rules of origin, dispute mediation, mobility of business people, implementation of uruguay round outcomes, and information gathering and analysis.

[2] Thirteen areas of cooperation are human resources, industrial science and technology, small and medium enterprises, economic infrastructure, transportation, telecommunications, energy, tourism, trade and investment data, trade promotion, marine resource conservation, fisheries, and agricultural technology.

MAPA outlines the trade and investment liberalization and facilitation measures to be implemented on the road to the target dates set at Bogor. MAPA carries out the agenda drawn up at Osaka by including individual action plans, collective action plans, and joint activities on economic and technical cooperation.

APEC adopted a unique modality of trade and investment liberalization and facilitation, called Individual Action Plans (IAPs). In the IAPs, individual member economies announce their liberalization plans unilaterally and voluntarily, and implement them according to their domestic legislature. Then, they jointly review the IAPs and their implementation so as to encourage the member economies to achieve the Bogor target in the set deadline. IAPs contain trade and investment liberalization and facilitation measures to be carried out over the immediate, medium and longer term in fifteen specific areas. In developing IAPs for these fifteen areas, member economies should adhere to the nine general principles for liberalization and facilitation. So far APEC member economies have made four submissions of their IAPs, beginning in 1996. The collective action plans, second component of MAPA, contains measures agreed upon in various APEC for a through consensus. These measures focus on facilitating trade and investment and on making the conduct of business in the Asia-Pacific region easier, cheaper, faster, more predictable and transparent. The third component of MAPA, joint activities in economic and technical cooperation, recognizes the need for economic and technical cooperation to support and complement trade and investment liberalization in fostering an Asia-Pacific community. The disparity in economic development, technological capability and standards of living among the APEC economies is to be reduced through these activities.

APEC's membership consists of twenty-one economies[3] at the moment. In this paper we review and evaluate the IAPs of the non-OECD member economies of APEC, i.e., Brunei, Chile, China, Chinese Taipei, Hong Kong, China, Indonesia, Malaysia, Papua New Guinea, Peru, the Philippines, Russia, Singapore, Thailand, and Viet Nam. In particular, we focus on the competition policy and deregulation of those economies. The objective of including competition policy in IAPs is to enhance the competitive environment in the Asia-Pacific region. This is to be achieved through the review of respective competition policy, implementation of technical assistance, and establishment of appropriate cooperation arrangements. Deregulation in IAPs is to promote transparency of regulatory regimes in APEC member economies and to eliminate the distortion arising from domestic regulations. The OAA objective of the deregulation focuses on the trade and investment effects of domestic regulation in particular. For both types of the IAPs of these fourteen economies, we will review the current status, additions made to the IAPs of individual member economies over the four year period, long term and short term plans, check the implementation and evaluate the performance. We will conclude with an overall evaluation of those two areas.

[3] Twenty one economies are Australia, Brunei Darussalam, Canada, Chile, China, Hong Kong China, Indonesia, Japan, Korea, Malaysia, Mexico, New Zealand, Papua New Guinea, Peru, Philippines, Russia, Singapore, Chinese Taipei, Thailand, USA, and Viet Nam.

II. IAPs for Competition Policy

The objective for competition policy as listed in the OAA is for the APEC economies to enhance the competitive environment in the Asia-Pacific region by introducing or maintaining effective and adequate competition policy and/or laws and associated enforcement policies, ensuring transparency of the above, and promoting cooperation among APEC economies, thereby maximising, inter-alia, the efficient operation of markets, competition among producers and traders, and consumer benefits.

In order to carry out these objectives, the OAA also lists following guidelines. Each economy will:

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

The sections below examine each member economy's IAP of competition policy in detail. Each section lists highlights from the current status section of the 1999 IAP for competition policy, selected additions to the IAP for competition policy in the years between 1996 and 1999, and short term and long term plans for competition policy as listed in the 1999 IAP. Then, there is a summary of how the member economy implemented the measures listed in the previous IAPs, as listed in the 1999 IAP, along with the author's evaluation.

1. Brunei Darussalam

A. Current Status

There is no specific legislation pertaining to competition policy in Brunei Darussalam. However, the economy is open and market oriented, and further efforts are being undertaken to increase competition, in light of WTO commitments. Such efforts include deregulation and privatisation.

B. Additions to the IAPs in 1996-99

There has been no additions to the IAPs since 1996.

C. Long Term and Short Term Plans

Brunei Darussalam will continually review the regulatory frameworks governing individual industrial sectors, with the view to boosting overall economic competitiveness. In particular, Brunei Darussalam will facilitate the establishment of a national consumer protection body. It is also planned that it will publish and make available any competition laws enacted in the future. Brunei Darussalam will continue to participate in competition policy dialogues and training seminars or workshops conducted by APEC, WTO and other international economic fora.

D. Implementation and Evaluation of Each IAP

Brunei Darssalam has submitted the same IAP since 1996. In fact, they are identical word by word. There is no record of implementation of any of the plans set out in the 1996 IAP. Indeed, the plans, which are non-committal in the first place (e.g., competition laws will be published and made available *if* they are enacted in the future), remain the same over the four years.

2. Chile

A. Current Status

Chile has three basic laws concerning competition: *Decree Law No 211, Law No 19.496*, and *Law No 18.525*. The basic competition law is *Law No 211* of 1973. The law establishes the practices to be considered anti-competitive. Under the law, an anti-competitive act is any act that tends to hinder, or is aimed at eliminating, restricting and obstructing competition. Anti-competitive action is considered to be criminal offence. The norms that regulate competition apply to both nationals and foreigners and to the goods and services sectors. There are specific laws governing activities in the areas of intellectual property, mining, and financial services but anti-competitive behaviour in any of these activities is subject to the competition law. The same competition law applies to anti-competitive behaviour that takes place outside the country but has domestic repercussions. On the other hand, economic liberalisation and international competition have brought discipline against anti-competitive behaviour by local firms.

Public monopolies in extractive, industrial, marketing and services activities is allowed but the creation of private monopolies in these same activities is prohibited. Nevertheless, in special cases, creation of private monopolies is allowed by the Resolutory Commission, on request of the President, if the action is deemed to improve public welfare. A Qualified Quorum Law must be adopted for this purpose.

There are four institutions in charge of competition matters: the Regional Preventative Commission, the Central Preventative Commission, the Resolutory Commission, and the National Economic Prosecutor' s Office. The Regional Preventative Commission deals with any complaints and carries out preliminary investigation at the regional level. The Central Preventative Commission intervenes if the case is of national character or involves more than one region. It also acts as the Preventative Commission for the metropolitan area of Santiago.

Opinions of these Commissions can be appealed before the Resolutory Commission, which supervises the application of the Competition Law and the work of the Preventative Commissions. The Resolutory Commission can deal with the issues *ex officio* or at the request of the National Economic Prosecutor' s Office. The Resolutory Commission has the power to apply a fine or recommend the National Economic Prosecutor' s Office to pursue a penal case. The Commission also determines if a market requires regulation because of lack of competition. The anti-competitive practices these institutions have dealt with include monopolies, concessions, mergers, entry barriers, price discrimination, exclusions, and dominant position abuses.

Chile has made efforts to promote competition in key areas of the economy such as telecommunications and transportation. As a result, the telecommunications law was modified to establish competition in long distance telecommunications via a multicarrier system.

Law No 19.496 enacted in June 1997 contains rules for the protection of consumer rights. *Law No 18.525* (and its *Regulation Decree No 575*) deals with anti-dumping and countervailing measures. The law conforms to the GATT and WTO agreements.

B. Additions to the IAPs in 1996-99

The 1998 IAP added a substantial explanation of the Chilean competition law (*Decree Law No 211*), bringing the IAP to its current form in 1999. The only change since 1998 is the congressional approval of *Law 19.612* that modifies *Law 18.525* concerning anti-dumping and countervailing measures. The new law allows imposition of safeguard measures according to the article XIX of GATT (emergency action on imports of particular products). The provision could be used if a specific product is being imported in such increased quantities and conditions as to cause or threaten to cause serious damage to the domestic industry. The law is in compliance with the Agreement on Safeguards of the WTO.

C. Long Term and Short Term Plans

Chile has submitted only a short term plan. First of all, Chile envisages strengthened National Economic Prosecutor's Office, especially in the regions. Hiring new personnel, increasing the enforcement agencies' budget, and drafting a more up-to-date competition law are planned. A draft bill to this effect is being discussed in the Congress.

Another draft law being discussed is the revision of *Law 18.525* concerning anti-dumping and countervailing measures. The draft law seeks to add provisions establishing 1) a system of judicial review to challenge administrative decisions, 2) a system for a prompt refund, upon request, of any duty paid in excess of the actual margin of dumping and 3) accelerated investigations for new exporters. The draft law also extends the length of the investigation period from 90 to a maximum of 180 days. Chile also plans to promote cooperation between enforcement agencies, and contribute to APEC discussions on competition policy.

D. Implementation and Evaluation of Each IAP

The 1996 implementation plan simply constituted of strengthening competition agencies and cooperation between them, and the promise to participate in APEC discussions on competition. Specific actions regarding anti-dumping and countervailing measures were introduced in 1998. The implementation plans submitted in 1998 remains the same in 1999, with no record of achievement of any part of the plan since 1998. However, a law which was not included in previous action plans was enacted by 1999 (*Law 19.612* explained above).

3. China

A. Current Status

The State Council promulgated China's first specific regulation on competition, the *Regulations on Development and Protection of Competition* in 1980. Several more regulations and rules relating to competition were further issued and implemented during the 1980s. In 1993, the People's Congress of China adopted the *Law of the People's Republic of China for Countering Unfair Competition* and the *Law of the People's Republic of China for Protecting Consumer's Rights and Interests* and the *Law of Commodity Quality*. Local regulations on countering unfair competition were also promulgated in Beijing, Shanghai, Wuhan and others. The acts of unfair competition prohibited by the law and regulations include trade mark violations, tied sales, predatory pricing and abuse of administrative powers.

In 1997, the State Council promulgated *Regulations on Anti-dumping and Anti-subsidisation*. While the Ministry of Foreign Trade and Economic Cooperation, the State Economic and Trade Commission and the General Administration on Customs are responsible for the implementation of the *Regulations on Anti-dumping and Anti-subsidisation*, the Administration of Industry and Commerce of China (AIC) is responsible for enforcing competition law at all levels. Up to now, the AIC has handled more than ten thousand unfair competition cases. Typical cases are publicised in the media to promote public awareness of the competition law.

In 1999, two new laws were promulgated. In July, the *Securities Law* entered into force, providing the legal basis for maintaining a fair and open security market. In October, the *Contract Law* entered into force. The *Contract Law* replaces the original three laws relating to contract (*Economic Contract Law, Foreign-related Economic Contract Law and Technological Contract Law*), and provides the legal framework for a competitive market in which both parties can transact on a voluntary and fair basis. Two more laws on anti-trust and commercial secret protection, and implementation regulations for unfair competition are currently in the process of being drafted.

China has completed the first edition of APEC Investment Dispute Mediation Guidance and revisions are underway for future editions. In 1997, the State Administration on Industry and Commerce promulgated the Administrative Measures about Contract Disputes Mediation and established its Arbitration Training Centre.

B. Additions to the IAPs in 1996-99

Since 1997, various new regulations and laws regarding competition have been enacted as described above.

C. Long Term and Short Term Plans

China' s short term plans (1999-2010) are as follows:

1) Improve existing methods and approaches for dispute mediation.
2) Review the laws and regulations on unfair competition and enact the anti-trust law
3) Draft and enact the Tender and Bid Law
4) Enhance legal exchange concerning fair competition with other APEC economies or international organisations and study the experience of other advanced APEC economies, as well as participating in the work of establishing and maintaining APEC Database on Competition Policies.
5) Generally strengthen enforcement of competition laws and regulations, especially to ensure product quality and combat monopoly pricing. Enhance capacity building on human resources to enable implementing these plans.

Long term plans (2010-2020) include transforming the traditional planned economic system into a market economic system. Specifically, the state-owned enterprises are to be reorganised so that they can compete better in an increasingly liberalised and integrated economy.

D. Implementation and Evaluation of Each IAP

In the 1996 IAP, China has included in its short term plan to draft and promulgate relevant regulations concerning anti-dumping, countervailing and safeguard measures. This was implemented in 1997 with the promulgation of *Regulations on Anti-dumping and Anti-subsidisation.*

Other stated short term and long term plans remain the same over the four years. However, as it has repeatedly stated in its IAP plans, China seems to have expended a lot of effort to transform the

planned economy into a market economy through introducing competition and institutional infrastructure to protect and promote competition. Several laws and regulations concerning competition have been enacted since 1997, even though they were not specifically mentioned in the plans. China also seems to be actively implementing APEC recommendations. Nevertheless, its competition laws are dispersed across many separate enactments, and the relationship between these, as well as the relationship between the regulations at the regional and central level are unclear. It would be desirable if China took a more systematic approach to building up the institutional and legal infrastructure to promote competition.

4. Chinese Taipei

A. Current Status

The *Fair Trade Law (FTL)* of Chinese Taipei has been enacted in 1991. The law regulates anti-competitive practices such as monopolies, collusion, mergers, resale price maintenance and other activities which restraints fair competition. The competition policy of Chinese Taipei extends to principles for access to essential facilities and for review and reform of anti-competitive regulation, recommendations for structural reform of public utilities and state-owned enterprises, laws for monopoly pricing oversight, and rules for competition between state-owned enterprises and private sectors.

The competition law covers all business activity in the economy. Conduct is exempted from or authorised on a case by case basis under the following provisions of the *Fair Trade Law*: exemptions granted for the proper exercise of intellectual property rights, authorisation for mergers and acquisition and authorisation for concerted actions.

The law is enforced by the Fair Trade Commission (FTC), an independent statutory regulator established in 1992. In addition to enforcement responsibilities, FTC is active in public compliance education programmes.

B. Additions to the IAPs in 1996-99

In 1997, Chinese Taipei established the Competition Policy Information and Research Centre, to collect and update information regarding competition law and policy. Further, Chinese Taipei' s 1996 proposal to establish an APEC Competition Policy Database was adopted by APEC in 1997. Consequently, Chinese Taipei has been charged with responsibility of building up the database. The Database is open to public and is continuously being upgraded.

In 1998, the emphasis had been enhancing transparency, strengthening technical assistance, and strengthening international cooperation. For this, Chinese Taipei made certain revisions in its competition law, participated actively in the APEC Competition Training Programmes and concluded a cooperation and coordination agreement regarding competition laws with New Zealand. Chinese Taipei also held a bilateral discussion with Australia and started the staff exchange programme according to the principle of the cooperation and coordination arrangement regarding the application of competition laws between the two countries.

Further developments took place in 1999. After the telecom and power markets have been liberalised, research was conducted to evaluate the residual monopoly power in the two sectors. In addition, Article 46 of the *Fair Trade Law* has been amended to specify that the *Fair Trade Law* will pre-empt other laws unless the contents of those laws do not conflict with the legislative purposes of the *Fair Trade Law*. Article 35 was also amended to increase penalties for violation of the Fair Trade Law in 1999.

C. Long Term and Short Term Plans

While Chinese Taipei has not submitted any long term plans in the 1999 IAP, it has set out several specific short term plans as follows:

1) Liberalisation of utility markets: remain committed to facilitating early liberalisation of gas distribution market to encourage private sectors to run gas stations; continue to provide advice on the amendments to the *Telecommunications Law* to prevent the abuse of dominant position and prohibit cross-subsidisation of the basic carrier services by Telecom operators; and to continue to give recommendations on the revisions to the *Cable Television Law* to liberalise application requirements and remove the limit on the number of operating systems within one district.

2) Review the guidelines for the enforcement of the competition law and establish new guidelines to enhance greater transparency.

3) New proposal: Chinese Taipei has proposed to create an on-line forum through the APEC Competition Policy Database, and since many member economies have shown interest, Chinese Taipei will develop a more detailed framework to implement the idea with assistance of New Zealand, the convenor economy.

4) International Cooperation: Chinese Taipei will closely observe the competition working progress of APEC, WTO, OECD and other international organisations. In particular, it has decided to co-sponsor a new training programme with the OECD for some developing economies in the area of competition policy and law enforcement. The programme is scheduled to commence before the end of 1999.

D. Implementation and Evaluation of Each IAP

Chinese Taipei has generally lived up to its implementation plans, especially in the area of deregulation, revising the competition law regarding exemptions and exceptions, and international cooperation. Sector specific study has been undertaken in various utilities to promote further competition in these sectors. Chinese Taipei has also concluded agreements concerning competition law and policy with New Zealand and Australia. Chinese Taipei has also been very active in the APEC, especially with respect to establishing the Database on competition policy and proposing new ideas for further developments in this arena.

5. Chinese Hong Kong

A. Current Status

Hong Kong, China, does not have a comprehensive competition law. However, the Government promulgated the *Statement on Competition Policy* in May 1998. The Statement sets out the objective on competition and provides guidelines for observance. All government entities are required to adhere to the *Statement*, to review critically policies and regulations and to propose initiatives to enhance competition. All businesses are also encouraged to restrain from introducing restrictive practices that impair economic efficiency or free trade. When necessary, the Government will take appropriate administrative or legal steps to remove anti-competitive practices. A Competition Policy Advisory Group (COMPAG) was established in December 1997 to provide a dedicated and high-level forum to review competition related policy issues and examine the extent to which the Government, the public sector and the private sector should seek to introduce more competition.

Otherwise, Hong Kong China takes a sector-specific approach to promoting competition in the economy. For example, in the broadcasting sector, pro-competition clauses are incorporated in all broadcasting licenses. Further, the Government has put in place a package of measures to liberalise the regulatory regime of satellite broadcasting and facilitate new entry. The Government also conducted a comprehensive Review of the Television Policy in 1998 and decided to liberalise the television market, while at the same time, introducing further competition safeguards through a series of measures. The Government is now examining the potential for encouraging competition in the energy sector, especially in the markets for gas and electricity. Several studies have already been undertaken for this purpose.

The Government has been monitoring the prices of major fuels and the result was published in April 1999. The data was provided to the Consumer Council to facilitate its study of the state of competition in the local retail markets for petroleum products.

B. Additions to the IAPs in 1996-99

In 1996, the government commissioned the Consumer Council, a statutory body, to conduct a series of sector-specific competition studies and a general study to provide an overall assessment of the competition environment. Hong Kong China's subsequent policies – e.g., the establishment of the COMPAG, promulgation of the *Statement*, and various sector-specific measures, seem to have been based on these studies, as well as studies and consulting that were later commissioned in 1998 (e.g., the study on the electricity sector and the COMPAG study).

C. Long Term and Short Term Plans

Hong Kong China's plan in 1996 were to: 1) review competition policy based on the Consumer Council studies, 2) review Telecom Ordinance to promote fair competition and develop further the legal framework which safeguards competition and governs interconnection, accounting separation and sharing of essential facilities among competitors, 3) study the feasibility of introducing a common carrier system in Hong Kong for the supply of fuel gas for domestic use, and 4) enact legislation to abolish mandatory fee scales for conveyancing and probate work.

The plans have not changed over the four years from 1996 to 1999, except that in 1999, a new plan to monitor the state of competition in the retail markets for major fuels has been added.

D. Implementation and Evaluation of Each IAP

The Government of Hong Kong has successfully completed some of the plans it has committed itself to in 1996. The Telecommunication Ordinance has been amended to promote greater competition, and feasibility studies were conducted in the gas and electricity sectors for introducing greater competition. Other sector specific studies were also conducted, e.g., in the broadcasting and television market and consequently, competition enhancing measures were introduced. However, there is no mention of the result of the 1996 plan regarding the abolishment of mandatory fee scales for conveyancing and probate work.

6. Indonesia

A. Current Status

Indonesia promulgated a comprehensive competition law (Law No. 5/1999) on the *Prohibition of Monopolistic Practices and Unfair Business Competition*. The law contains provisions for

regulating forbidden business agreements/arrangements and dominant position, the establishment of a commission to supervise business competition, and procedures of handling cases and sanctions. The law will become effective from year 2000, and the business community will be given a period of six months to comply.

Another new law to come into effect in year 2000 is the *Consumer Protection Law (Law No. 8/1999)*. The law includes provisions to ensure consumer choice, safety, right to correct information, content labelling and compensation.

Previously, competition was enforced through various laws dispersed across different areas. For example, the Criminal Code, the Civil Code, the Capital Market Law and the laws pertaining to the protection of intellectual property rights and the Small Business Law all help to strengthen competition in Indonesia. In particular, the Law No.1 of 1995, prohibits mergers, consolidations and other acquisitions if they result in monopolistic or monopsonistic practices. Further, in 1998, the government introduced regulations establishing procedures for mergers, acquisitions and exit which facilitate corporate restructuring while safeguarding against anti-competitive behaviour.

B. Additions to the IAPs in 1996-99

Indonesia introduced regulations concerning mergers, acquisitions and exit in 1998, and promulgated a comprehensive competition law in 1999.

C. Long Term and Short Term Plans

Indonesia's short term plan in 1999 is to take necessary measures to ensure the effective implementation of the *Law on Prohibition of Monopolistic Practices and Unfair Business Competition* and the *Law on Consumer Protection*. Its long term plans include: further deregulation, participation in competition policy dialogues among APEC economies, review of its competition environment to identify areas where policy changes could improve the welfare of its citizens, enhancement of transparency in competition laws and policy.

D. Implementation and Evaluation of Each IAP

Little had occurred in Indonesia with respect to competition policy between 1996 and 1998. However, since 1998, significant step forward had been taken to implement its plans, with the enactment of a comprehensive competition law and consumer protection law. However, it is unclear from the submitted IAP, how other laws containing provisions affecting the competition environment is related to the new comprehensive competition law. Further, its long term plan, which remains basically the same since 1996, and is devoid of any specific goals as in many other developing economies

7. Malaysia

A. Current Status

Malaysia does not yet have a specific law on competition policy but is seriously considering the need for such a law and its implications. A "Working Committee on Competition Policy and Law" is proposed to be set up to explore elements of competition best suited for Malaysia. Malaysia is also preparing studies on the conduct or trade practices of selected enterprises in specific economic sectors, for example, in the food production sector.

Currently, Malaysia has various laws to regulate activities of enterprises and protect consumer interests. These include the *Companies Act 1965*, the *Control of Supplies Act 1983*, the *Trade Descriptions Act 1972*, the *Direct Sales Act 1993* and others. Malaysia has undertaken substantial deregulation and liberalisation measures since the 1980s. These measures include liberalisation of trade and investment policies, deregulation through simplification of administrative procedures and increasing transparency of processes and privatisation of utilities, construction, infrastructure, transportation and communications.

B. Additions to the IAPs in 1996-99

Malaysia started to consider enacting a specific or a comprehensive competition law since 1997. This has not materialised as yet, but with the establishment of a working committee in 1999 to study the issue, first steps of the plan seems to be taking place. Further, a study on trade practices, which had been planned since 1997 is now under process.

C. Long Term and Short Term Plans

Malaysia, continues to enhance the competitive environment through liberalisation, deregulation, and privatisation policies. It is in the process of studying the need and implications of a competition or trade practices law. At the same time, it plans to undertake fact finding and information gathering on trade practices. Malaysia also plans to actively participate in dialogues, seminars and workshops on competition.

D. Implementation and Evaluation of Each IAP

Malaysia's efforts to promote competition seem to have taken place mostly through deregulation, privatisation and liberalisation policies. Legal efforts to develop institutional infrastructure to ensure competition has been slower, but is nevertheless starting to take place. Since Malaysia is in the beginning stages in these efforts, like Indonesia, it does not propose many specific plans for the future but state general commitment to promote competition.

8. Papua New Guinea

A. Current Status

Papua New Guinea has not submitted an IAP in 1999. However, barring any major changes in 1998 and 1999, its current status can be gleaned from previous submissions. Papua New Guinea does not have a national competition policy or any specific legislation to enforce a competitive environment but has enacted supporting legislations such as the *Consumer Protection Act* and *Price Control Act* to protect the welfare of consumers.

B. Additions to the IAPs in 1996-99

There has been no addition to the IAP since 1996.

C. Long Term and Short Term Plans

In 1998, Papua New Guinea's major plan was to seek Cabinet endorsement to introduce the *Business Practices Act* and a national competition policy. In addition, it planned to seek appropriate technical assistance in regard to policy development, legislative drafting and the constitution, powers and functions of appropriate enforcing agencies. These plans are identical to those of 1996.

D. Implementation and Evaluation of Each IAP

Although there seems to be a minimum of legal tools with which to protect competition and consumer rights, very little seems to have taken place with respect to further promoting competition in the light of implementation plans set forth in 1996.

9. Peru

A. Current Status

Peru has several laws and regulations governing competition, including those on international and domestic trade, principles and rules for the expansion on private investment and protection of intellectual property rights. The law most specifically related to competition is the *Legislative Decree No. 701 Against Monopolistic Practices, Controls and Restraints on Free Competition*. The law seeks to eliminate monopolistic practices, controls, abuse of dominant positions and other restraints on free competition in the production and marketing of goods and provision of services. The law applies to all persons and entities under public or private law that undertake economic activities. Since November 1997, a mechanism of merger control has been established in the electric sector.

The main enforcement body is the Commission of Free Competition under the Institute for the Defence of Competition and the Protection of Intellectual Property (INDECOPI). The Commission is an agency with technical and administrative autonomy, responsible for ensuring compliance with the competition law. It has a Technical secretariat that serves as liaison with the administrative structure of INDECOPI. The antitrust chamber of the Court for the Defence of Competition at INDECOPI has the second and final administrative jurisdiction for cases involving violations of Decree No. 701. There is also the Competition Protection Division of the Competition and Intellectual Property Protection Tribunal which performs the following functions:

1) Hear appeals against decision of the Free Competition Commission.
2) Rule on appeals regarding the adoption of corrective measures and the imposition of sanctions.
3) Recommend to the Chairman of INDECOPI necessary actions before the competent authorities adopt legal or regulatory measures needed to ensure free competition.
4) Request police assistance to enforce its decisions.

There are also sectoral bodies for enforcement of competition policy in public services such as the Supervisory Agency for Private Investment in Telecommunications (OSIPTEL), Supervisory Agency for Sanitation Services (SUNASS), and Supervisory Agency for Private Investment in Energy.

B. Additions to the IAPs in 1996-99

Peru started to submit IAPs since 1998, and there have been no particular additions in the 1999 IAP.

C. Long Term and Short Term Plans

Peru's implementation plans for 1998 and 1999 remain broadly similar. In the short term, Peru plans to increase efficiency in addressing complaints against competition law violations. Specific ways to increase efficiency suggested are: reducing the time needed for case resolutions, providing better advice on issues of free competition to those who may potentially issue complaints, introducing greater predictability in decisions made by the competition agencies, and improving technical capability of the staff in the competition agencies.

The second goal is to increase the number of investigations and cases initiated by INDECOPI, especially with respect to anti-competition activities in products about which consumption of lowest income families are sensitive.

Third, Peru plans to improve the analysis of the markets that may have anti-competitive structures and to finish developing the procedure regulations for the Competition Law, as well as to continue to develop guidelines that define concepts such as relevant market, abuse of dominant position, concentrations, and mergers. Finally, Peru plans to collaborate with other areas of INDECOPI in promoting competition, and improve coordination with other public agencies, especially the courts of justice.

To this, a new mid-term objective has been added in 1999, to support the process of liberalising the telecommunications market in coordination with OSIPTEL.

In the long term, Peru plans to propose targets for making trade regulations (especially regarding application of antidumping rights, countervailing duties, and non-tariff barriers) compatible with the goal of promoting competition. Further, Peru plans to strive to generally increase efficiency in the functioning of the market economy and self-regulation among entrepreneurs with respect to competition law compliance.

D. Implementation and Evaluation of Each IAP

Since Peru has submitted only two IAPs (1998, 1999), it is difficult to see whether the country has been successfully implementing its plans, as these plans take some time to be achieved. Nevertheless, Peru seems to have a well established competition law and a hierarchy of enforcement bodies, which include the judicial branch of the government. It is also noteworthy that while some APEC economies have moved to establish anti-dumping and countervailing duties, seemingly more from a protectionist stance rather than promoting competition, Peru plans to review the current institution specifically from the perspective of competition policy.

10. Philippines

A. Current Status

The Philippines has various statutes that prohibit unfair trade practices, but does not have a comprehensive anti-trust regulation. The Philippines has taken initial steps towards the formulation of a national competition policy framework by reviewing existing laws and statutes on competition. Several bills have been filed in Congress seeking to strengthen competitive environment through the creation of enforcement agencies and strengthening administrative mechanisms.

Currently, the basic statute, which prohibits unfair trade practices, monopolies and combinations in restraint of trade, is the *Law on Monopolies and Combinations* under RA 3247, and the *Revised Penal Code*. Other competition-related laws include the *Civil Code* which allows the collection of damages arising from unfair competition, the *Corporation Code* which provides rules regarding mergers and consolidations, the *Revised Securities Act* which prohibits manipulation of security prices and insider trading. In addition, the *Intellectual Property Code* contains provisions against technology transfer contracts that are deemed to have adverse effect on competition and trade. The *Price Act* defines and identifies illegal acts of price manipulation such as hoarding, profiteering and cartels and the *Consumer Act* provides for consumer product quality and safety standards. Enforcement of these laws,

and consequently, regulation or monitoring of unfair trade practices and anti-competitive behaviour, is vested in numerous agencies.

B. Additions to the IAPs in 1996-99

There have been no additions since 1996.

C. Long Term and Short Term Plans

In general, the Philippines strives to enhance the competitive environment in the Asia-Pacific region by maintaining effective and adequate competition policy, and by increasing transparency and cooperation in the APEC. The Philippines will avail of technical assistance within APEC and actively participate in dialogues and mutual exchange of information with member economies.

The long term goal is to continue to review and further improve its competition policy regime and more specifically, the short run goal is to review all existing laws on competition and endeavour to enact an anti-trust law, including the establishment of a Fair Trade Commission to enforce competition laws.

D. Implementation and Evaluation of Each IAP

The plans of the Philippines are not specific enough to render an evaluation. Nor does the IAP indicate examples of successful implementation of specific objectives. However, the government has put in some effort towards competition advocacy and also towards enacting a comprehensive competition law. However, it would have been more desirable to explain in its IAP why the current system is inadequate (for the Philippines do have various laws with provisions to enhance competition and consumer rights) and why a comprehensive competition law may work better.

11. Russia

A. Current Status

Russia's competition policy is based on its constitution and the *Federal Law on Competition and Prevention of Monopolistic Activities in Commodity Markets*. Enforcement power is vested with the Ministry on Antimonopoly Policies and Support for Business Activity of the Russian Federation. The Ministry and its regional offices each year consider and investigate several thousand complaints related to violations of unfair competition.

To transform the economy from a state owned monopoly to a competition based one, Russia has developed the "Federal Program for Demonopolisation of the Economy and Development of Market Competition." About thirty programs have been developed for sectoral commodity markets. Regional level programs are currently being drafted.

B. Additions to the IAPs in 1996-99

Russia began to submit IAP from 1998 and there have been no new additions in the 1999 IAP.

C. Long Term and Short Term Plans

Russia's short term goal is mainly to remove entry barriers to decrease the level of monopolisation. In order to do this, the government will:

1) Improve the legal infrastructure to control monopoly and to amend the *Federal Law on Competition and Prevention of Monopolistic Activities in Commodity Markets* to increase efficiency of preventive measures and sanctions for violation of legislation and assure its transparency.
2) Prevent emergence of new integrated monopolistic structures
3) Control economic concentration arising from privatisation of state enterprises, or creation, reorganisation, and liquidation of economic entities.
4) Assure equal opportunities for economic activities in commodity markets, especially in the areas of issuing licenses for nature management, providing state assistance in the form of subsidies, privileges and guarantees or other benefits to specific economic agents and regions, and procurement.

The federal government will also foster development of infrastructure of certain commodity markets, including alternative forms of rural trade. In addition, the government will exert control over impact of import operations on competition on local commodity markets and take antidumping measures to protect local markets.

In the medium and long term, the government will further apply antimonopoly legislations to the markets of the Russian Federation, especially in the branches currently defined as natural monopolies. Additionally, the government will further harmonise the competition related legislations and policies with international rules and regulations.

D. Implementation and Evaluation of Each IAP

Russia's plans are geared to generally transforming the economy into a market-based or competition-based one from the one dominated by stated owned monopolies. This is a process that takes a long time whereas IAP is available only for two years, and therefore it is difficult to evaluate the effects. It would be helpful if Russia would explain more in detail its sectoral programs in its next IAP.

12. Singapore

A. Current Status

Singapore does not have a competition law but depends on its free and open market to ensure a competitive environment. In public services sector where the government had been the sole provider, Singapore has commenced a programme of corporatisation and privatisation to introduce market discipline.

This has led to the removal of regulatory functions from government business enterprises in the broadcasting, telecommunications and supply of power and gas sectors. Government authorities in port and financial services were also corporatised.

Therefore, in effect, Singapore has relied on sector specific approach to promoting competition rather than introducing a comprehensive competition law. The administration and enforcement of the different sectoral competition regulations are undertaken by the respective regulatory agencies of the sectors concerned.

B. Additions to the IAPs in 1996-99

In 1996 and 1997 IAP, Singapore stated its plans to corporatise the Port of Singapore Authority (PSA) in 1997. In 1996, a new Statutory Board, the Maritime and Port Authority of Singapore (MPA) was formed to take over the statutory functions of PSA and to regulate the port

industry. The corporatised PSA will be a container and conventional cargo terminal operator and marine services provider. It will eventually be publicly listed. Implementation of this plan is reflected in the 1998 IAP, though PSA is still to be publicly listed. In the 1999 IAP, it can be further noted that financial services has also been corporatised, although no specific plan to do so was mentioned in previous IAPs.

C. Long Term and Short Term Plans

Singapore has three basic short to long term plans:

1) continue to maintain its free and open market to ensure a competitive environment in the domestic economy;
2) continue to review and introduce competition through privatisation where appropriate;
3) continue to participate in competition policy dialogues among APEC economies to enhance mutual understanding of competition policy and laws.

D. Implementation and Evaluation of Each IAP

Singapore’ s plans are very broad and only set general directions of competition policy so that evaluating implementation process is quite difficult. Nevertheless, Singapore shows progress in its privatisation programmes, in conformance with its IAP plans.

13. Thailand

A. Current Status

Competition policy and consumer protection in Thailand have been regulated under the *Price Fixing and Anti-Monopoly Act (1979)* for the past 18 years. However, a new *Competition Act* was promulgated in March 1999. The process of redrafting had begun in 1991.

The new law is specifically geared to promoting competition, and subsumes the existing *Price Fixing Law and Monopoly Laws*. The new law is more flexible and is intended to reflect rapidly changing international economic environment, and conforms to international standards. There is an authorised, specialised agency responsible for competition policy enforcement.

B. Additions to the IAPs in 1996-99

There have been no particular additions to the IAPs over the four years from 1996 to 1999.

C. Long Term and Short Term Plans

In the short term, Thailand seeks to develop and amend relevant regulations within the framework of the new *Competition Act*. For this extensive review of competition policy, law and enforcement in light of changing internal and external economic climate, would be necessary. Further, the government will establish connections between and foster goodwill and understanding for the *Competition Act* among relevant government agencies to ensure a more effective implementation of the Act.

In the medium and long term, Thailand plans to strengthen competition advocacy and further review the new law for continuous improvement. Specifically, relevant decisions will be publicised and courses open to both public and private sectors, will be organised on the *Competition Act* and its implementation. Further, Thailand will extend provision of technical assistance to other APEC economies in developing competition and or laws where appropriate.

D. Implementation and Evaluation of Each IAP

The most specific plan Thailand had since the 1996 IAP, was the amendment of the previous competition law, the *Price Fixing and Anti-Monopoly Act* (1979). This plan was finally implemented in 1999, with the promulgation of the new *Competition Act*. Although Thailand seems to show great awareness with respect to competition advocacy and eager to participate in international cooperation, its IAPs are characteristically brief and it is difficult to evaluate what kind of problems Thailand had faced or the successes it had in this sphere. It would be desirable for it to explain these aspects more in detail, especially to show in what respects it can contribute in technical assistance to other developing economies of APEC.

14. Vietnam

A. Current Status

Vietnam has no single, separate competition law. However, like in many other countries, competition promotion is undertaken through a variety of laws and sub-laws. The *Commercial Law* (Article 8: 1997) prohibits anti-competitive activities (as well as those harming national interests) of merchants, including misleading sales promotion and advertisement. The *Intellectual Property Rights and Technology Transfer* part of the *Civil Code* (Part IV: 1995) has provisions to protect intellectual property rights to govern the relationship between fair competition and technology development.

Vietnam has made efforts at structural economic reform through issuing the *Law on Cooperatives,* the *Law on Bankruptcy of Enterprises* and recently the *Law on Enterprises*. The government has also made considerable efforts to re-organise state-owned enterprises and corporatise state-owned enterprises, to create a more competitive environment. By April 1999, Vietnam had corporatised 160 state-owned enterprises in various economic sectors.

B. Additions to the IAPs in 1996-99

Vietnam has begun to submit its IAP only from 1998. There have been no new additions in the 1999 IAP, although as will be shown below, the 1999 IAP presents much more specific plans to be implemented in the future compared to the 1998 IAP plans.

C. Long Term and Short Term Plans

In the short term, Vietnam plans to promulgate the Law on Joint-Stock Companies to properly govern this form of business. Vietnam also plans to accelerate the drafting of the Ordinance on Tendering to ensure equal business opportunities and the Ordinance on Consumers' Rights Protection to strengthen consumer rights.

In the long run, Vietnam plans to issue the *Ordinance on Advertisement*, the *Ordinance on Commercial Notes*, the *Ordinance on Prices*, *the Ordinance on Most Favoured Nations Treatment*, *National Treatment and Safeguard* and the *Ordinance on Commercial Arbitrators*. Finally, Vietnam plans to promulgate the *Law on Competition and Anti-trust*.

D. Implementation and Evaluation of Each IAP

As in other transition economies, all activities to transform the past socialist economic system to a market based one, are part and parcel of its competition policy.

With respect to implementation plans, Vietnam's plans under the 1999 IAP have become much more specific compared to the previous IAPs. In the 1998 IAP, its basic short term plans were to participate actively in dialogues with other APEC members and take advantage of technical assistance from other developed economies of APEC. The medium term goals were to consider and review existing legal system to encourage healthier competition for increasing economic efficiency and protecting lawful interests of producers and consumers. In the long run, its plans were to continue structural economic reform, reorganise the state-owned enterprises and to draft and promulgate a separate competition code.

Therefore, it can be said that Vietnam has lived up to its plans (though they are still in process), and has seen some progress in delineating the kind of laws to be enacted and in the area of corporatising state- owned enterprises.

III. IAPs for Deregulation

The objective for deregulation as listed in the OAA is for the APEC economies to: Promote the transparency of their respective regulatory regimes; and eliminate the trade and investment distortion arising from domestic regulations which not only impede free and open trade and investment in the Asia-Pacific region but also are more trade and/or investment restricting than necessary to fulfill a legitimate objective. Unlike the competition policy section, the OAA does not offer any guidelines to fulfill the objectives

The sections below examine each member economy's IAP of competition policy in detail. Each section lists the highlights from the current status section of the 1999 IAP for deregulation, selected additions to the IAP for deregulation in the years between 1996 and 1999, and short term and long term plans for deregulation as listed in the 1999 IAP. Then, there is a summary of how the member economy implemented the measures listed in the previous IAPs, as listed in the 1999 IAP, along with an evaluation of the member economy's progress.

1. Brunei Darussalam

A. Current Status

The entire 1999 IAP for Brunei concerning deregulation consists of the following paragraph:

"The Government of Brunei Darussalam is undertaking and will continue to undertake steps to eliminate or reduce the negative impact of any domestic regulations, which impede free and open trade and investment. The current five-year National Development Plan aims to diversify the economy through broadening the industrial and commercial base, including undertaking liberalisation and deregulation measures."

Under "Current Actions", Brunei states:

"The government is embarking on corporatisation or privatisation of public services and utilities, e.g land transport, broadcasting, telecommunications, ports, education and environmental services."

B. Additions to the IAPs in 1996-99

Brunei Darussalam has submitted virtually the same paragraph as its deregulation IAP for the past four years. There has been no important changes or additions. Brunei has listed no new commitments entered in 1999 for deregulation. However, in other areas of the IAP, it has listed additional measures, some of which are the following: In shipping services, Brunei has privatised critical services at Muara Port; in Standards and Conformance, Brunei is pursuing an agreement with a laboratory accreditation organisation in the APLAC MRA to provide accreditation services for Brunei laboratories wishing to gain regional acceptance for MRA; and in the Mobility of Business People, Brunei now grants Multiple Entry Visas to business people with validity up to 1 year.

Brunei has listed no "other revisions and updating" in 1999 for deregulation. However, in other areas of IAP, it has listed the following: In Communications Services, Brunei will open value-added/enhanced telecommunications services for competition; and Brunei also promises to computerise the Registry of Trademarks to streamline trademark processing.

C. Long Term and Short Term Plans

Brunei Darussalam has included no concrete proposals or commitments on deregulation for its long and short term plans in its IAP for deregulation in 1999.

D. Implementation and Evaluation of Each IAP

Brunei has reported very little progress in the deregulation component of its IAP. Brunei has reported only one measure implemented in 1997, when it stated that public transportation has been deregulated. There has been no additional measures implemented since then. However, in other areas of the 1999 IAP, Brunei Darussalam has listed the following commitments achieved: In Services, Brunei has indicated that it will deregulate telecommunications equipment by participating in the TEL MRA from the year 2003; in Standards and Conformance, Brunei is currently redesigning its standards and conformance website, and has recently published a Construction Industry Directory which contains a section on standards and guidance documents. Brunei also states that Accrediation of Quality System Certification and Inspection Bodies in the PAC MRA and other established Accreditation Bodies Worldwide is accepted in Brunei, and Certification of conformance issued by certification /registration body accredited by PAC are accepted in Brunei.

Evaluation:

Brunei Darussalam has not been active in the area of deregulation, at least in respect to what has been reported to APEC through its IAP. It has not informed APEC of any concrete measures which it carried out, or plans to carry out in the future. While Brunei has carried out some deregulatory measures as a part of its five year plan, it is not a part of a comprehensive regulatory reform programme. Rather, Brunei seems to carry out deregulation as a part of regular sectoral policy modification process.

2. Chile

A. Current Status

This section lists the elements of Chile' s 1999 IAP on deregulation. According to its deregulation IAP for 1999, Chile has privatised most of the public utilities and is promoting private investment in infrastructure. Chile has had three major rounds of privatisation, the first in 1974-79 which mostly dealt with banks and manufacturing firms; the second in 1984-89 which dealt mainly with telecommunications, electricity and steel production; and the third since 1990, which dealt mainly with air and railroad transportation, mining and electricity.

The most recent privatisation activities include the selling of 49% of the Iqunique duty-free zone (1993); the auction of the National Railroad Company (1994); Selling a part of the government-owned stock in Lan Chile Airlines and Edelnor electric utility (1994). In 1996, CODELCO sold 26% of its main electricity plant, and sold another 50% in 1997. Procedures to privatise a major state-owned electricity concern were initiated in 1997.

Chile reports that it has no barriers to private investment deriving from regulatory regimes. Currently, Chile is reviewing regulatory regimes for promoting private investment and competition, and is also trying to implement pro-competitive regulatory framework for utilities or natural monopolies, and is promoting private investment in ports, airports and other infrastructure.

Chile has started to deregulate in 1970s, trying to make itself a “Regulatory State” which establishes rules so that open and competitive markets can serve as a primary means for allocating economic resources. Reforms during this period include: (1) elimination of price fixing and controls, as

the institution in charge (Diringo) was transformed into the Consumer' s National Service (Sernac); (2) elimination of legal restrictions to investment and operation of enterprises in most sectors; (3) market opening and establishment of a flat tariff rate; (4) the institutional reform of the basic services on electricity, telecommunications and drinkable water, which involved the establishment of a concession regime, the fixation of prices of self financing in efficiency conditions, and the conformation of prosecutor' s agencies and superintendencies. In 1973, a new competition law was promulgated which created the anti-trust commissions. This law was further strengthened in 1979. Also, the National Commission in charge of investigating the existence of distortions in the prices of imported goods was created in 1983.

The Constitution of 1980 guarantees the right of any local or foreign persons to develop any economic activity as long as they respect the legal regulations that govern that activity, and do not harm morals, public order, or national security. The remaining regulations are not aimed at impeding free, open trade and investment, but rather are aimed at improving competition and avoiding trade distortions. Financial services, energy, telecommunications, water and sewage services and transportation are sectors which have undergone major reforms. These reforms have mainly focused on pricing and the establishment of concession systems.

The prices for basic services (distribution of electricity, telecommunications, water and sewage) are subject to regulation because of their monopolistic characteristics. The pricing is according to marginal cost, and there is no discrimination among sectors or consumers, or national or foreign companies. The institutions in charge of setting the tariffs vary for each service, with the participation of the Market Development Division of the Ministry of Economy.

Chile' s concession systems are aimed at increasing the incorporation of private capital in public utilities and services. The types of systems, as well as the institutions in charge vary for each service. In most sectors, the companies which have been conferred concessions are obliged to provide the related services within the Service Area (Area de Servicio) that is established with the government, and that does not necessary correspond to the Concession Area (Area de Concesión). In such areas as telecommunication and water and sewage services, Chile has used privatisation through granting of concessions to provide services to its people.

The telecommunication sector has been fully privatised, with 27 private companies. Seven companies have concessions to operate as long-distance carriers, and with the introduction of the multi-carrier system in 1994, tariffs were reduced by 30%. In addition, the private companies have undertaken important investments in infrastructure, including fibre optic networks and satellite equipment.
State regulation of the telecommunications sector is the responsibility of the Under-Secretary of Telecommunications (SUBTEL) which controls and surveys public telecommunication services and protects users. SUBTEL is separate from, and not accountable to, any supplier of basic telecommunications services. Tariff of public services and intermediary services contracted among enterprises may be freely established by the provider. However, if there is a resolution by the Resolutary Commission that market conditions do not allow tariffs to be determined by market forces, these tariffs are fixed according to the provisions of the General Law of Telecommunications. Tariffs so fixed are based on the long-run marginal cost of a hypothetical efficient enterprise, and are indexed according to increases in the costs of production of the enterprise. The General Telecommunications Law stipulates that the public telephone service must provide access to the general network. Inter-connection with a major supplier is ensured at any technically feasible point in the network, and is provided under non-discriminatory terms, conditions, technical standards and specifications.

For electricity, in 1998, the government issued the Regulation of the Electrical Law to promote competition in generation, improve transparency in the establishment of transmission tolls and in the operation of Centers for the Economic Dispatch of Charge (CDEC) and modified the legislation on the

use of water rights.

The electrical services sector has been mostly privatised. 58 companies are currently operating, of which twenty are concessions for generation, four for transmission, and 36 for distribution of electricity. Concessions are compulsory for the distribution activity that makes use of public goods, and subject to price regulations. The concessions can be temporary or permanent, where they are conferred after a technical evaluation. Concessionaires are obliged to provide services within the Service Area.

Concessions are optional for generation and transmission. However, the right to use public goods is conferred through concessions. Hydraulic stations or electric substations need a concession. The Law does not contemplate concessions for thermoelectric stations.

The regulatory authority is the National Commission of Energy, the Superintendency of Electricity and Fuels, the Ministry of Economy and CDEC of each of the electrical systems. The CDEC coordinate the operation of the companies which generate electricity, and determine the value of the electricity transfers among these companies based on the marginal costs per hour.

Tariffs may be freely set. However, tariffs for distribution services are fixed for users whose consumption is low since these users lack negotiation leverage. In addition, two prices are fixed: The knot price (price paid by the distribution companies) is fixed each semester; and the distribution value added price (price paid by the final consumer) is fixed every four years based on the long run marginal cost of a hypothetical efficient enterprise and indexed according to increases in the cost of production of the enterprise.

For financial services, Chile maintains a local presence requirement, except for reinsurance activities. For banking services, the General Banking Law was modified in November 1997, to help modernise the banking sector. Reforms include the expansion of the scope of banking activities both domestically and internationally, and the adoptation of international standards regarding supervision methods. At the international level, Chilean banks are now allowed to establish branches abroad and lend money abroad. Additionally, the Basel capital requirement standards were adopted.

The banking sector has been fully privatised with the exception of one state-owned enterprise, Banco del Estado which accounts for 17% of the deposits and 14.7% of assets. Some thirty private banks are registered, of which 17 are foreign banks (accounting for 18.5% of deposits and 21.1% of assets), 12 are domestic private banks, and 3 are financial enterprises.

To operate in Chile, banking companies must be legally incorporated as corporations according to Chilean Law, and obtain authorisation from the Superintendency of Banks and Financial Institutions, which is the regulatory body for the industry, and which reports to the Ministry of Finance. Foreign banking institutions may only operate through share holdings in Chilean banks established as corporations, subsidiaries and branches. Foreign banks can maintain a representative office in Chile, but such offices cannot supply banking services. The banking companies established in Chile, whether they are domestic or foreign, are subject to the same rules of operation and supervision. They are subject to the same capital requirements, credit limits, asset clarification rules, and transparency obligations. Their deposits are guaranteed by the State.

Banks are allowed to trade foreign exchange in the official foreign exchange market. Since mid-1992, banks and other local firms have been allowed to trade currency futures and options, including foreign currency interest futures and options. There are no restrictions on the setting of interest rates

that the banks can charge, with the exception of measures to prevent usury[4].

For insurance and reinsurance companies, national regulations apply equally to domestic and foreign companies. According to the Insurance Law, these services can be provided only by companies which: (1) is legally constituted in Chile as a corporation with the exclusive purpose of developing this line of business and related activities; and (2) meet the minimum capital requirements. The Superintendency of Securities and Insurance is in charge of approving the establishment of insurance and reinsurance companies.

Reinsurance services can be provided by insurers or reinsurers established in Chile; that is (1) corporations whose sole purpose is to operate reinsurance, subject to inspections by the Securities and Insurance Supervision Department; and (2) those foreign reinsurers who are registered in the Register of Foreign Reinsurers maintained by the Securities and Insurance Supervision Department. The insurance and reinsurance business is divided into two groups: (1) Companies that insure goods and property against the risk of loss and damage, and credit insurance companies; and (2) Companies that provide personal insurance or Companies that guarantee, within or at the end of a certain term, a capital sum, a paid-up policy, or an income for the insured or his beneficiaries. Insurance and reinsurance companies are not allowed to cover both types of risks, and credit insurance companies must deal exclusively in covering this type of risk.

Insurance and reinsurance can be bought abroad, with the exception of compulsory insurance which must be contracted with companies established in the Chilean market. Importers and exporters that contract insurance services abroad are subject to VAT, and a 20% tax levied on the insurance premium. Insurance for the transport of imports and exports is exempt from VAT.

For securities, national regulations apply equally to national and foreign companies. The security trading of public offering can be carried out by stock exchange brokers or by security dealers operating outside a stock market. However, the trading of shares or securities issued inside the stock exchange must be carried out by stock exchange brokers. Other securities may be traded by brokers and dealers registered in Superintendency of Securities and Insurance or by banks and financial institutions. Legal requirements to operate in the security market in Chile are rather high, and include requirements on capital, solvency and liquidity.

For highways, airports and railways, the Concessions Law of the Ministry of Public Works establishes a legal framework for the provision of concessions in these areas. The concession contracts are granted after a competitive bidding process. Under the concession contract, private companies agree to the construction, conservation and management of a national property, being paid by the user (in accordance with the bidding guidelines, the State can guarantee a minimum income). There is no discrimination among foreign and local companies, and the institutions in charge vary for each service. With respect to airports, certain functions dealing with air navigation and airport security remain under the responsibility of DGAC.

For mining, the Constitution of 1980 stipulates that the State is the sole owner of all the mines, independently of who owns the surface land. However, a system of concessions is in place, under which foreigners are allowed to explore or exploit minerals, and are granted national treatment. Application for concessions have to be posted with the nearest judge to the mining site. A concession to exploit is valid for an indefinite period, and it remains in force as long as the license fee continues to be paid. A concession to explore is valid for two years from the day it is granted, and it can be extended for two additional years if the area of the land being explored is reduced by 50%.

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[4] : For example, interest rate on consumer loans cannot be more than 50% above the average market interest rate as published monthly in the Official Gazette.

The State participates in production through two enterprises: Chile's National Copper Corporation (CODELCO) and the national Mining Company (ENAMI) which owns two copper processing plants and an electrolytic refinery, and purchases copper. There are also 27 private Chilean companies and 17 foreign companies engaged in exploration, as well as 27 companies engaged in exploitation.

The Ministry of Mines is responsible for setting the mining policy and regulating the sector, and it maintains several advisory bodies. There is no discrimination between private and public enterprises, or between national and foreign investors. Tax treatment is equal to that in other sectors of the economy.

B. Addition to 1996-1999 IAP

Chile had completely rewritten its IAP on deregulation in 1997, adding minute details to its initial 1996 IAP. However, Chile's IAP for regulation has changed only slightly since then; mostly updating details. It has not added any new major commitments, nor reported new major commitments achieved. In 1998, Chile reported that it is drafting a bill to establish the Superintendency of Telecommunications. The same statement is repeated in the 1999 IAP, implying that the bill is still being drafted.

In related sections of the IAP, Chile reported the following in 1999. For investment, IPPA negotiations are under way with Russia, Singapore, Thailand and Viet Nam; for customs procedures, a new single form has been implemented which covers all the operation related to the entry of foreign and domestic goods, and the custom service's website has been enhanced, improving the availability of information, and the use of electronic means (EDIFACT) has reached 92% of declarations of entry.

C. Short Term and Long Term Plans

In the 1999 IAP for deregulation, Chile made the following short term and long term commitments: In the short term, to promote the transparency of the regulatory regimes, Chile will privatise the only public energy generation facility (which is the third one in Chile), draft a bill creating the Superintendency of Telecommunications, implement laws allowing the privatisation of water and sewage services companies, and ports. The government will also review all regulatory framework to make them more competitive. A draft bill will be presented to Congress for its approval before the end of 1999. Chile has listed no long term plans to improve the transparency of the regulatory regimes.

Under the heading of short and long term plans to eliminate trade and investment distortion arising from domestic regulations, Chile states: "The economic regulations currently in force in Chile are not aimed at impeding free and open trade and investment. On the contrary, they are aimed at improving competition and avoiding trade distortions.

The IAP concludes by stating "The government constantly reviews and improves its regulatory framework, some important reformns are currently being discussed in Congress."

D. Implementation and Evaluation of 1999 IAP

Chile has reported no major commitments achieved in deregulation for 1999 IAP. However, in related areas of the 1999 IAP, Chile has reported following achievements. In non-tariff measures, Congress passed a bill to progressively reduce the simplified duty drawback system, from the initial 10%, 5%, 3% rebate levels on the FOB value of exports to a single 3% level by 2003. In investment, Investment Promotion and Protection Agreements (IPPAs) have been implemented with Indonesia and New Zealand. In standards and conformity, Chile has endorsed the text of the Electrical MRA, and agreed to participate in the Food MRA.

Evaluation:

Chile seems to have made striking regulatory reform in the last twenty years, comparable to the best practices of the OECD countries. Deregulation has taken place in a wide variety of sectors, and the measures seem to have been carried out in a systematic fashion.

Chile' s most notable characteristic is a wide use of the concession framework to provide public goods and services in a competitive market setting. Chile decides on a sector which is appropriate for concessions, opens the sector up in a competitive, open bidding which, for the most part, treat nationals and foreigners equally, and allow the winning bidder to operate without undue government interference. The Superintendencies for various sectors act as the regulator, and the responsible Ministry oversees the entire process. Chile is using this concession mechanism consistently and actively across many different sectors of the public economy.

Of the non-OECD APEC members, Chile is probably the foremost member in pursuing a deregulation programme. However, some questions do remain about how Chile uses its concession mechanism. For example, it is unclear if there are mechanisms in place to guarantee healthy competition among firms which have gained concessions. There is little mention about what types of mechanisms are in place to guarantee universal service, quality of goods and services, division of profits (for mining concessions) and consumers' rights. Furthermore, the length of time for concession grants, and the circumstances under which concessions may be revoked are important issues which are not mentioned in detail in the IAPs. While the IAP mentions that the length of the mining concession is indefinite, that raises competition aspects which are not addressed in the IAP. The establishment of minimum income guarantees for concessions in Airports and Ports, also raise questions on moral hazard. So does setting of some electricity tariffs based on a "hypothetical efficient enterprise", "indexed according to increases in the costs of the production of the enterprise." Such schemes may lead a concession to choose an inefficiently expensive method of operation if the scheme is not carefully designed.

Finally, it is unclear whether there is a centralised office responsible for deregulation and regulatory reform throughout the economy. However, because IAP is a document designed for international negotiations, and not a blueprint for deregulation policy, such details may not be appropriate for inclusion in the IAP. Nevertheless, they are important details which need to be covered in order to properly evaluate the degree of effectiveness of Chile' s concession mechanism.

Chile has made good progress as well in sectors which do not utilise concessions, most notably financial services. While there remains some discriminatory aspects to Chile' s financial sector, it seems better than most other APEC members, and much of the financial regulations are carried out in a non-discriminatory fashion.

However, much like most other members' IAPs, Chile does not describe the domestic aspects of deregulation and regulatory reform other than concessions. For example, Chile does not describe its plans for deregulating the public administration sector, or regulatory impact analysis (RIAs) are being used or not. The lack of emphasis in the domestic side of deregulation is a problem inherent in the way APEC was chartered, and it affects most member economies, not just Chile. Since APEC was formed as a trade- and investment-facilitating organisation, it does not tend to emphasise purely domestic aspect of the member economies. This point is emphasised in the final comments below.

3. China

A. Current Status

This section lists the elements of China's 1999 IAP on deregulation. China's 1999 IAP on deregulation states that "To keep a rapid and steady economic growth, China will give full play to the role of market mechanism, as well as strengthen and improve the macroeconomic control." While China recognises the importance of the role of market forces as the basic means of regulating the allocation of resources, China also believes that market has its own limitations that need administration and guidance through macroeconomic control by government, otherwise "economy will be in chaos." China differentiates government's direct interference in the operation of enterprises under the planned economy system, and the macroeconomic control under market economy which makes rational regulation on national economy in accordance with discipline of market economy combined with economic, legal and supporting administrative measures.

China reports that it aims to maintain a balance among reform, development and stability; and reform, as the motive force of development, should promote social and economic development to raise people's living standards. However, China also places importance on the guarantee of stability in the reform process, and considers stability as "the prerequisite of reform and development." Thus, China will also consider the role of harmonisation and unification of the intensity of reform, the speed of development, and social ability to sustain them so as to advance amid stability.

According to China, it has made important strides in reforming the system of public finance, taxation, banking, foreign exchange, planning, pricing, investment and financing. The mode of planning control with directive planning as the base has improved, and the control on prices have been further relaxed. The prices of consumer goods and raw materials are mostly determined by the market, and market mechanism plays a more active role in increasing supply, adjusting demand, and raising welfare. Reforms on investment and financing were carried out to encourage bidding, to strengthen the control of risk in development and further widen the channels of financing for enterprises. China has increased its effort to reform state-owned enterprises, reforming the economy in such a way that the public sector remains dominant, but diverse sectors of the economy also developing side by side, so that the national economy is further market-oriented and socialised.

According to the IAP, China has recently taken following measures in deregulation and regulatory reform: In Foreign Investment, in accordance with the revised Catalogue for the Guidance of Foreign Investment Industries, most of industries in China are open to foreign investment. China has relaxed the conditions for market access in financial services, commercial retailing services, energy, transportation and tourism services. Pilot programs are being actively explored for further deregulation.

In foreign trade, China expanded the scope of the pilot "trading right registration system for production enterprises", and will gradually adopt a complete registration system. From January 1, 1999, private production enterprises and scientific institutes were granted trading rights. They now enjoy the same treatment with state-owned production enterprises and scientific enterprises.

In telecommunications services, before 1993, all of China's telecommunications services, including basic and value-added telecommunications services were operated and administered by China's postal and telecommunication enterprises. Since 1993, China has granted domestic enterprises the right to operate nine value-added communication services. In 1994, China Unicom Corporation was established to provide basic telecommunication services such as long-distance and local phone services, and value-added telecommunications services. In 1998, the Ministry of Information Industry was formed to separate enterprises from the government body, strengthen the enactment of laws and regulations, and administrate the information industry.

For financial services, in 1995, China strengthened the status of the People's Bank as the central bank and provided the legal framework for improving its surveillance of commercial banks. The People's Bank of China has standardised open market business, and established and perfected the

system on open market business and first-class dealers. From 1992, China began to conditionally open its insurance market, allowing foreign insurance institutions to establish their branches, and/or joint-venture insurance companies in the designated cities of Shanghai and Guangzhou. In 1997, the Securities Committee of the State Council opened the convertible company bond market. In 1999, the Securities Law entered into force which provided a systemised legal framework for China's securities market.

Since 1997, China has begun to establish a financial system consistent with the social market economy. In 1998, the People's Bank completed its administrative reform, and established separate governing bodies for banking, insurance and securities sectors. In 1999, China will improve its financial surveillance system and implement plans to reform various financial institutions to reduce financial risks and promote the healthy development of the financial market.

For legal services, in December 1993, the State Council approved "the Plan of the Ministry of Justice for Deepening the Reform of the Bar System." China began to set up its own bar system with Chinese characteristics that adapted to the needs of the socialist market economy and international exchange. "The Law of the Bar of the People's Republic of China" came into effect on January 1, 1997, and further consolidated the administrative system for lawyers that combined the administration of relevant enforcement authorities with administration of the profession and the lawyers' association.

B. Additions to the 1996-1999 IAP

China has made a major revision to its IAP in 1998, adding greater details on the ideology behind its deregulation programme, and measures taken in recent years. The 1999 IAP is a minor revision and updating of the 1998 IAP. In 1997, China had made no additional commitments to their IAP on deregulation.

In 1998, China made following additional commitments to their IAP on deregulation: For the short and mid term, China will actively push forward its government structure reform and transform government's functions in accordance with requirements of the socialist market economy. Government will cut their links with enterprises and an efficient, coordinated and well-regulated administrative system will be established. Emphasis has been focused on adjusting the functions of those departments directly engaged in economic administration and enhancing the functions of macro-administration and law enforcement supervision departments.

In telecommunications, China will actively explore methods to utilise foreign investment in this sector and develop administrative measures on the pilot projects of utilising foreign investment in the sector. Formulation of Telecommunication Law will be expedited to regulate the telecommunication market and protect orderly competition.

In finance, China will establish a unified and transparent currency market, regulate money market among financial institutions and remove control over interest inter-bank money business. The open market business of central bank's state debts will be established, the deposit reserve system will be reformed, and asset-liability proportion administration and risk management will be further reinforced. Separated operation and administration will be conducted in the sector of banking, trust and securities and insurance. Financial laws and regulations will be perfected to avoid significant systematic financial risks.

China will also further push forward opening up of legal services in an active, rational and progressive manner, and legalise the work of reviewing and approving accession of overseas lawyer offices to China.

In the long term, through the deepening of reform, China will utilise market mechanism to allocate resources and competition mechanisms will also be introduced into basic industries.

In 1999, China has made the following new commitments in the deregulation IAP. In the short term, with respect to reforming the foreign trade regime, China will gradually adopt the complete registration system for trading right based on the expanding pilot of granting production enterprises the trading rights; deepen the reform of its import and export regime, especially the work for tendering of export quotas; and will further reform its telecommunications industry.

C. Short Term and Long Term Plans

In its 1999 IAP for deregulation, China made the following short term and long term commitments. China's short term commitments include the following: In trade and investment, China will gradually adopt the complete registration system for trading rights, expanding the pilot program of granting production enterprises the trading rights.

In the telecommunications sector, China will: (1) optimise the structure of telecom enterprises, carry out the planned reform and restructuring of China Telecom to gradually create fair competition; (2) adopt the APEC MRA on telecommunications equipment and allow the recognition of testing reports for telecom terminal equipment by 2002; (3) facilitate the legislative process for telecommunications; and (4) carry out the framework agreement reached between Chinese and American enterprises to allow the establishment of Chinese-foreign joint venture in operation of value added telecom services in Shanghai's Pudong New Area, subject to the approval by both governments. China will gradually open its telecommunications market to foreign investment after its accession to the WTO.

In the financial sector, China will establish a unified and transparent currency market; regulate the inter-bank call-money businesses of all types of financial institutions; liberalise the interest rates of inter-bank business; establish open markets for national debts in the central bank; reform the required reserve system for deposits; and continue to introduce the management on the ratio of assets and liabilities as well as risk management. Various financial businesses such as banking, trust, insurance and securities will operate and be administrated independently with a view to improving the financial legislation and prevent serious systematic financial risks.

For the long term, China commits to the following measures: China will replace the approval system for granting trading rights with a registration system gradually within five years after China's accession to the WTO; further liberalise regulations on trade and investment and make efforts to eliminate barriers to trade and investment development; and spread the market mechanism to more areas through deepening of the reform.

D. Implementation and Evaluation

In 1997, China reported the following "commitments achieved" in its deregulation IAP: Foreign-invested enterprises started to have access to foreign trade; registration system for trading rights of manufacturing enterprises has been formally endorsed in special economic zones since the end of 1996.

In 1998, China reported the following "commitments achieved" in its deregulation IAP: China removed non-tariff measures on additional 13 commodities; opened the transferable company bonds market; and promulgated the Tentative Measures on Administration of Security Investment Funds, which is beneficial to the healthy development of securities market and the protection of legitimate rights of fund clients.

In 1999, China reported the following "commitments achieved" in its deregulation IAP: China

expanded the pilot scope of trading right registration system for production enterprises and will gradually adopt complete registration system; granted trading rights to private production enterprises and scientific institutes were granted trading rights; and continued to improve tendering of export quota and broke the traditional quota distribution system.

China established the China Insurance Regulatory Commission, along with China Life Insurance Company, China People Insurance Company, and China Reinsurance Company. In April 1999, another four licenses were granted to four foreign insurance companies which permit them to set up branches or joint ventures in China. China also adopted the Securities Law, and it entered into force on July 1, 1999.

In other sections of the 1999 IAP, China reported the following "commitments achieved.": In financial services, the People' s Bank of China abolished the geographic limitations on the establishment of business institutions for foreign banks. Two foreign banks were given approval to open new branches, two foreign banks were given licenses to conduct local currency business in Shenzhen, and four foreign insurance companies were allowed to establish their branches in China.

In telecommunications services, in March 1999, framework agreement was reached to allow set-up of a Chinese-foreign joint venture operating value-added telecom services in Shanghai' s Pudong New Area; and in Standards and Conformance, China is completing the TILF Project on Food Labelling and published the compilation of food labelling laws, regulations and standards in APEC economies. China is also participating in the APEC Umbrella Arrangement for Mutual Recognition of Conformity Assessment of Foods and Food Products and the APEC Arrangement for the Exchange of Information on Toy Safety and the APEC Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment. As of the end of 1998, China has developed 18,784 national standards, of which 7,970 are direct adoptation of ISO/IEC standards. More than 60% of national standards developed in 1998 were aligned with international standards. For the time being, more than 71% of IEC standards in electrical and electronic fields have been adopted by China.

Evaluation:

China is moving towards an open and competitive market by deregulating its economy, but its pace seems to be fairly slow. Also, at least as far as the items reported in the IAP are concerned, deregulation seems to be driven not by the desire to improve the efficiency of the economy, but rather China' s desire to accede to the WTO or merely follow APEC policy goals. In other words, it is hard to see whether the deregulatory measures listed in the IAP are a part of a comprehensive and cohesive design, or whether they are merely a collection of measures which China has agreed to carry out as result of pressure from other countries. While some countries have used accession to international organisations or conditions imposed by international organisation as an "excuse" to push a comprehensive regulatory reform programme and other difficult policies, that does not seem to be the case in China. Rather, it seems to be a somewhat haphazard collection of market-opening measures designed to appease foreign critics.

Also, the statements at the beginning of the current status indicate that China is still somewhat distrustful of the market economy, and believes that the State should have a strong role in influencing the economy to maintain stability and avoid "chaos." Such attitude may slow down the regulatory reform as well as the market reforms China needs to implement in order to attain a truly competitive market economy.

4. Chinese Taipei

A. Current Status

This section lists the elements of Chinese Taipei' s 1999 IAP on deregulation. According to Taipei' s IAP, Taipei has introduced the "Asia-Pacific Regional Operations Centre (APROC)" national reconstruction plan in 1995. This plan lays out short, medium and long-term measures to promote trade and investment liberalisation, reduce entry and exit barriers for natural persons, relax limitations on the inward and outward transfer of capital, and establish a legal environment suited for a society with advanced information technology. The IAP offers a brief outline of the contents, public announcements, and timelines of the deregulatory measures associated with the APROC plan.

For trade in goods, Chinese Taipei has begun to accept applications for registration of imports of OTC products as well as applications for the registration of imports of toll-manufactured new chemical entity pharmaceuticals. Chinese Taipei revised its legislation so that products from the Export Processing Zones will no longer be for exports only; General cosmetics were completely exempted from product registration; Taipei has also steadily eliminated or relaxed import restrictions on 188 goods.

On privatisation, Chinese Taipei has initiated privatisation of state-owned enterprises since 1989. By Chinese January 1999, sixteen state-owned enterprises have been privatised. Taipei had set a timetable for the privatisation of the remaining 36 state owned enterprises to be completed by June 2002. However, Chinese Taipei is running far behind schedule.

On services, the IAP lists reforms in following service sectors: In air transportation, Chinese Taipei relaxed the regulations of private air transport businesses such as the helicopter transport service, and also simplified the related license application procedures. United Parcel Service and Federal Express were permitted to set up and operate their own distribution centres at Chiang Kai-Shek International Airport. Chinese Taipei has also revised its civil aviation laws to help Taipei become the regional air cargo transshipment centre. The revision allowed foreigners to hold up to 50% of equity in local enterprises providing air freight forwarding services, airport terminal ground-handling services, and off-airport air cargo terminal services. It also increased the proportion of foreign directors allowed to serve in the boards of local enterprises engaged in the above services up to 50%. In addition, the reciprocal treatment condition imposed on foreign airfreight forwarding enterprises for setting up branch offices in Taipei was lifted. Finally, the implementation plan to privatise the Taipei Air Cargo Terminal was made and approved.

In sea transportation, Chinese Taipei removed the preferential rights that Chinese Taipei transport companies and container transport companies had enjoyed in renting and investing in harbour facilities, and gave foreigners equal treatment; simplified customs procedures by no longer requiring the requirement that written reports and other documentation must accompany goods for customs clearance, and allowing a no-document review no-cargo examination; and increased the ratio of foreign investment permitted in Chinese Taipei-registered ships from one-third to one-half.

In telecommunication services, Chinese Taipei had already deregulated Customer Premise Equipment (CPE), Value-added Network Services, and CT-2 services before 1996. In 1996, Chinese Taipei completely lifted the upper limit on investment by foreign companies in Chinese Taipei' s value-added network services, as well as allowing joint foreign and domestic investment in basic telecommunication services, and further broadening the scope of telecommunications value-added network services. However, the foreign investment in jointly operated basic telecommunications services was kept at 20%.

In 1997, Chinese Taipei began to accept license applications for the Satellite TV Broadcasting Links Services, satellite up-link services were opened and Chinese Taipei announced license applications

for the provision of fixed satellite services and mobile satellite services. In 1999, Chinese Taipei began accepting license applications for operating integrated network services.

For the securities market, in 1996, all restrictions on outward remittance of capital by foreign investors in the domestic stock market were lifted, foreigners were allowed to issue securities in Chinese Taipei to raise capital to promote the internationalisation of the Chinese Taipei money market, and the regulation limiting foreign investment in securities investment and trust companies to 49% was lifted. In May 1997, nationality restrictions on security brokers and stockholders of the Taiwan Stock Exchange (TSE) were lifted, and regional restriction on the stock exchange were eliminated. Since June 1997, the issuance and trading of warrants in 31 selected TSE stocks were opened. From March 30, 1999, Chinese Taipei has raised the upper ceiling of foreign investment by individual investors in any single publicly listed company from 15% to 50% of that company' s total issued shares. At the same time, the upper ceiling of total foreign investment in a publicly listed company was raised from 30% to 50%.

In banking, in 1996, Chinese Taipei began allowing the establishment of a trust system in order to facilitate the development of new types of financial products. In 1997, the two-year operational experience requirement for establishing additional offices by foreign banks in Chinese Taipei was removed, and the foreign liability limits for authorised exchange banks were abolished. A reserve requirement system can be adopted if necessary. In 1999, the revised "Deposit Insurance Act" was promulgated. The revised law will enhance the capacity of both competent authorities and the deposit insurance corporation to deal with unhealthy financial institutions.

To liberalise the foreign exchange regulation, Chinese Taipei has deregulated based on the spirit of "free in principle and managed by exception." In 1996, all restrictions on the time period for outward remittance of capital by foreign investors in the domestic stock market were lifted. Chinese Taipei has also lifted several restrictions to permit anyone who has the need for foreign exchange to engage in forward foreign exchange transaction with authorised foreign exchange banks, upon presentation of related transaction documents or letter of approval issued by the competent authority

For various industry and business-related services, in 1997, the employment time-limit for foreign workers was extended, and the existing requirements on the educational background and working experience of foreigners who are allowed to work in Taipei were relaxed.

To liberalise investment, Chinese Taipei, in recent years has progressively adopted liberal and open policies on direct investment by foreigners, and has taken several measures to encourage foreigners to invest in Taipei. In July 1997, the "Negative List for Investment by Overseas Chinese and Foreign Nationals," was revised and published. To encourage investment, the revision liberalised Type I telecommunications industries, real estate industries (buying, selling, and leasing), and land development industries from the "prohibited category" to the "restricted category"; entirely removed Type II telecommunications industries and oil refining from the Negative List, and also simplified review procedures for foreign investment. The "Negative List" was further revised in 1998 so that the electricity power supply industry, including power generation, transmission and distribution, is now listed in the "restricted" category, allowing overseas Chines and foreign nationals to hold shares up to 50%.

In September 1997, the screening procedures on foreign investments were substantially simplified. If a foreigner wants to invest in, or expand capital in businesses not included on the "Negative List", and the amount of investment is NT$ 50 million or less, an "express screening procedure" is used, so that a letter of approval may be received in one or two days.

B. Additions to 1996-1999 IAP

Taipei has constantly rewritten and revised its IAP to reflect changes in the measures taken on

deregulation since 1996. In 1997, Chinese Taipei reported that for trade in goods: Chinese Taipei will continue to review and study further reduction and elimination of restrictions on imports; accept applications for registration of imports of OTC products; and accept applications for registration of imports of toll-manufactured new chemical entity (NCE) pharmaceuticals in February, 1997.

In financial services, Chinese Taipei will further relax limits on free currency exchange by individuals and corporations and on foreign investment into domestic securities; continue to discuss the feasibility of appropriate relaxation of controls on insurance rates; study how the requirement for "prior approval" of policy clauses may be changed to the "file and use" system; and continue to carry out liberalisation on capital movement so that Chinese Taipei will achieve the goal of "free in principle, with approvals exceptionally required under special conditions" by the end of 2000.

In the transportation sector, Chinese Taipei will continue to encourage private investment or operation in business related to airport passenger and cargo facilities and services, such as air cargo terminals, airport hotels and car parks. During the WTO bilateral accession negotiations in the services sector, Chinese Taipei has made commitments to waive, on a reciprocal basis, the limitation on foreigners' equity holding and on the number of foreigners as the board directors in air freight forwarding companies.

In the telecommunications sector, satellite communications is scheduled to be opened in 1999, and fixed network communications will be opened by 2001.

In 1998, Chinese Taipei listed the following new commitments for deregulation in its IAP: The generation, transmission and distribution of electricity is now listed in the "Restricted" category of the Negative List allowing overseas Chinese and foreign nationals to hold shares up to 50%; the reciprocal treatment imposed on foreign air freight forwarding enterprises for setting up branch offices in Taipei was lifted in January 1998; the insurance premium rates for "personal accident insurance" and for "traveller's accident insurance" were amended to become more flexible; and the import and export of all publications will be handled by Customs, except for the export of publications produced by Chinese Taipei businesses and the import of publications from Hong Kong, China and the Chinese Mainland area which will still require inspection and approval from the Government Information Office.

In its 1999 deregulation IAP, Chinese Taipei reported the following new commitments: From 2001, no limitations for foreign portfolio investment shall exist, except as otherwise specified in specific sectors; and Chinese Taipei will continue the review of local financial regulations to facilitate the plans to establish a "Regional Financial Centre."

C. Short Term and Long Term Plans

According to 1999 deregulation IAP, to improve the transparency of regulatory requirements, Chinese Taipei will carry out following measures in the short/medium/long term: Follow the APROC principle, "to strive for transparency of policy and indicate clearly the scope of government responsibility," and continue to publicise all deregulatory measures pertaining to trade and investment; promptly publish all laws and regulations relating to trade and investment; following Chinese Taipei's accession to the WTO, provide, except in case of extreme emergency, a period of at least 60 calendar days for appropriate authorities to comment on all laws, regulations, and other measures pertaining to or affecting trade in goods, services or TRIPS before such measures are implemented; and eliminate unnecessary regulations which may distort trade and/or investment, Chinese Taipei will carry out the following measures in the short/medium term. Chinese Taipei has submitted a long list of specific goals for trade in goods, privatisation, services, transportation services, telecommunications, financial services, industrial and business services, and investment. Some of the specific goals are listed below:

For trade in goods, Chinese Taipei will: Continue the domestic legislative process for Chinese Taipei' s WTO accession commitments and consider further lowering tariffs and elimination of non-tariff measures after the accession; deregulate petroleum imports in two stages by first, opening the imports of fuel oil, jet fuel and liquefied petroleum gas (LPG) to private enterprises in January 1999, and then opening imports of all petroleum products by the end of June 2000; after the WTO accession, deregulate in stages, all export controls on textile products according to the schedule set out in the ATC; consider abolishing the local testing requirement for medical devices and accept the foreign testing methods and results if the manufacturer comply with Taipei' s GMP regulation; consider deregulation of the local clinical trial requirement for pre-marketing approval of contact lenses; continue to deregulate the requirements for new drug application to conform to the International Conference on Harmonisation; and lift the restriction of repackaging for imported pharmaceutical products.

For privatisation, Chinese Taipei will continue the privatisation process for the 42 government-run corporations based on the five-year timetable; and gradually open the production of tobacco, wine, spirits and beer to the private sector.

In transportation services, Chinese Taipei will: Continue to improve its port management to increase the efficiency of the harbour operations, improve construction of port facilities, increase cargo transshipment capability, and integrate inter-harbour function in order to become a regional maritime and transshipment centre; continue to install a fully automated cargo clearance system and automated network system in its harbours to simplify cargo customs procedures; continue to develop an express cargo transshipment centre, an airline passenger transfer centre, and an aerospace city in order to become a regional aerospace transshipment centre; upon accession to WTO, completely liberalise the 50% limitation on foreign equity-holding and the 50% limitation on foreign board directors in airport terminal ground handling services, off-airport cargo terminal services and air freight forwarding services; privatise the Taipei Air Cargo Terminal according to the already approved privatisation plan; and revise laws to eliminate the restrictions on market access to the airfreight forwarding services.

In the telecommunications market, Taipei will: Continue the step-by-step liberalisation of telecommunications, adjust the tariff structure, and integrate Chinese Taipei' s basic National Information Infrastructure (NII) to achieve the goal of becoming an Asia-Pacific regional telecommunications centre; continue reviewing and revising relevant laws to relax the limitations on foreign shareholding in Type I Telecommunications enterprises; conduct planning on further tariff control, interconnection, accounting separation, universal services, equal access and number portability to establish an equitable and reasonable environment for the telecommunications services market; amend the article on foreign investment proportionality so that foreign investment in the service providers other than Chunghwa Telecom is raised up to no more than 60% with direct investment not exceeding 20%.; and accept applications for operating fixed network communications, leased circuit services, and low-powered digital phone services.

To liberalise the financial market, Taipei will: Continue pushing for the comprehensive liberalisation of inward and outward movements of capital in line with the goals of the APROC plan, which would integrate the domestic and foreign financial markets, comprehensively improve the financial environment, and further the development of sound capital, foreign exchange, insurance, gold, futures and bills markets, thus gradually accomplishing the goal of becoming a regional financial centre; relax the limitations for foreign portfolio investment except in certain specified sectors; continue reviewing and discussing the revision of relevant laws to relax restrictions on foreign banks coming to Chinese Taipei to set up operations; continue to consider legal revisions to make the banking regulatory regime sounder and expand the range of banking services; continue the revision to the "Offshore Banking Act" to further expand the scope of its international finance business; continue the liberalisation process on capital movement progressively; accelerate the innovation of insurance products and improve bureaucratic efficiency upon Chinese Taipei' s accession to the WTO by shortening the time required for policy

review procedure to within 15 days if a similar policy had been previously approved by the Ministry of Finance, or within three months if the policy is a new product; permit foreign mutual insurance companies with net worth of at least NT $2 billion to establish direct branches in Chinese Taipei subject to the normal prudential regulatory approval process upon Chinese Taipei's accession to the WTO.

To liberalise industrial and business services, Chinese Taipei will: Continue to review and revise relevant laws to extend the employment time-limit for foreign workers and put all procedures pertaining to the hiring of foreign workers and unify all procedures pertaining to the hiring of foreigners under a single law and a single responsible agency to reduce barriers to personnel crossing borders.

In the area of investment, Chinese Taipei will: Continue reviewing and revising relevant laws to follow international practices, simplify investment review procedures, and relax the equity-holding limits on foreign investment in certain industries. Chinese Taipei has recently drafted a bill which explicitly states that: "Shares acquired by foreign nationals through direct and indirect investment in cable television operations shall be less than 50% of the total shares issued by the cable television operators concerned. Only corporate bodies shall be permitted to acquire shares through direct investment and this shall be less than 30% of the total shares issued by the cable television concerned." The revised draft was submitted to the Legislative Yuan for review on January 3, 1998.

In the short/medium/long term, to eliminate unnecessary regulations which may distort trade and/or investment, Chinese Taipei will carry out the following measures: Continue studying and assessing regulations that may distort trade and investment, and will revise the relevant laws; and relax, as appropriate, the restriction on insurance premium rates and clauses.

D. Implementation and Evaluation

Some of the measures Chinese Taipei reported on "commitments achieved" in its IAP for deregulation in 1997 are as follows. For Trade in Goods, the products from the Export Processing Zones will no longer be for exports only, so as to further facilitate free and open trade; restrictions on the import of sugar will be gradually relaxed over the next six years. Chinese Taipei has also drafted a bill to allow free and open imports of Hydrographic and Land Maps, and has gradually deregulated or relaxed relevant regulations on import of 186 products and export of 253 products.

For financial services, Chinese Taipei has increased the US $400 million ceiling on investment by each foreign institutional investor into the domestic securities market to US $600 million, and the three-month period for remitting in funds was again extended to six months; lifted several restrictions to permit anyone who has the need for foreign exchange to engage in forward foreign exchange transaction with authorised foreign exchange banks; abolished the foreign liability limits for authorised foreign exchange banks was abolished, and will adopt a reserve requirements system, if necessary. Some insurance premium rates and policy clauses would be subject only to a reporting requirement when specially approved by the Ministry of Finance, as opposed to a prior approval requirement. The "Futures Trading Law" was promulgated and implemented. In addition, the issuance and trading of warrants of 31 selected TSE stocks were opened since June 1, 1997.

For other services: The employment time-limit for foreign workers were extended; the existing requirements on the educational background and working experience of foreigners who are willing to work in Chinese Taipei were relaxed, and administrative procedures were also streamlined.

To liberalise investment, the limitation on the hiring of foreigners was relaxed, and the application procedures, review procedures, and documentary requirements for foreign judicial persons coming to Chinese Taipei on work contracts was simplified. From 1996, the screening procedures on foreign investments were substantially simplified. In instances where foreigners apply to invest or expand capital

in business not included on the “Negative List for Investment by Overseas Chinese and Foreign Nationals” and when the investments are NT $200 million or less, an “express screening procedure” is used, so that a letter of approval may be received in one to two days. For Privatisation, In 1996, petrochemical refineries industry was fully opened for participation by the private sector, whose products may be sold directly in domestic and foreign markets.

In the 1998 IAP for deregulation, Chinese Taipei had reported, among others, the following new commitments: Chinese Taipei has gradually deregulated or eased relevant regulations on the imports of 138 products and exports of 253 products. New copyright laws were promulgated. The “Offshore Banking Act” was revised, and as a result, the business scope of offshore banking units has been enlarged significantly. In order to become a regional air cargo transshipment centre, the ratio limitation imposed on equity-holding by foreigners and the number of foreign directors in the boards of local enterprises providing air freight forwarding services, airport terminal ground handling services and off-airport air cargo terminal services was raised up to 50%. In order to privatise the Taipei Air Terminal, an Implementation Plan was drafted and approved.

The application period for foreign insurers in their application for the establishment of branches in Chinese Taipei was extended; the application period now begins on July 1, and extends until the end of each year. In 1998, laws were amended to internationalise and liberalise the insurance market and to shorten the policy review procedure for non-life insurance products. To provide more choice to consumers, some insurance policies under certain circumstances, can be issued in English. However, a Chinese version should be supplied to the Ministry of Finance for monitoring purposes. The Cable Television Law was revised so that it explicitly stipulates that the shares acquired by foreign nationals through direct and indirect investment in cable television operations shall be less than 50 percent of the total shares issued by the cable television operators concerned. This revision is intended to attract foreign capital and technology to Taiwan.

Fourteen state-run enterprises were privatised by 1998. The steel plant and the shipbuilding plant of Taiwan Machinery Manufacturing Corp. was sold off to private firms in 1996 and 1997. The alloy steel plant of Taiwan Machinery Manufacturing Corp. was sold in 1997.

In the 1999 IAP for deregulation, Chinese Taipei reported the following commitments achieved: Foreign business and individuals may directly invest in Chinese Taipei unless otherwise specified; Capital movement of outward investments or inward investments approved by competent authorities is completely unrestricted; the upper ceiling of foreign investment by individual investors (i.e. any single foreign investment organisation, legal entity or natural person) in any single publicly listed company was raised from 15% to 50% of that company’ s total issued shares. At the same time, the upper ceiling of total foreign investment in a publicly listed company was raised from 30% to 50%.

Ministry of Transportation and Communications has submitted to the Cabinet the proposal for fixed network licensing framework, including number of licenses, method and timeframe for licensing. Chinese Taipei is also planning to open alternative telecommunications infrastructure to provide leased circuit services for licensed telecom operators.

For insurance services, in accordance with international insurance market practices, marine insurance policies, aviation insurance policies and other insurance policies, under special approval of the Ministry of Finance, can be issued in English. However, a Chinese version should be supplied to the Ministry of Finance for monitoring purposes. Finally, for transportation services, Taipei has reduced restrictions on market access to the airport terminal ground-handling services, air freight forwarding services, and off-airport air cargo terminal services.

Evaluation:

Like China, Chinese Taipei's IAP for deregulation is basically a catalogue of all the deregulatory actions it has taken in the 1990s. As such, the IAP itself has not been entirely rewritten since the first version in 1996, but rather new measures taken were just added on to the pre-existing IAP each year. As seen, Chinese Taipei has engaged in many deregulation measures, designed to open its economy. However, in part because it did not fully explain the philosophy or the logic behind the deregulation measures, Chinese Taipei's deregulation program seems haphazard and unplanned. While market opening deregulation is usually desirable and should be encouraged, many of the measures emphasised by Chinese Taipei seem very minor in nature, and it is unclear how the measures fit into the overall deregulatory programme. Thus, Chinese Taipei's deregulation programme seems not to be a comprehensive, cohesive programme, but rather series of measures designed to appease foreign critics and gain acceptance to WTO, since many of the short term commitments by Chinese Taipei is conditional on accession to the WTO. If Taipei truly thought that these measures would be helpful to the economy, it is doubtful that they would be so conditional on the accession to the WTO.

Also, much of the deregulation measures are concentrated in the investment and financial services sector. These reforms were probably implemented in reaction to the Asian Financial Crisis of 1997. While Taipei was not one of the economies which were hit hardest by the Crisis, many of the deregulatory measures taken seem to be in quick reaction to the crisis rather than through a careful analysis of the benefits and losses.

5. Hong Kong, China

A. Current Status

According to Hong Kong, China's IAP, Hong Kong, China believes in market forces and adopts a hands-off approach to economic management. This section lists the elements of Hong Kong, China's 1999 IAP on deregulation. Most public utilities such as electricity, gas, telecommunications, container terminals, bus and ferry services are privately operated. A few utilities, such as train services and airport services, are owned by the government, but runs on a commercial basis. Postal and water supply services are operated by the government.

Hong Kong, China's regulatory regimes are established to provide prudent regulations (in areas such as financial services), to ensure safety, to protect consumer interests, and to encourage investment. For example, where delivery of services requires very substantial capital investment, the government limits competition). Hong Kong, China's regulatory regimes are highly transparent. All laws are published and major policies are widely publicised. In addition, the government of the Hong Kong, China Special Administrative Region is required under a "Code on Access to Information" to provide, routinely or on request, information to the public about the government, the services it provides, and the basis for policies and decisions that affect individuals or the community as a whole, unless there are specific reasons for not doing so.

Since 1996, Hong Kong, China has been carrying out a "Helping Business" Programme whose goal is to make Hong Kong, China a friendly place for both local and overseas businesses. The Programme cut red tape, deregulated and transferred services out of the public sector to the private sector where appropriate market conditions prevailed. The aim of the Programme is to eliminate and simplify regulations which hinder Hong Kong, China's ability to innovate and grow, and provide a more open and fair environment to achieve growth and improve competitiveness, while maintaining the necessary standards and disciplines. The programme is being run with advice from a Business Advisory Group which comprises of a mix of prominent local businessmen and senior government officials.

Hong Kong, China has completed 17 studies in the past two years, which identified over 270 recommendations for helping businesses. The studies examined cutting red tape, reducing the costs of compliance, transferring public services to the private sector, and improving services. In 1999, Hong Kong, China organised a Helping Business Awards Scheme to help promote a helping business culture within the civil service, to encourage civil servants to be business facilitators, and to develop new helping business initiatives. The government is also committed to enhancing private sector participation in public services where appropriate market conditions prevail.

B. Additions to 1996-1999 IAP

Hong Kong, China' s IAP has been modified somewhat since 1996, but it has never been revised in a major way. Hong Kong, China has reported no new commitments in its IAP for deregulation in 1997, 1998 and 1999. However, in related sections of the IAP, Hong Kong, China reported the following "new commitments": In non-tariff measures, starting from Jan. 1, 1999, the submission and processing of all Restraint Textiles Export License applications, amendment, cancellation requests, carrier notifications as well as the electronic transmission of license visa for customs clearance at the importing end (at present for the US market only) are conducted via Electronic Data Exchange.

For business services – accounting services, in 2000-2005, Hong Kong, China will, in accordance with the decisions of the WTO Council of Trade in Services, implement the GATS Disciplines on Domestic Regulation in Accounting Sector no later than the conclusion of the next round of overall service negotiations.

For communications services – audiovisual and television Services, Hong Kong, China has made the following new commitments. In 1998, two rounds of public consultation were conducted on the 1998 Television Policy Review. On completion of the Review, the Government has made the following policy decisions: Hong Kong, China has lifted the moratorium on subscription television and video-on-demand programme service licenses and open up the television market for competition; subject to the enactment of the new Broadcasting Bill, relaxed the incremental steps in respect of voting control by unqualified persons requiring approval from 2%, 4%, 6%, 8%, and 10% to 2%, 6%, and 10%, which will apply to the future "domestic free television programme service licensees" only; invited applications for broadcasting satellite service using the channels allocated by the International Telecommunications Union; rationalised the existing frequency allocations in in-building networks to maximise their capacity for distribution of services to residential premises; studied the development of digital terrestrial television; subject to the enactment of the new Broadcasting Bill, provided new technology-neutral regulatory framework; and abolished the charging of subscription royalties and advertising royalties for all television broadcasting licensees subject to the enactment of the new Broadcasting Bill.

For rail transport services, the government intended introduce a Bill to the Legislative Council by 2000 to pave the way for privatising a substantial minority share of the Mass Transit Railway Corporation through a public offering.

For investment, Hong Kong, China intended to strengthen the investment promotion programme and the related institutional arrangements, as well as make further improvements in investment liberalisation and business facilitation with regard to the "menu of options" Also, the HKSAR Government has increased its risk sharing ratio under the Special Finance Scheme from 50% to 70%, and has extended the maximum guarantee period from one to two years. The Scheme provides assistance to SMEs through issuing credit guarantees.

For standards and conformance, Hong Kong, China intends to align standards for electrical and electronic equipment with IEC standard 60335 and relevant CISPR standards with respect to safety and electromagnetic compatibility by 2008; continue to participate in the activities of the International

Accreditation Forum, and encourage more APEC member economies to participate in the Telecom MRA. The Hong Kong Accreditation Service (HKAS) is preparing the Hong Kong Inspection Body Accreditation Scheme (HKIAS) which would provide accreditation service to inspection bodies by the end of 1999. In 2000-2005, the HKAS will also establish accreditation service for product certification and environmental audits.

For customs procedures, Hong Kong, China will seek to accede to the revised Kyoto Convention. Hong Kong, China will also participate in the technical assistance programme organised by SCCP.

C. Short and Long Term Plans

To promote transparency of regulatory regimes in the short/medium/long term, Hong Kong, China will, in the short/medium/long term, maintain high transparency of its regulatory regimes and explore further ways to publicise them. To eliminate trade and investment distortion arising from domestic regulation, in the short/medium term, Hong Kong, China will continue to undertake the Helping Business Programme to cut red tape, deregulate, and transfer services out of the public sector to the business sector where appropriate market conditions prevail. In the short/medium/long term, Hong Kong, China will implement reform and deregulatory measures where appropriate, as set out in the relevant Annexes in this Individual Action Plan.

D. Implementation and Evaluation

In the 1997 IAP on deregulation, Hong Kong, China reported the following "commitments achieved" or progresses made. In its short term goal of creating a database on regulatory activities, the action was completed in 1997. Hong Kong, China completed a government-wide stock taking exercise of business related regulatory activities and established a computerised central database. The database provides a central reference for the review and monitoring of business related regulatory activities.

In its short/medium/long term goal of maintaining high transparency of regulatory regime, and publicising them, Hong Kong, China is exploring opportunities to carry out that goal. Hong Kong, China completed a study on the application form and requirements for a type of vehicle permit, and developed a user-friendly leaflet explaining the system.

In its short/medium term goal of undertaking a Helping Business Programme, Hong Kong, China had commissioned a number of studies pertaining to deregulation and cutting red tape, as well as receiving advice and input from the Business Advisory Group and its three sub-groups. Hong Kong, China was also exploring opportunities to transfer public services to the business sector.

In the 1998 IAP on deregulation, Hong Kong, China reported following "commitments achieved" or progresses made. In its short/medium/long term goal of maintaining high transparency, Helping Business Program had carried out various studies and review; and Hong Kong, China conducted a seminar for senior government officials in November 1997. Hong Kong, China was planning more seminars for senior and middle range officials.

In its short/medium term goal of continuing the Helping Business Programme, Hong Kong, China was continually commissioning various studies and taking the recommended improvement measures from those studies. Hong Kong, China was also continually studying the possibility of transferring public services to the business sector, and developing a framework for regulatory impact assessment. The studies on deregulation and cost of compliance would give particular attention to the impact of regulatory activities on SMEs.

In the 1999 IAP on deregulation, Hong Kong, China has reported commitments achieved or progresses made in following areas: Following its 1998 short term commitment, in 1999 Hong Kong,

China organised a “Helping Business Awards Scheme” to help promote a pro-business culture within civil service. The government is also committed to enhancing private sector participation in public services where appropriate market conditions prevail, and are seeking opportunities to transfer public services to the business sector. Hong Kong, China is also working to corporatise a number of government departments/services to provide incentives to the operators to run the services more efficiently and cost-effectively.

In addition, Hong Kong, China reported following commitments achieved in areas related to deregulation in their 1999 IAP. For Non-Tariff Measures, following short term commitments made in 1998, Hong Kong, China will, subject to the enactment of relevant legislation, decontrol by 2000, frozen meat and poultry as reserved commodities; and abolish the requirements for importers of frozen meat and poultry to register as stockholders, submit monthly returns on imports and keep a reserved stock.

For accounting services, Hong Kong, China, following the short term commitments made in 1998 to contribute to work in the WTO to reduce barriers in accounting services, continues to implement commitments under the GATS. Hong Kong, China has developed Disciplines to facilitate trade in accounting services, which were adopted by the WTO Council for Trade in Services on December 1998, and which Hong Kong, China will implement in 2000-2005.

For telecommunications services, Hong Kong, China, following its short term commitments to further open the market for basic services, has carried out various measures to progressively liberalise the facilities-based external telecommunications market and further enhance competition in the local fixed telecommunications network services (FTNS). Also, a new amendment bill was introduced, which would enhance competition safeguards, improve interconnection and access arrangements to telecommunications services, streamline licensing, and provide the Telecommunications Authorities with powers over certain technical areas such as standards and spectrum management.

In financial services, in 1999, Banking Ordinance was amended so that Hong Kong, China’s supervisory regime was fully in line with the Basle Committee’s Core Principles for Effective Banking Supervision. Hong Kong, China also announced a policy package which relaxed various market entry restrictions and building requirements for foreign banks. Securities and Futures Bill will be submitted in 1999, which would bring the regulatory framework for securities and futures on par with international standards. Finally, Hong Kong, China announced a comprehensive reform of the securities and futures market in the areas of regulatory framework, market infrastructure, and market structure. The reform is scheduled to be completed on September, 2000.

In standards and conformance, Hong Kong, China is undertaking technical cooperation and exchanges between APLAC and EA to establish a bilateral agreement. APLAC and EA would achieve mutual recognition by October 1999 through ILAC multilateral agreement rather than through a bilateral agreement. HOKLAS was expanded to form HKAS in November 1998, and HKAS has been operating the Hong Kong, Certification Body Accreditation Scheme to provide accreditation service to system certification bodies. The first accreditation could be granted in 1999. Hong Kong, China has also participated in the Asia Pacific Metrology Programme.

Evaluation:

Hong Kong, China has offered a somewhat atypical deregulation IAP in that it emphasises “helping business” aspect of deregulation rather than market openness. Hong Kong’s IAP is also unusual in the sense that it does give the underlying philosophy of Hong Kong’s deregulatory program, namely helping businesses, rather than merely listing various deregulatory measures it has taken. While Hong Kong’s intentions in having a “customer-oriented” deregulation programme is laudable, the IAP lacks concrete descriptions of what measures Hong Kong, China has taken in order to carry out this

deregulation programme other than commissioning and examining scores of studies. Hong Kong's IAP lacks specificity; it does not list what concrete measures Hong Kong, China has taken, or will take in order to help businesses other than commissioning scores of studies.

However, from other areas of the IAP, we see that Hong Kong, China is carrying out a fairly comprehensive deregulation and regulatory programme. It is also worth noting that Hong Kong, China has sought advice from the business community, and considered utilising the regulatory impact assessments (RIAs). However, it is not yet clear whether Hong Kong, China is fully utilising the results of the studies and RIAs in fashioning its deregulation programme. At the very least, the IAP should list more concrete measures that Hong Kong, China has taken.

6. Indonesia

A. Current Status

This section lists the elements of Indonesia's 1999 IAP on deregulation. According to Indonesia's IAP, to promote economic growth, the remaining regulations which impede free and open trade and investment will be reviewed continuously. The number of business sectors contained in the negative list of investment will also be reduced in order to increase the participation of private sector in Indonesian economy.

Indonesia has undertaken a series of deregulatory measures in trade, investment, taxation, finance, money and banking, and other economic sectors. The May Deregulation Package of 1995 and the June Deregulation Package of 1996 covers: A clear and certain schedule of continued tariff reductions; Elimination of tariff surcharges; Reduction of non-tariff barriers; Administrative simplification of import and export procedures; Facilitation of trade in services; Relaxation of restrictions on export, import and distribution activities for foreign manufacturing companies; Clarification and simplification of regulations governing industrial estates; Increased opportunities for participation in the private sector; and the enactment of anti-dumping measures.

The July Deregulation Package of 1997 covers, among other areas; further reduction of tariffs; simplification of export and import procedures; allowance for transfers of capital goods as well as simplification and reduction of regional taxes and levies. The September Deregulation Package of 1997 has further reduced tariffs on certain products.

On transfer of capital goods, in 1997, the government decided to exempt capital goods from import duties if the goods were sold or transferred at least two years after they were imported. On local taxes and levies, a simplification of taxes was made, reducing the regional taxes from 42 types to 9 types; and the regional levies from 192 types to 30 types.

To allow greater private participation in petroleum and gas industries, the Indonesian government has issued a Presidential Decree in 1997, regarding the opportunity given to the private companies to build and operate petroleum and natural gas refineries as well as to sell their products, after obtaining approval from the government.

Indonesia has also engaged in a privatisation policy, and the private sector has been given greater opportunity to provide goods and services. In electric generation, the government has encouraged the development of private power producers, and a number of private power projects have been approved. In Telecommunications, Indonesia has sold a part of the government's equity in its international telecommunications firm INDOSAT, and its domestic telecommunications firm TELKOM. For cellular phone services, a number of private companies, with participation by TELKOM and INDOSAT, are

currently operating in Indonesia. Privatisation has also been implemented in the provisions of auction houses and bonded zones, and other infrastructure services such as toll roads, harbours, airports, airlines, and potable water. Furthermore, as a part of its continued effort to privatise state-owned enterprises, Indonesia has privatised one of the state-owned banks, Bank BNI.

In 1997, Indonesia has eliminated price control on cement. Import marketing monopolies on certain agricultural commodities such as wheat, wheat flour, garlic and soybean has been abolished, and export taxes on leather, cork, ore and waste aluminum products have been abolished. In 1998, Indonesia discontinued special tax, customs or credit privileges granted to the National Car Program. To further liberalise its economy, Indonesia has relaxed 47 import licensing requirements on motor vehicle producers and phased out the local content program in 1999.

Indonesia has amended the Banking Act in 1998 to allow broader opportunity for foreign ownership in national banks, improve prudential regulations and create more transparent banking practices. To strengthen the banking system and restructure troubled banks, a temporary agency called the "Indonesian Banking Restructuring Agency (IBRA)" has been established. In 1999, Indonesia has replaced a 1968 law to ensure monetary stability and give independence to the Central Bank. Indonesia has also enacted a law on foreign exchange flow and exchange rate system to provide a legal basis to support international trade transaction, investment and payment.

B. Changes in the 1996-1999 IAP

The Indonesian IAP for deregulation has not been rewritten since 1996. Rather, it has been constantly updated, by adding measures taken each year to the IAP of the previous year. In 1997 IAP for deregulation, Indonesia made the following new commitments: Indonesia provided opportunities to private companies to build and operate petroleum and natural gas refineries as well as sell their products; On local taxes and levies, simplification was made by reducing the regional taxes from 42 to 9 types of taxes and regional levies from 192 to 30 types of taxes; and on transfer of capital goods, Indonesia decided to exempt import duty for capital goods sold or transferred at least two years after they were imported.

In the 1998 IAP for deregulation, Indonesia reported the following new commitments: Indonesia discontinued special tax, custom or credit privileges granted to the National Car. Indonesia is reforming its banking system, and preparing legislation to amend the banking law to relax the limitation on private ownership of banks; and is restructuring the electric power sector.

In the 1999 IAP for deregulation, Indonesia reported the following new commitments: Indonesia has issued new law on Foreign Exchange Rate Flow and Exchange Rate System, and new law on Bank Indonesia, which provides more independence to the Central Bank; and has eliminated local content requirement on motor vehicles.

C. Short Term and Long Term Plans

Indonesia has made the following short term and long term commitments in its 1999 IAP for deregulation: In the short term, Indonesia will continue its effort to further privatise the state-owned enterprises. Privatisation will improve the efficiency of firms, overcome the shortage of government funds and help strengthen Indonesia's capital market. State-owned enterprises that will be privatised in the short term include Perusahaan Listrik Negara (electric utility company), Garuda (national flag air carrier), Jasa Marga (toll road developer / operator), Krakatau Steel (steel production plant), and Semen Gresik (cement production plant). In addition, Indonesia is restructuring its electric power sector, and Indonesia will allow qualified foreign investors to own 100% share in wholesale and retail trade.

In the medium and long term, Indonesia will continue to further deregulate its economy to enhance competitiveness. Although Indonesia's regulatory framework has always been transparent, the government will continue to explore ways and means to further increase transparency in the regulatory process. Finally, Indonesia will continue to privatise state-owned enterprises by offering their shares to private sectors. Areas that will be further privatised include the steel industry, services, shipping lines and public railways.

D. Implementation and Evaluation

In the 1997 IAP for deregulation, Indonesia reported the following "commitments achieved." Indonesia privatised state owned enterprises, including banks such as Bank BN; export procedures were simplified by increasing the maximum value of exports allowed without the "Export Declaration Document" from Rp. 100 million to Rp. 300 million.

In the 1998 IAP for deregulation, Indonesia reported the following "commitments achieved." In 1997, Indonesia eliminated price controls on cement, abolished import marketing monopolies on certain agricultural commodities such as wheat, wheat flour, garlic and soybean; Export taxes on leather, cork, ore and waste aluminum products have been abolished.

In the 1999 IAP for deregulation, Indonesia reported the following "commitments achieved." Indonesia has amended the previous Banking Law; has accelerated the privatisation of State Owned Enterprises; and has relaxed 47 import licenses for motor vehicles.

In the related fields of the 1999 IAP, Indonesia reported the following "commitments achieved." In services, the length of time expatriate directors, managers, advisors and experts in non-bank financial companies are allowed to stay in Indonesia has been extended. In investment, Foreign Trade Representative Office can operate in any provincial capital. Indonesia has also signed Avoidance of Double Taxation Agreement with 50 economies, and has signed Investment Guarantee Agreement with 50 economies. In standards and conformance, Indonesia has signed the ASEAN Framework Agreement on MRAs, and formulated a National Standard for Environment Management Certification and Sustainable Forest Management System Certification. Finally, the National Standardisation Agency of Indonesia (BSN) has revised and approved the National Standardisation System, and is introducing a home page on http://bsn.or.id.

Evaluation:

Indonesia has been carrying out its deregulation programme in a fairly steady and comprehensive manner. Again, as with most of the other IAPs, Indonesia dwells mostly on market openness aspect of deregulation rather than giving a comprehensive picture of Indonesia's deregulation process, and the descriptions tend to be rather vague, but the deregulation measures reported seems to be on par with most of the other Asian members of APEC.

It is worth noting that the Indonesian deregulatory measures tended to dwell mostly on trade before 1997, but after the Asian Financial Crisis, deregulatory measures focused mostly on the financial sector.

8. Malaysia

A. Current Status

This section lists the elements of Malaysia's 1999 IAP on deregulation. According to Malaysia's

IAP, the Malaysian economy has undergone substantial deregulation since the mid-1980s. Deregulation in various sectors such as telecommunications, transportation and education services as well as financial services has taken place. Administrative procedures in relation to investment applications, visas and work permits, taxation and customs procedures have been streamlined to reduce transaction costs for businesses.

A major deregulatory programme was launched in the early 1990s, involving business activities in telecommunications, power generation and supply, ports and airports, highways, postal services, telecommunications, railways, and sewerage works. Deregulation was further enhanced through the implementation of the concept of Malaysian Incorporated and smart partnerships to foster greater collaboration between the government and the private sector. Up to September 1998, more than 400 projects were privatised including projects in construction, manufacturing, infrastructure, transportation, and communications.

The objective of Malaysia's short/medium term deregulation program is to enhance competitiveness and efficiency, taking into account the need for regulation for prudential and supervisory reasons. Under this objective, Malaysia has carried out, or will carry out in the short/medium term following measures:

In Financial Services, major reforms undertaken include: The implementation of a free interest rate regime; the revision of the base lending rate (BLR) to make interest levels more responsive to monetary policy; and the introduction of new liquidity management framework to enable banking institutions to manage liquidity in a more efficient manner.

In the securities industry, measures taken include: the allowing the listing of foreign-based companies with Malaysian interests on the Kuala Lumpur Stock Exchange(KLSE); and the establishment of a financial reporting framework to ensure the independence of standard-setting, the issuance of benchmark bonds, and the introduction of a T+5 settlement cycle by the KLSE.

According to its IAP, since the start of the financial crisis in mid-1997, Malaysia has implemented several measures to further strengthen the financial system, including strengthening prudential and supervisory standards; as well as transparency and disclosure requirements of financial institutions and private/public companies. Measures to strengthen and develop the financial system include: Enhancement of transparency through accurate and frequent disclosure of information; the broadening and deepening of the financial markets by promoting securitisation, development of the bond market and risk management systems; strengthening of the banking and securities industries through mergers, branching, and recapitalisation of existing companies; strengthening of the regulation and monitoring mechanisms in relation to capital adequacy and clients' assets as well as enhancing transparency; and the establishment of a joint public/private sector Steering Committee to expedite corporate debt restructuring.

Measures to strengthen the banking system include: the consolidation of financial institutions through mergers and recapitalisation; improvement of supervisory and monitoring framework for financial institutions; recapitalisation of banking institutions through a Special Purpose Vehicle (SPV), Danamodal; the establishment of an asset management company to manage non-performing loans; the quarterly publication of key indicators of financial soundness, including capital adequacy and state of the non-performing loans; modification of loan classifications and provisioning standards in line with international practices.

Measures to strengthen the securities industry include: The implementation of measures toward full disclosure-based regulations in mid 1998, including guidelines on the issue/offer of securities to facilitate the raising of funds through the capital market; introduction of new provisions for securities laws to enhance transparency and investor protection; changes in the rules, regulations and procedures of

the stock exchange and its clearing houses to enhance transparency; and new disclosure requirements.

Measures to enhance transparency in the public and private Sectors include: Requiring companies to provide information on a quarterly basis; requiring compliance with standards set by the Malaysian Accounting Standards Board and Financial Reporting Foundation; reviewing the Malaysian Code on Takeovers and Mergers to enhance clarity and transparency of rules for the protection of minority shareholders; and protection of minority shareholders; and improving procedures for privatisation to ensure clear and transparent policies.

Exchange Control Rules were established to eliminate the availability of offshore ringgit funds for speculative activities, and promote a stable ringgit exchange rate while preventing excessive outflows of short-term capital and create a conducive environment for economic recovery. Approval is required for transfer of funds between external accounts; all purchases and sales of ringgit financial assets must be transacted through authorised depository institutions; all settlement of exports and imports must be made in foreign currency; travellers are now allowed to import or export ringgit currency of not more than RM 1000 per person. There are no limits on the import of foreign currencies by resident and non-resident travellers. The rate for the ringgit was fixed at RM 1 = US $0.2632. In addition, the general convertibility of current account transactions, and free flows of FDI and the repatriation of interest, profits, dividends and capital are guaranteed. Malaysia remains committed to the market mechanism and the trend toward liberalisation. But Malaysia feels that the benefits of the market can only be realised in an environment of stable and efficient capital markets. Malaysia will return to the previous arrangement of free capital flows once there is discernible normalisation of currency and financial markets.

For communications and multimedia services, the Department of Telecommunications was privatised and the industry was opened to more service providers. Thus, the telecommunications industry has changed from a monopolistic market to one that is highly competitive and service-oriented. Malaysia now has several telecommunications service providers which have helped to increase the telephone penetration rate as well as provide comprehensive coverage of telecommunications services.

For air transportation, several measures have been undertaken to deregulate the aviation industry, including the privatisation of the national airline. The management of all airports in the country has also been privatised. Measures were also taken to ensure that aviation technical regulations are based on ICAO standards and procedures. For shipping services, the operations of major federal ports in the country have been privatised. For road transport, the privatised construction of toll expressways facilitated greater mobility, removed road mileage limitations and allowed a more flexible modal split with rail and shipping. For rail transport, the Malaysian Railways was incorporated in 1992. The Railways Act of 1991 provides a legal framework for the privatisation of railway operations in the country. As a result, three private companies are currently providing urban rail transport in the Kuala Lumpur area.

For energy, the formation of Tenaga Nasional Berhad (TNB) as a privatised entity represented the first step toward deregulation and liberalisation of the energy sector. Independent Power Producers (IPPs) were licensed to add to the installed generating capacities of the existing utility companies. Since 1993, 15 IPPs, including one mini-utility have been licensed, 11 in Peninsular Malaysia and 4 in Sabah.

TNB itself is undergoing restructuring in line with the call for liberalisation of the energy market. Its generation business has been spun off into a wholly-owned subsidiary, providing transparent cost and pricing. Its transmission and distribution business will undergo a similar transformation as the generation business. To ensure fair competition in the generation sector, an Independent Grid System Operator will be established to dispatch electricity on a competitive basis, and it is expected that a more competitive tariff pricing policy will be provided for the benefit of electricity consumers. Malaysia will review two major Acts which govern the electricity and gas industry to promote competition and prevent the abuse of monopoly power or market power in the energy sector.

For broadcasting services, Malaysia has introduced a number of deregulation and privatisation measures. There are now several private TV and radio (off-the-air, cable and satellite) broadcasters in Malaysia. For the Deregulation of Censorship, measures include: The enhancement of pubic' s role in censorship with the formation of an advisory panel; the introduction of a rating system which encourages censorship role to be passed on to parents; the implementation of a system of content self-regulation by media practitioners; and forbidding any censorship for broadcasting materials on the Internet.

For higher education services, Malaysia will continuously expand the capacity of existing institutions, establish new institutions and strengthen the delivery system of education. As a result, significant steps have recently been taken to deregulate and liberalise the education sector. The teaching of science and technical subjects in the English language and the corporatisation of universities is now allowed. The private sector can now establish degree-granting institutions, and foreign universities can set up branch campuses. Furthermore, more liberal rules for the recruitment of foreign teachers and educators were put in place.

B. Additions to 1996-1999 IAP

The deregulation IAP for Malaysia was substantially rewritten in 1997 and 1998, but changed only in minor ways in 1999. The 1998 revision put special emphasis on financial sector reforms, presumably due to the Asian Financial Crisis. For its deregulation section, Malaysia reported only one new commitment in 1997, to not censor broadcasting material on the internet. Malaysia reported no new commitments in its 1998 IAP for deregulation. Malaysia reported one new commitment in 1999, to review Electricity Supply Act of 1990 and Gas Supply Act of 1993 to promote competition, and prevent the abuse of monopoly or market power in the energy sector.

C. Short and Long Term Plans

According to 1999 IAP, in the short and medium term, Malaysia will examine and implement policies on deregulation to enhance competitiveness and efficiency.

D. Implementation and Evaluation

Malaysia reports the following commitments achieved in its 1997 IAP for deregulation: For financial services, on line with the effort to gradually liberalise structural barriers between the different type of institutions, the minimum fee income requirement was removed; section 14(3) of the Banking and Financial Institutions Act, referring to ownership of equity in financial institutions by foreign government was removed; and legislation on the local incorporation of companies were brought into force in Jan. 1, 1997.

For broadcasting, Malaysia awarded three additional broadcast licenses to operate radio and television services; and permitted the satellite television broadcaster (ASTO) to exercise self-censorship of programmes.

In 1998 IAP for deregulation, Malaysia reports following commitments achieved: For telecommunications, Communications and Multimedia Act of 1998 was enacted, and five additional licenses were issued to internet service providers; and for Financial Services, Malaysia implemented measures to strengthen prudential and superisory standards and improve transparency and disclosure in the financial sector.

Malaysia reported following commitments achieved in its 1999 IAP for deregulation: The introduction of a number of deregulation and privatisation measures in broadcast services; and various

measures to deregulate censorship role
.

In other related areas of 1999 IAP, Malaysia reports following commitments achieved: In Financial Services, new licenses for non-life reinsurance sector and investment banks has been issued. In Communications and Multimedia Services, a number of deregulation and privatisation measures have been introduced. In Investment, the network of bilateral IGAs have increased from 63 to 66, with new IGAs signed with Dijbouti, Ethiopia, and Senagal. Also, policy for regulating technology transfer agreements has been partially liberalised, and some of the equity policies for the manufacturing sector has been relaxed. In Standards and Conformance, Malaysia accepted Pacific Accreditation Cooperation (PAC) Multilateral Agreement (MLA) for accreditation scheme of certification bodies on quality systems.

Evaluation:

Malaysia's IAP concentrates mostly on two areas of reform: Privatisation and financial sector reforms. Malaysia seems to consider privatisation as an important tool in bringing market disciplines to provide public goods and services; somewhat like Chile which uses concession as a main tool. Also, while it does not go into detail, Malaysia seems to have good relations with the business sector which has helped formulate Malaysia's deregulatory measures. Also, deregulation and privatisation have taken place in many different sectors along broadly similar lines, implying that the deregulatory programme has been wide in scope, and under some type of coherent framework.

In 1998, because of the Asian Financial Crisis, Malaysia placed great emphasis on the reform of the financial sector. While it has for the most part, liberalised and deregulated much of the financial sector after the Crisis, Malaysia has strengthened some aspects of its regulatory structure; namely prudent supervision of the financial sector and controls on short term capital flows. There is little disagreement that strengthening of the prudential supervision is desirable and necessary, especially in countries where the financial sector is growing rapidly. The increased controls on short term capital flows, on the other hand, is somewhat controversial, with one side arguing that it causes undue hardship for businesses and bottlenecks in development, while the other side argues that it is a prudent measure to reduce the possibility for a financial crisis. It remains to be seen which side's argument will prove correct in the long run. However, like China, Malaysia's IAP is interesting in that it does point out that sometimes more prudential regulation may be needed rather than less regulations. But, unlike China, Malaysia has based its policy of maintaining some strict regulations on concrete historical events, rather than an abstract concept of avoiding vaguely-defined "instabilities."

8. Papua New Guinea

A. Current Status

Papua New Guinea did not submit the 1999 IAP for deregulation. However, in the 1998 IAP for deregulation, Papua New Guinea described its current status as follows:

Besides other deregulatory measures currently undertaken by Papua New Guinea to liberalise its trade investment regime through the economic reform programme, the following programmes have been initiated to review and deregulate existing practices and regulations:

- Enactment of Trade Practices Act and anti-trust legislation;
- Review and reform of existing business practices and regulation;
- Liberalisation of barriers to entry into a market for trade and investment;
- Removing barriers to new entry into a market as a whole;

- Removal of controls that inhibit the use of market powers;
- Removal of legislation which govern the nature of a product and the terms under which it is produced.

B. Additions to 1996-1999 IAP

Papua New Guinea's IAP for deregulation remains exactly the same from 1996 to 1998. Papua New Guinea did not submit an IAP for deregulation in 1999.

C. Short and Long Term Plans

According to 1998 IAP on deregulation, to promote the transparency of regulatory regimes in the short/medium/long term, Papua New Guinea will continue the implementation and review of policies, achieve greater transparency, and eliminate distorted trade and investment relations (if any) in all sectors.

D. Implementation and Evaluation

Papua New Guinea has not reported any commitments achieved in deregulation since its initial IAP in 1996.

Evaluation:

Papua New Guinea has not been very active in updating or maintaining its IAP, not merely in the area of deregulation, but in other areas as well. As a result, it is very difficult to evaluate what progress Papua New Guinea has made in fulfilling its commitments, and what progress it has made in its deregulation programme. However, the lack of enthusiasm in deregulation and APEC IAPs in general would seem to indicate that Papua New Guinea places little emphasis on deregulation and market openness in general.

9. Peru

A. Current Status

This section lists the elements of Peru's 1999 IAP on deregulation. According to Peru's IAP, since 1990, the Peruvian economy has taken part in a deep structural reform, which is committed to modernising the country in the economic and institutional senses, while also attracting investment. To reach that goal, the government has promoted macroeconomic discipline, established market rules, dismantled trade barriers, reinserted the economy into the world financial markets, and brought about a wide deregulation of the economy.

According to its IAP, the Peruvian investment has significantly deregulated the following areas: Investment; foreign technology; foreign exchange regulations; labour regime; financial, insurance and capital markets; foreign trade; sectoral laws (fishing, mining, oil, agriculture, and transportation); and taxation system.

For investment, mechanisms have been established in order to guarantee foreign investors stability in taxes and laws, availability of foreign currency, and non-discriminatory treatment. All legal and administrative hindrances and distortions that block economic development and restrict free private initiative have been eliminated, leaving a private sector based on competition. Concessions have been granted to private investors in the services sector; the building and administration of public works (traditionally carried out by the State), including but not limited to, roads, public services, education and

transportation.

For foreign technology, contracts for technology transfers, trademarks, foreign copyrights, technical assistance, basic and detail engineering, administration and franchises may be signed without any prior authorisation from the State agencies. However, contracts must be registered at INDECOPI (National Institute for the defense of Competition and the Protection of Intellectual Property).

For foreign exchange regulations, all exchange controls have been abolished. No government authorisation is required to carry out exchange transactions. Possession and receipt of foreign currencies are accepted. Individuals and corporations may remit foreign currency abroad or retain it in the country. Foreign currency investments by foreign investors may be exchanged for domestic currency through the banking system or deposited locally. Residents and non-residents in Peru may open and maintain deposits in foreign currency in the local banking system. Similarly, individuals and companies may hold foreign currency abroad.

For the labour regime, the labour market has been liberalised. Laws have been passed to create a new regime for involuntary severance compensation, regulating temporary employment and making the labour market more flexible. Enterprises in Peru may contract foreign workers up to 20% of their total work force, provided that their remuneration does not exceed 30% of the total salaries and wages paid by the companies. Exceptions may apply.

For the financial, insurance and capital markets, the government has expanded and substantially liberalised operations carried out by the financial institutions. Interest rates and the distribution of financial resources are determined by market forces; no limits exist on foreign participation in banking, insurance and underwriter activities; insurance and underwriting may be freely contracted abroad by Peruvian residents; there is freedom to determine policies and interest rates; foreign investors have the same access to local short, medium and long term credits under the same conditions as nationals; and the operation of private pension funds (foreign and domestic) is permitted.

For foreign trade, any prior government authorisation, prohibition, control, public or private registration requisites, and other non-tariff restrictions for both exports and imports, have been eliminated. Free importation of goods are allowed, and exports are not subject to any taxes. Moreover, companies exporting manufactured products have the right to a drawback mechanism. Similarly, prior authorisations and license systems have been eliminated, as well as other administrative requisites regarding exports, although a short list of the goods may not be exported (for example, animal species in danger of extinction). The reform of the foreign trade regime also included drastic measures that successfully reduced costs in ports and airports.

In the fishing sector, all restrictions on developing fishing activities that are not founded on the need for conservation of hydrobiological resources have been eliminated. The Framework Law promotes foreign investment in the sector, and establishes the procedure and requisites for obtaining licenses for fishing in Peruvian waters. In the Mining Sector, the Framework Law establishes a stable tax and administrative environment as well as allowing free foreign exchange transactions. The law also establishes exemptions from income tax, free remittances of dividends or profits, and non-discrimination.

In the oil sector, the state monopoly has been abolished and all provisions on investment in petroleum exploration and production activities have been liberalised. Present legislation expands the exploration period to seven years, permitting contractors to participate in different phases, thus simplifying the procedures for approval of exploration and production contracts. Moreover, the Framework Law establishes measures for reducing contractor’ s costs and authorises guarantees for the use of foreign currency and remittance of profits in foreign currency.

In the agricultural sector, new laws have relaxed the land tenure system and promotes private investment, especially for the expansion of the agricultural frontier through the development of uncultivated lands. Main changes to the laws include measures which allow companies to invest in agriculture and own lands. The ownership and handling of land may be exercised by any person or company under equal conditions. Agricultural land can now be freely sold, rented, taxed and exploited in diverse associative forms, among individuals or legal entities indiscriminately. Foreign investment in the agricultural sector, as in any other sector, receives the same treatment as national investment. There are no limits to the number of hectares that private individuals or companies may own. However, the Executive has been given the faculty to enact a tax on any property exceeding 3000 hectares.

In the transportation sector, freedom of routes or operation permits for interprovincial public terrestrial transport, under the form of a concession, exists. The same applies for international maritime transport. Also procedures and requisites for facilitating capital has become more flexible; as well as a firm’ s access to supply aerial services. Finally, the freedom of train traffic has been established.

For taxation system, the government has made modifications to the taxation system, reducing the tax burden applied to income and consumption, while having reduced a long list of taxes to the current four categories: the income tax with two levels (upto S/.50,000 Soles of net aggregate annual income is 15%, and over that amount is 30%), the general sales tax of 18% (16% plus 2% for the Municipal Promotion Tax), the selective consumption tax for some specific items at tariff rates of 20% and 12%.

For privatisation, from 1997, Peru’ s main privatisation drive has concentrated in activities related to mining and the generation and transmission of electricity. In addition, the government has launched an aggressive program of investment concessions in infrastructure projects and public services (with the exemption of the municipal ones) directed at the private sector (national and foreign). For that purpose, the Special Privatisation Committees of COPRI (the Commission for the Promotion of Private Investment Promotion) has the faculties to carry the privatisation program in Peru; privatisation of state-owned enterprises, and development of infrastructure projects through the concession modality.

The Peruvian Corporation of Airports and Commercial Aviation (CORPAC) manages 33 airports which receive domestic and international commercial flights. The main international airports are located in Lima Iquitos, Cusco, Tacna and Arequipa. A public tender to grant the concession to the airport in Lima will take place at the end of 1999. The four other major airports will be tendered according to the defined plans and the progress achieved.

For ports, the government is trying to upgrade the existing management. The objective is to offer in a public tender, seven ports that will be operated under concession contracts. These seven ports (Paita, Salaverry, Chimbote, San Martin, Illo, Matarani, and Caollao) are currently run by the National Ports Company (ENAPU). Matarani is the first port which has been granted a concession (May 1999). Illo’ s port is scheduled to become a concession in 1999-2000

In the development of road infrastructure, the government is determined to encourage private investment in highways under a concession system. Investors’ profits would be based on direct fees charged for the rendered services, based on dynamic economic growth. The government has been working to upgrade its national road network since the beginning of the decade. The national road network covers 74,000km, of which only 12% are paved. In order to put Peru on par with regional standards, the government is seeking to grant concessions to a total of 7000km. These 7000km have been divided into 11 routes covering the Pan-American highway as well as the corridors to the interiors of Peru.

The Special Committee of Privatisation is currently in the final stage of reviewing both traffic demand studies as well as final engineering projects. Concession projects based on these reviews, along

with a fixed concession period and traffic rate per 100km, will be awarded to potential private investors. In addition, The two main railroad networks have been privatised in 1999.

Other privatisation projects include: The Olmos Irrigation and Hydroelectric Project, which will enable farmers to draw in, regulate and channel water from the three rivers in the Amazon Basin to the Pacific watershed and expand the agricultural frontier; the development of arable land in the upper-reaches of the Piura Valley in the northern coast, which the Committee hopes to conclude the bidding process to grant concession in the project by 1999; the Camisea Project, which is one of Latin America' s largest gas projects, and Biabo Forest project, where the government is evaluating the transfer of the forest concession to the private sector, breaking it down into blocks of 20,000 to 40,000 hectares each. The concessions will be granted for a period of 50 years, which can be renewed for a similar term. The lots are scheduled to be put up for bidding in a public tender at the end of 1999.

B. Additions to 1996-1999 IAP

Peru has submitted the IAP for deregulation only since 1998. In 1998 and 1999 IAP for deregulation, Peru reports only one new commitments to continue deregulation of economy through privatisation programme and concessions granted in infrastructure and public utilities projects involving airports, ports, roads and highways, irrigation projects, gas distribution and forestry.

C. Short and Long Term Plans

According to the 1999 IAP, in the short term, Peru will continue the deregulation of the economy though privatisation programme and concessions granted in infrastructure and public utility projects involving airports, ports, roads and highways, irrigation projects, gas distribution and forestry.

D. Implementation and Evaluation

In its 1998 deregulation IAP, Peru reported no commitments achieved, since it was Peru' s first IAP. In the 1999 deregulation IAP, Peru reported two commitments achieved: The privatisation of the railroad network, and the transfer of ports to private operators under concessions program (in Matarani).

In related areas of the 1999 IAP, Peru reported for Customs Procedures, that Peru is a signatory to the International Convention of the Harmonised Commodity Description and Coding System (HS), and adopted usage of the UN/EDIFACT system.

Evaluation:

Peru has implemented a deregulation programme which is quite wide-ranging and comprehensive. It covers many sectors of the economy, and uses a rich mix of tools such as concessions and privatisations as well as streamlining paperwork and eliminating various unnecessary restrictions. Because Peru has only submitted its IAP from 1998, it is too early to see how successful Peru is in implementing its commitments under the IAP. However, given its recent history of deregulation and regulatory reform as listed in the IAP, Peru should be counted as one of the more active members in deregulating its economy.

Peru' s IAP does have some shortcomings. For example, the underlying framework of deregulation and regulatory reform is not clear; and there is little indication on governmental infrastructure for deregulation and reform. However, these problems are intrinsic in the nature of APEC and the IAPs, and are not limited to Peru. In all, Peru should be counted along with Chile as the more successful members of APEC in carrying out deregulation policies.

10. Philippines

A. Current Status

This section lists the elements of Phillippines' 1999 IAP on deregulation. According to the Philippines' IAP, Philippines has accelerated its adoption of market-friendly reforms which recognises the primacy of the private sector as the engine of growth, with the government providing the proper policy environment. The deregulation of the domestic regime has been undertaken in tandem with privatisation and liberalisation initiatives.

The Philippines maintains transparency in all its actions as part of the democratic process. Public hearings or consultations are usually conducted in the formulation of policies. The private sector and civil society have representation in certain government councils and committees. Laws, rules and regulations cannot take effect until fifteen (15) days following the complete publication in the Official Gazette or in a newspaper of general circulation in the Philippines unless otherwise provided.

The Philippines has successfully privatised a number of government-owned or government-controlled corporations and returned certain acquired assets to the private sector. These assets include hotels, banks, an airline, a steel firm, mining companies, petroleum refinery, as well as a copper smelting and refining company. Scheduled for privatisation are, among others, a fertiliser plant, and a power-generating and transmission corporation. These companies represent the first wave of privatisation.

The Philippines is now in the second and third waves of privatisation efforts. The second wave has been carried out through the BOT[5] scheme and its variants, primarily for the provision of energy, construction of roads, and other infrastructure facilities. The third wave covers social sectors such as health services, education, and pension funds.

A major restructuring of the tax system is being undertaken. The restructuring is aimed at making the system more equitable, the rates more reasonable, and facilitate the administration of the tax system.

A major reform in the financial sector is the liberalisation in the entry of foreign banks. In 1994, Philippines has amended a 1948 law, which had limited the number of foreign banks operating in Philippines to four. Under the new revised law, the entry of foreign banks is allowed under the following three modes: Ten (10) new foreign banks can open branches in the Philippines with full banking authority; an unrestricted number of foreign banks is allowed to set up locally incorporated subsidiaries, with foreign ownership up to 60%; and an unrestricted number of foreign banks may enter the Philippines by acquiring up to 60% ownership of domestic banks. The insurance market has been opened to foreign equity up to 100% since October 1994.

Other reforms that have been implemented in the financial sector include: Further reduction of the reserve requirement; lower capital requirement for establishing bank branches; expanded use of ATMs; liberalisation of accreditation guidelines for securities dealership in Treasury bills; simplification of reporting procedures for banks; lifting of restrictions on repatriation of foreign investments; increasing the ceiling on outward foreign investments; reduction of requirements against deposit and deposit substitutes of banks and non-banks; removing restrictions on automatic conversions of a certain portion of foreign loans into pesos which limited foreign loan approvals; extension of foreign currency-denominated loans to indirect exporters; lowering of BSP rediscount rate to increase its utilisation; and creation of an exporters' dollar facility funded by Banko Sentral ng Pilipinas (BSP). The exchange rate continues to be

[5] : Build-Operate-Transfer; This scheme is similar to the Latin American Concessions.

market-oriented, with the BSP intervening in the foreign exchange market when warranted to minimise unwanted fluctuations.

The Foreign Investment Act has been amended. The amendments include: Elimination of the list of strategic industries; reduction of the minimum paid-in equity capital from $500,000 to $200,000 for foreign-owned domestic market enterprises, and to $100,000 if the enterprise deals with advanced technology or if it employs at least 50 direct employees; and deletion of the three-year requirement before a domestic market enterprise may change its status to export-enterprise.

The allowed foreign equity participation in an investment house to 60% of the voting stock. Foreign nationals can become members of the Board of Directors to the extent of their participation in the equity of the enterprise. The allowed foreign equity participation in a financing company was increased to 60% of the voting stock. Private domestic construction contracts was removed from the Negative List, thus allowing up to 100% foreign equity participation in private domestic construction. All monetary obligations are now to be paid in Philippine currency. However, the parties may agree that the obligations shall be settled in any other currency at the time of payment. The restriction on domestic borrowing of foreign firms have been lifted from 1997.

The Downstream Oil Industry Deregulation Act was approved in 1998. This Act removed the restrictions on the importation and exportation of crude oil and petroleum products; imposed a uniform rate of duty (3%) on crude oil and refined petroleum products; provided for the promotion of fair trade practices; and the prevention of cartelisation, monopolies, combinations of the two in restraint of trade, and any unfair trade practices in the industry; and provided for incentives for five years from registration with the Board of Investments. In 1998, the downstream oil industry was fully deregulated. However, LPG, regular gasoline, and kerosene will be covered by the Automatic Pricing Formula. The Metropolitan Waterworks and Sewerage System was privatised on August 1, 1997.

B. Changes in the 1996-1999 IAP

Philippines has not made major revisions to its IAP on deregulation since 1996. Rather, it has continually updated the IAP, adding new measures and modifying existing paragraphs where necessary. In its 1997 deregulation IAP, Philippines reported two new commitments: Gradually phase out inter-grid subsidy and unbundle generation and transmission tariffs for electricity; and implement privatisation of MWSS operations. In its 1998 and 1999 deregulation IAPs, Philippines reported no new commitments.

C. Short and Long Term Plans

To promote the transparency of regulatory regimes in the short/medium/long term, the Philippines pledged to further improve transparency of its regulatory regime through more timely publication of laws and rules and regulations in the most widely-read newspapers. To eliminate trade and investment distortions arising from domestic regulations in the short/medium run, Philippines will continue to initiate and implement measures that will further deregulate its domestic regime, taking into account the sustainability of development. Contemplated measures to be determined by Congress include: The extension of application of condominium law to industrial estates; the opening retail trade to foreign participation; the relaxation of requirements and improvement of benefits accorded to foreign entities setting up regional headquarters and warehouses; the deregulation of rates and routes in maritime and land transportation; gradual phase out of inter-grid subsidy and unbundling generation and transmission tariffs for electricity; review of the General Banking Act; and possible changes in the securities regulation. Finally, to eliminate trade and investment distortions arising from domestic regulations in the medium/long term, the Philippines will continue to review and improve its regulatory regime.

D. Implementation and Evaluation

In the 1997 deregulation IAP, Philippines lists the following "commitments achieved": Proposal of bills to implement short term measures promised in 1996 IAP; elimination of restrictions on domestic borrowings of foreign firms effective Jan. 1, 1997, as promised in 1996 IAP; and the full deregulation of the downstream oil industry effective Feb. 8, 1997, as promised in 1996 IAP.

However, Philippines noted that some of the short term measures it promised in its 1996 IAP, to which the government has submitted bills for, still remain in 1999. So presumably, the bills have not passed. These measures include the extension of application of condominium law to industrial estates; opening retail trade to foreign participation; and relaxing requirements and improving benefits accorded to foreign entities setting up regional headquarters and warehouses

In the 1998 deregulation IAP, Philippines lists following "commitments achieved": Draft bills for some measures promised in the 1996 and 1997 IAPs have been re-filed in Congress; for financing companies, higher levels of foreign participation were allowed (from 40% to 60%) as promised in 1997 IAP; for investment banks / houses, the limit on foreign equity participation was increased from 40% to 60%, and foreign nationals were allowed to become members of the Board of Directors to the extent of their participation in the equity of the enterprise, as promised in 1997 IAP. In addition, MWSS has been privatised on Aut 1, 1997 as promised in 1997 IAP, and private domestic construction contracts were delisted from the Negative List, allowing up to 100% foreign equity.

In the 1999 deregulation IAP, Philippines lists following "commitments achieved": The issuance of Executive Order which provides for the segregation and unbundling of electrical power tariff components of NPC and electric utilities as promised in past IAP; and the drafting of bills for other IAP commitments submitted to Congress.

In the related areas of 1999 IAP, Philippines' "commitments achieved" include: In Telecommunications, encouragement of existing authorised carriers to negotiate for interconnection of their facilities and installing an administrative / quasi-judicial process for administrative procedures; the privatisation of Luzon telecommunications facilities and 18 public calling offices sites; and on paging services, deregulation of prices and not requiring a certificate of public convenience; in Energy, the priority submission of new legislation, which will put into place wholesale and retail competition as well as open and non-discriminatory access to transmission and distribution activities; and implementation of programs to facilitate National Power Corporation' s privatisation; in Tourist Services, the liberalisation of foreign participation; in Standards and Conformance, the establishment of a website on standardisation activities and the PNS database available on-line to the public; the alignment of existing PNS for air conditioners, refrigerators, rubber gloves, rubber condoms, lamps, ballasts, lampholders and lighting fixtures with international standards; the granting of accreditation to the food Development Centre by the Australian Quarantine and Inspection Service; the conclusion of MRAs with Australia SAQAS, Indonesia DSN, and acceptance into membership by APLAC MOU; in Customs Procedures, the launch of the Bureau of Customs webpage; process of ratifying the HS convention; and carrying forth measures to smooth transition to the WTO Valuation System.

Evaluation:

Philippines seems to have made better progress than most of its fellow Asian APEC members in deregulating its economy. While not comprehensive as Latin American members, Philippines has carried out measures in a relatively wide ranging areas of its economy using rich mix of tools, such as privatisation, BOT concessions, public comments, and elimination of unnecessary requirements. It is especially notable that Philippines has implemented measures improving transparency and "user participation." As with other Asian APEC members, much of the later deregulation is concentrated in

the financial sector of the economy.

Philippines IAP does share the problem of being vague; it does not give a comprehensive picture of the state of deregulation in the Philippines. It does do a reasonable job of pointing out some specific measures, and it does give some indications on the underlying motive behind the measures; unlike the IAPs of China and Taiwan which includes a lot of individual measures, but little indication on why those measures were implemented. However, a more comprehensive picture would be desirable.

11. Russia

A. Current Status

Russia did not submit its IAP for deregulation in 1999. In the IAP for deregulation in 1998, Russia reported the following: The legislation of the Russian Federation in the sphere of deregulation, competition and anti-monopoly policy is based on the Constitution of the Russian Federation and the Federal Law on Competition and Prevention of Monopolistic Activity on Commodity Markets, formulated in accordance with international principles and norms, as well as on the federal laws, decree by the President of the Russian Federation, Acts and Instructions of the government of the Russian Federation issued under this law.

The Ministry of Russian Federation for Anti-monopoly Policy and Business Support is in charge of direct competition and anti-monopoly policy coordination and regulation. The status of an observer in the Committee for Legislation and Competition in the OECD accorded to the Russian Federation in 1996, as well as the signing and implementation of several intergovernmental agreements and cooperation programmes are a proof of the high efficiency of the deregulation & competition policy of the Russian Federation. The basic requirements and objectives for short and long term deregulation are also included in the IAP for Competition Policy.

B. Changes in 1996-1999 IAP

Russia submitted its first IAP for deregulation in 1998. It has not submitted an IAP for deregulation in 1999. Thus, there were no changes in Russia's IAP.

C. Short and Long Term Plans

In its 1998 IAP, Russia committed to the following: In the short term, assure equal opportunities of operation on commodity markets, including legal regulation of the modalities and procedures of licensing in the following spheres: management of natural resources, state support by way of subsidies, privileges, guarantees, and other benefits for certain economic entities and regions; development of competition principles and observance of antimonopoly requirements in placing state orders and supplying goods for state needs. In the long term, to deregulate and promote competition in branches actually classified as natural monopolies.

D. Implementation and Evaluation

Evaluation:

Because Russia has submitted only one IAP, it is unclear what measures Russia has succeeded in implementing any of its commitments in 1999. For the same reason, it is difficult to evaluate the progress made by Russia in deregulating its economy. Also, the details given by Russia is too vague to make any solid evaluation on the state of Russia's regulatory structure. However, Russia does seem to be emphasising competition and competition policy in its economic development plans.

12. Singapore

A. Current Status

This section lists the elements of Singapore's 1999 IAP on deregulation. According to Singapore's IAP, Singapore believes in the discipline of market forces, and adopts a hands-off approach to economic management. Regulation, where applied, is to provide prudential supervision (for example, in the financial sector), ensure public safety, protect consumer interests, and protect national security interests. Singapore's regulatory regime is highly transparent. All laws are widely available, through the published media or through the government's website. Major policies are also widely publicised. Deregulation introduced by Singapore since 1996 include:

In the telecommunications sector, at the WTO Basic Telecommunications negotiations, Singapore undertook several commitments including a commitment to license up to two more additional operators for the provision of basic communications services commencing April 1, 2000. Singapore will grant additional licenses thereafter for both basic telecommunications and mobile services. Competition in the provision of public cellular mobile services has begun from 1997. Singapore has also committed to allow direct foreign shareholding up to 49%, and indirect foreign shareholding up to 73.99% in the basic telecommunication services and mobile services. There are no ownership restrictions for the resale of telecommunication services.

For internet access, Singapore has further liberalised the provision of public Internet Access Services. There is no limit on the number of licenses to be granted. Any party who meets the minimum application criteria will be licensed. For Internet Exchange Services, the provision of international Internet Exchange services was also liberalised in June, 1999.

For financial services, on May 17, 1999 Singapore announced a five-year programme to liberalise the domestic banking sector and upgrade local banks. After three years, the results of the liberalisation measures will be reviewed. Under this package, foreign banks which are well-managed and have good credit and legal rating, and demonstrated commitment to their operations in Singapore, will be given additional market access.

For legal services, Singapore has set up a Legal Services Committee to review the conditions under which foreign lawyers are allowed to operate in Singapore. For Taxation Services, on January 1, 1999, Singapore has removed the restriction found in Section 48 of the Accounts Act which precludes a person who is not a public accountant or lawyer from using the designation "Tax Consultant".

B. Change in the 1996-1999 IAP

Singapore has made a fairly major revision of its IAP on deregulation in 1999, adding specific details about deregulation in specific industries such as telecommunications and financial sector. However, it did not involve any specific new commitments.

In the 1997, 1998, and 1999 deregulation IAP, Singapore has made no new commitments. However, from 1997 IAP onwards, Singapore stated it will proceed with its programme to corporatise and/or privatise the provision of major public services including electricity and telecommunications.

C. Short and Long Term Plans

To promote transparency of the regulatory regime, Singapore will, in short/medium/long term, maintain high transparency of its regulatory regimes and explore ways to further improve transparency.

To eliminate trade and investment distortions arising from domestic regulations, Singapore will, in short/medium/long term, continue with its programme to corporatise and privatise major public services where appropriate; and continually review the current regulatory regimes to eliminate any over-regulation and unnecessary bureaucracy.

D. Implementation and Evaluation

In related sections of the 1999 IAP, Singapore reports following commitments achieved. In telecommunication services, Singapore has further liberalised the provision of public Internet Access Services, and removed the limit on number of licenses to be granted. Any party who meets the minimum application criteria will be given a license. In financial services, the Stock Exchange of Singapore Review Committee reviewed the competitiveness of the Stock Exchange of Singapore (SES), and recommended the liberalisation of brokerage commissions with complete freeing-up of brokerage charges by Jan. 1, 2003; lifting of local ownership restrictions of SES members; and raising of foreign ownership limit in full member companies to 70%. Most of these recommendations have been accepted. Furthermore, in October 1998, the Corporate Finance Committee submitted 38 recommendations concerning the philosophy and framework of regulation, standards of disclosure and measures to liberalise and develop Singapore as an international corporate fund-raising centre. The government has accepted these recommendations. In investment, Singapore has recently signed IGAs with Laos, Latvia and Slovenia; and signed the Framework on ASEAN Investment Area in October, 1998. In standards and conformance, Singapore has completed the alignment of several household appliance products with international standards under the priority areas collectively agreed in the SCSC; singed the Pacific Accreditation Cooperation (PAC) MRA in November 1998. In Customs Procedures, Singapore border enforcement is TRIPS consistent.

Evaluation:

Singapore shares similar problems with many other members' IAPs; namely that the IAP seems merely to be a list of market opening measures, taken outside a context of a cohesive, comprehensive framework. While Singapore has implemented measures in a relatively wide ranging number of sectors, the programme seems like a collection of unrelated measures rather than a coherent whole. Also, while Singapore does list some specific measures, most of the measures listed in the deregulation IAP remains vague. Some of the problems may lie in the structure of the IAP. Singapore is somewhat more concrete in other sections of its IAP; thus Singapore may have preferred to give a fuller account elsewhere in the IAP, listing only the "leftovers" in the deregulation section. However, it is disappointing that Singapore has not made additional commitments.

13. Thailand

A. Current Status

Thailand's deregulation IAP lists each regulatory projects individually, rather than collectively as in other countries' IAPs. This section lists the elements of Thailand's 1999 IAP on deregulation.

For Metropolitan Waterworks Authority, the government has a clear policy to increase the public utility service, and as such, some parts of the related business may be handled by the private sector instead of being carried out by state enterprises. In 1992, the Metropolitan Waterworks Authority (MWA) amended relevant laws so that MWA would be able to form a joint venture with other persons;

or to hold shares in a limited company; or to hold shares in a public company limited for the benefit of the activities of the MWA.

In 1994, MWA engaged Arthur D Little International Inc. to carry out a study on increasing the private sector' s role in the MWA. In order to formulate an appropriate privatisation plan for water supply in Thailand, the government has set up a policy increasing the role of the private sector in the industry. The government has instructed the Interior Ministry to establish a formality to oversee the water supply industry, including the role of the MWA and PWA so that privatisation plans can be clearly implemented At present, MWA is in the process of seeking to engage a financial advisor to evaluate the opportunities and options for greater participation by the private sector in MWA' s undertakings.

For telecommunications, according to Thai Telecommunications Laws, the telecommunications services are monopolised by two state-owned organisations. One is the Telephone Organisation of Thailand (TOT), which is responsible for providing domestic telephone and related services, and the other is the Communications Authority of Thailand (CAT), which is responsible for providing postal services, international telecommunications services, and domestic telecommunications services other than those provided by the TOT. However, there are some services that CAT and TOT provide which compete with each other. In addition, a rapid increase in demand, the diversification of services from new technologies, and the government' s policy of limiting debts of the public sector has resulted in more private sector participation in telecommunications services with the CAT and TOT on a Build-Transfer-Operate arrangement generally known as joint ventures.

For maritime services, in general, the private sector, both foreign and local, have already taken significant roles in providing maritime transport services as well as port and other related shore-based services. As to privatisation of maritime transport and related services, there is only one government-owned shipping company, and it is under the process of privatisation; construction and operation of privately-owned ports by the private sector is allowed in accordance with relevant laws and regulations; and for the government-owned ports, the Thai government has maintained the policy that the private sector be allowed to take part in the operation of the existing facilities as well as funding of the construction and operation of new facilities.

With regard to foreign investment, foreign equity participation is subject to general limitations under the Alien Business Law, except: Investment in a shipping company owning non-Thai vessel, which is not subject to any limitation; and Investment in a shipping company owning Thai flag vessel which is subject to specific limitation and conditions set forth in the Thai Vessels Act B.E. 2481.

B. Additions to 1996-1999 IAP

Thailand has chosen to submit its IAP on deregulation focusing on specific utilities or organisations rather than looking at deregulation of the entire economy. The action plans on ETO and Dairy Cooperative were added in 1997. While the current status and short and long term plans for MWA has undergone much changes since 1996, the IAP for other organisations have remained virtually the same since 1996.

In 1997 deregulation IAP, Thailand entered no new commitments. In 1998 deregulation IAP, Thailand entered no new commitments, but did record the following modification for the Metropolitan Waterworks Authority (MWA): In 1992, Thailand amended the law on MWA to allow the MWA to form a joint venture with other persons or to hold shares in a limited company or a public company limited for the benefit of the activities of the MWA. At the time, MWA was in the process of seeking to engage a financial advisor to evaluate the opportunities and options for greater participation by the private sector in MWA' s undertakings.

C. Short and Long Term Plans

For the Metropolitan Waterworks Authority, Thailand states following short term initiatives: The main policy of the government for the MWA is to extensively and efficiently provide quality water supply with a fair service charge. The following work plans are to be urgently implemented:

- Improvement of water supply services for people in the outskirts of Metropolitan Bangkok by undertaking feasibility study for the investment of private company, or establishing a subsidiary company to provide water supply for the people;
- Improvement of management practices of all Branch offices to be more commercialized by streamlining the various processes and procedures, and giving the service a face-lift;
- Improvement of customer service, including a cut in steps required in a new connection application, which is to be a one-stop service; and encouraging the payment of water bills through banks as well as introducing other payment methods such as a counter service.
- Establishment of a subsidiary company to undertake new connection services, pipe repairs, etc.

For the telecommunications sector, Thailand offers the following short term initiatives: Separate the Communications Authority of Thailand into two organisations - The Postal and Monetary Service Provider and the Telecommunication Service Provider; progressively privatise the Telephone Organisation of Thailand (TOT) and the Communications Authority of Thailand (CAT); set up a neutral telecommunications regulatory body to ensure and promote competition in telecommunication services; and progressively liberalise value-added services.

For the telecommunications sector, Thailand offers the following medium/long term initiatives: Gradually decrease the proportion of the government's share in the Telecommunications Service Providers (formerly TOT and CAT); and liberalise telecommunications services.

For the maritime transport services, Thailand will consider further privatisation of maritime port services and facilities as a short term initiative. For the energy sector, Thailand offers two short term initiatives and two medium/long term initiatives. The two short term initiatives are: Seek to liberalise the natural gas market; and seek to liberalise the electricity supply industry. The two medium/long term initiatives are: Review further liberalisation of the natural gas market; and review further liberalisation of the electricity supply industry.

For the Express Transportation Organisation of Thailand (ETO), private sector operators have been allowed to undertake freight transportation services at the Bangkok Port which was previously undertaken solely by the ETO. Since the beginning of July 1997, ther have been 17 interested companies and the ETO operating at the port.

For the Dairy Cooperative Federation of Thailand Limited, since May, 1997, any juristic persons have been allowed, in accordance with the Department of Foreign Trade's regulation, to import milk and cream (not concentrated, or containing added sugar or other matters), including flavoured milk.

D. Implementation and Evaluation

In 1997 deregulation IAP, Thailand reported the following commitments achieved. For Express Transportation Organisation (ETO) of Thailand, private sector operators have been allowed to undertake freight transportation service at the Bangkok Port, which was previously undertaken solely by the ETO. Since July 1997, there have been 17 interested companies and the ETO operating at port. For the Dairy Cooperative Federation of Thailand Limited, since May 16, 1997, any juristic persons have been allowed, in accordance with the Department of Foreign Trade's regulation, to import milk and crème (not

concentrated, nor containing added sugar or other matters, including flavoured milk.) These products were previously imported solely by the Dairy Cooperative Federation of Thailand Limited.

In 1998 deregulation IAP, Thailand reported no achievements achieved. In 1999 deregulation IAP, Thailand reported the following achievement in telecommunications: The Corporatisation Act has been approved by the Parliament and presently under the process of Implementation. Frequency Management Commission Bill is under the Parliamentary scrutiny process. As the Bill passes into law, a regulatory body will be established.

In related areas of the 1999 IAP, Thailand reported following commitments achieved. In telecommunications services, two draft Acts, which would establish an independent Regulatory Body, passed the first reading. If the Acts pass second and third reading, the Bill would be passed into law. In maritime transport services, Thailand and China, as well as Thailand and Viet Nam agreed to abolish its bilateral cargo sharing agreement. In Investment, the Alien Business Law is being revised to streamline the reserved list and allow greater foreign participation. The new draft legislation is entitled "Foreign Business Act", and has passed the Cabinet and the Parliament. It is currently being scrutinised by the Senate. The Draft SME Promotion Bill was also passed by the Cabinet, and is under consideration by the Parliament. Thailand has signed bilateral double taxation agreements with 38 economies, and investment promotion and protection agreement with 22 economies. Thailand has also signed the ASEAN Investment Agreement in October 1998. To facilitate various aspects of investment, Thailand has established "The One Stop Service Centre for Visas and Work Permits", "The Foreign Expert Services Unit", and a homepage on the internet which provides latest business and investment information as well as changes in investment related laws and regulations. (http://www.boi.go.th). In standards and conformance, Thailand is amending its regulations to have its standards in line with Codex standards. 110 electrical and electronic appliance standards, as well as 49 machinery standards were aligned with international standards; and Thailand is participating in APEC Food MRA since 1998, as well as an MRA on Automotive Products with Australia since 1999.

Evaluation:

Unlike the other IAPs, Thailand has submitted commitments only for three specific state-owned enterprises and three limited sectors of the economy. It offers no information on deregulation measures for Thailand's economy in general. Thus, it is a very limited picture of the state of Thailand's deregulation measures. While many of the descriptions remain vague, some desirable elements can be seen in the telecommunications sector, where a neutral regulatory body is to be established. However, it remains unclear how effective Thailand's deregulation measures are for the economy as a whole rather than in these isolated sectors.

14. Viet Nam

A. Current Status

This section lists the elements of Viet Nam's 1999 IAP on deregulation. According to Viet Nam's IAP, a comprehensive reform of the national economy, referred to as "Doi Moi" has been introduced in Viet Nam since 1986. The economic reform has been implemented through a variety of measures aimed at reforming the economic structure, attracting foreign investment, gradually establishing a new legal framework directing the economy towards a market economy, and integrating step-by-step into the global and regional economy. From that point of view, Viet Nam has deregulated many sectors, especially the following four: enterprises administration, trade in goods, trade in services, and investment.

With regard to enterprises administration, the National Assembly and the Government have

recently promulgated the Law on Enterprises to create an equal and legalised business environment for all enterprises.

With respect to trade in goods, the government removed import / export shipping license requirements (i. e. license required for each consignment of goods), and extended the rights to import and export to companies of all economic sectors. Companies are now permitted to export and import almost all kinds of goods, subject only to tariff control. There are a few items which are still subject to quantitative restriction.

From 1996 to 1998, the government has continued to expand the opportunities to do business in these restricted items, which used to be controlled or regulated by the state. Certain proportion in total import value and import licenses imposed on consumer goods were removed and the list of items controlled by quantities was also substantially reduced.

In 1998, the government provided detailed regulations on the implementation of the Commercial Law on Export, Import, Processing Goods and Agencies of Sale and Purchase of Goods with Foreign Merchants. The government is currently considering a restructuring of its tariff schedule in accordance with HS 1996, and reducing the number of tariff rates in order to further facilitate the export and import activities. The List of items subject to minimum import price for the purpose of customs valuation is being shortened.

With regards to trade in services, a number of laws and ordinances have been adopted by the National Assembly to facilitate business activities in Viet Nam. Furthermore, the government and the governmental agencies have also issued a range of legal documents to support Viet Namese and foreign businesses doing business in Viet Nam.

With regards to foreign investment, the government has lowered the land rental fees for foreign-invested enterprises; established hotlines to answer all enquiries relating to tax policies at the General Department of Taxation of the Ministry of Finance to help companies more easily access new information and policies. The State Planning Committee and the State Committee for Cooperation and Investment have been merged to be the Ministry of Planning and Investment to create a "one-door" mechanism for foreign investment projects appraisal and licensing. In an effort to further simplify licensing procedures for foreign investors in Viet Nam, the government has also decentralised the authority to issue investment licenses to the Municipal and Provincial People's Committees across the country.

With regard to commercial activities of foreign-invested enterprises, the government has authorised the Management Boards of Industrial Zones, and the People's Committees at the provincial level to approve export-import plans and manage export-import activities of foreign-invested projects. Foreign-invested enterprises are permitted to export, or export under the assignment a vast number of commodities which they do not produce.

In October 1998, the Government's Steering Committee on administrative reform was established to assist the government in implementing annual, medium and long-term administrative reform plans at the ministerial, sectoral and local levels. Programs on equitisation of state-owned enterprises is in progress, 160 state-owned enterprises were equitised by April 1999.

B. Changes in 1996-1999 IAP

Viet Nam submitted its first IAP for deregulation on 1998. The 1999 IAP on deregulation is an updating of the 1998 IAP. Additional elements for 1999 IAP include description of measures such as: Decentralisation of the authority to issue investment licenses to Municipal and Provincial People's

Committees; Implementation of The Law on Value-Added Taxes which facilitates business and production activities; The number of State-owned businesses equitised has risen from 21 in April 1998 to 160 in April 1999.

In addition, following additional commitments were made in 1999: In the short term, review all customs documents to find out inappropriate regulations for elimination or revision, and increase daily customs clearance capacity up to 97-98 %; in the medium term, allow foreign residents in Viet Nam to buy shares in equitised enterprises. Single pricing mechanism will be applied for both foreigners and overseas Viet Namese.

C. Short and Long Term Plans

In the short term, Viet Nam will: Continue efforts to accelerate the equitisation of state-owned enterprises; continue to enhance market access opportunities in accordance with the growth in socio-economic development and the growth of Viet Namese industries; review policies with respect to the administration of investment and trade in services management and to amend such policies toward the facilitation for the foreign-invested enterprises' and other enterprises' business in trade in services; consider the gradual reduction of non-tariff barriers to trade; and review all customs documents to find out inappropriate regulations for elimination or revision, in order to increase the daily customs clearance capacity up to 97-98 percent.

In the medium term, Viet Nam will: Allow foreign residents in Viet Nam to buy shares in the equitised enterprises. The single pricing mechanism will be applied for both foreigners and overseas Viet Namese; remove non-tariff barriers which are inconsistent with the WTO rules, upon Viet Nam's accession to the WTO; continue to implement the equitisation of state-owned enterprises through public issuance of their shares; continue to participate actively in the formulation and harmonisation of Viet Nam's standards and qualities; and ensure transparency and clarity of investment and trade policy regimes.

In the long term, Viet Nam will: continue to adjust its mechanism and policies in order to ensure reaching APEC's goals by 2020; and abolish the restriction on the import of petroleum and fertiliser through focal point enterprises.

D. Implementation and Evaluation

Viet Nam has not listed any commitments achieved in 1999 for deregulation. However, among other measures carried out in 1999 were: The promulgation of the Law on Enterprises, which will help create an equal and legalised business environment for all enterprises; the decentralisation of the authority to issue investment licenses to Municipal and Provincial People's Committees; and an increase in the number of State-owned businesses equitised; from 21 in April 1998 to 160 in April 1999.

Recent measures carried out by Viet Nam as reported in related sections of the 1999 IAP include the following. For legal services, foreign law firms are allowed to establish branches in Viet Nam, and sign cooperation contracts with Viet Namese legal consulting companies on a case-by-case basis. For accounting and auditing Services, international auditing companies and financial accountancy consulting firms can operate in Viet Nam in the form of joint venture, or 100% foreign-owned venture; and Viet Nam has recently established 4 auditing and 4 accounting standards. For telecommunications services, foreign companies or foreign legal entities are allowed to cooperate with Viet Nam operators in providing telecommunications services in the form of a business cooperation contract, though the service providers themselves must be state-owned enterprises, or stocking companies in which the state holds a dominant, or special share.

For insurance services, foreign insurance enterprises may establish business facilities and/or

provide insurance services in Viet Nam in the forms of joint venture, wholly foreign owned companies or branches. For Banking Services, foreign credit institutions are allowed to expand their scope of activities which include joint-venture financial companies, 100% foreign owned financial companies and other non-banking institutions. Viet Nam has extended the terms of operation of joint venture banks and representative offices of foreign credit organisations from 20 to 30 years, and from 3 to 5 years respectively.

For maritime, railway, road and internal transportation services, foreign enterprises are allowed to invest in these transportation services in the forms of joint venture and/or business cooperation contracts. However, the State must retain monopoly in providing railway transport services, and all forms of cargo transport between Viet Namese ports are reserved for domestic transport enterprises. for air transport services, foreign-invested companies may supply aircraft repair and maintenance services in Viet Nam provided that the proportion of capital held by foreign parties does not exceed 40%.

For investment, foreign investors may invest in Viet Nam in following 3 forms: Business Cooperation Contracts, Joint Venture Enterprises, and 100% Foreign-Owned Enterprises. Except for projects which are within the List of Prohibition or Conditional Investment, foreign investors are free to determine their investment project, form, location and outlet markets. There is no ceiling limit on the share of foreign parties in a joint venture, but it should not be less than 30% of the legal capital. Viet Nam is undertaking incentives to facilitate foreign investment in Viet Nam such as preferential profit tax and import-export duties, reduced land rental, etc.

Finally, for standards and conformance, Viet Nam is pushing up the standards system in conformity with ISO 9000 and laboratory accreditation in line with ISO/IEC Guide 25; and Viet Nam has been participating in regional and international organisations on standardisation such as ISO and ILAC. The List of Viet Namese Standards in 1999 based on ISC has been established.

Evaluation:

Viet Nam, along with Russia and China are non-market economy members of APEC. In addition, Viet Nam, as with Russia, has only joined APEC recently, and thus there is no track record of commitments made and commitments implemented by Viet Nam. However, from what it reported in the IAP, Viet Nam seems to be in a very early stage of developing its laws, regulations and basic market infrastructure. Thus, Viet Nam is in a particular case of equitising its formerly state-owned enterprises, and establishing its legal base by passing various laws and legislation. The IAP tends to emphasise more on market opening measures rather than any type of deregulation or regulatory reform, and it seems too early to judge Viet Nam' s deregulatory measures, since in many aspects, Viet Nam is only now installing its regulatory structure.

IV. Conclusion

1. Competition Policy

A. APEC Competition Policy: Overall Evaluation

At the time of the Bogor Declaration in 1994, APEC member economies agreed to adopt competition laws and polices to increase economic efficiency. Consequently, competition policy was included as a topic in the Individual Action Plan at the Osaka meeting the next year, when the objectives and guidelines member economies should abide by, had been established. At the same time, APEC Ministers agreed that the Committee on Trade and Investment (CTI) would develop an understanding of competition issues, in particular, competition laws and policies of economies in the region. They agreed that CTI should learn how competition laws and policies affect flows of trade and investment in the APEC region and identify potential areas of technical cooperation among member economies. In 1996, the Osaka Action Agenda work programs for competition policy and deregulation were combined, in view of the linkages between the two issues. Five annual workshops have been held, covering issues such as approaches and exemptions to competition policies and law; technical assistance; linkages between competition policy and trade policy; objectives and mechanisms of competition policy; interrelationship between competition policy and deregulation; regulation of national monopolies; occupational regulation; and regulatory reform.

Although there is a growing consensus that competition-oriented policy framework would be instrumental in achieving the Bogor goal of trade and investment liberalisation, there has been no broad consensus on the specific goals or scope of competition policy among member economies. This is understandable given the wide spectrum of economic characteristics of members. Economies are at various stages of industrialisation, and have different institutional, legal and cultural heritages. To further complicate the picture, some are transition economies, having to over-turn their economy from a controlled, socialist system to a competition-based, market economy.

This is evident from the IAPs of the individual economies. Only about 8 out of 21 APEC member economies have some experience of competition policy. Seven economies (China, Chinese Hong Kong, Indonesia, Mexico, Peru, Russia, and Chinese Taipei) have enacted comprehensive competition laws during the last ten years. Six economies, Brunei, Malaysia, Papua New Guinea, the Philippines, Singapore and Vietnam, do not yet have a comprehensive competition law.

Yet, just because an economy has a comprehensive law does not mean that it is adequately enforced. Further, many economies in the APEC currently enforce competition policy through various laws dispersed across many areas of the economy, though there may not be a single, comprehensive competition law. At the same time, most of these economies also plan to promulgate a single, comprehensive competition law, in compliance of the IAP objectives. However, this is done invariably without explaining why the current system is inadequate and why the new system (comprehensive, single law) is expected to work better. Further, what relationship the competition law, once enacted, would have with the various competition related provisions dispersed in other laws (e.g., laws regarding financial services, intellectual property rights, sectoral laws etc.), is not explained clearly. It would be helpful to note these aspects when reviewing competition policy in each economy and to explain the situation in future IAPs.

Another common trend is that the IAPs simply note how the submitting economy is advocating competition, reviewing its competition policy and laws, especially to enhance transparency and enforcement, and cooperate with other APEC members – all in conformance with the objective set by the IAP. However, sometimes, very little is said about how specifically the economy is going about

doing this and it is difficult to evaluate the state of competition policy enforcement under the circumstances. For example, when an economy says it will seek technical assistance from other members, it does not say in what specific areas.

One problem with the IAPs is that there is virtually no change in the current status nor in plans to be implemented year after year. This does not seem entirely due to insincerity in submitting the IAPs but because any concrete results from advocating or enforcing competition necessarily takes a very long time to emerge. For example, drafting of a new competition law may take a couple of years, and enacting it may take another year or two. It is therefore suggested that the IAP, at least in areas like competition policy, should be submitted not every year, but perhaps every three or five years. This will certainly save administrative effort in submitting the IAPs while enriching the substance of the reporting.

B. APEC's Competition Principle

To partly resolve the problem of lack of a common principle in the area of competition policy among APEC member economies, the *APEC Principles To Enhance Competition and Regulatory Reform* was adopted in September 1999 at the Auckland APEC Leaders Meeting. The APEC Competition Principles are developed on the basis of the PECC (Pacficic Economic Cooperation Council) Competition Principles.

The CTI of APEC had requested the PECC to draft a non-binding principles for competition policy and the PECC prepared the final draft (*Principles for Guiding the Development of a Competition-Driven Policy Framework for APEC Economies*) in April 1999. The principles were redrafted 6 times over several years, and in the process, the PECC had extensively consulted the business community and considered the views of each APEC member economies.[6] Nevertheless, while member economies regarded the PECC principles as an important and meaningful foundation for further development of regional competition policy, some economies felt that it was much too specific for a non-binding principle and argued for a more general approach. In the process of negotiations, more emphasis was given to flexibility and non-binding nature of principles, instead of exploring all the ramifications of the propositions. The key four PECC Principles (non-discrimination, comprehensiveness, transparency and accountability) survived, while the initial, action-oriented intention of the PECC principles were mitigated to a certain extent. This is evident in the preamble of the APEC *Principles* which was finally endorsed in September 1999, which emphasises that each member economy will implement the Principles voluntarily, consistent with the way APEC operates. It is further recognised that member economies have diverse circumstances and different policy priorities, and therefore need flexibility to implement the *Principles*. In addition, it is recognised that policy and regulation in APEC economies may properly have objectives other than promoting competition. Understandably, developed countries such as the US, New Zealand, Canada, and Australia have led the discussions leading to the adoption of APEC's competition principles. On the other hand, emerging economies such as China, Malaysia and Indonesia had emphasised the importance of other political, social and economic goals, whereas countries such as Japan and Korea took middle of the course, endorsing the core competition principles while emphasising voluntarism and flexibility of implementation.

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[6]. PECC is a research forum made up of experts from the government, the academia and the private sector in the Pacific region. It is the only private institution among the official Observer of the APEC. It was established in 1980 and consists of 23 member countries. Its research coverage is extensive, including trade and investment, macroeconomics, science and technology, human resource development, finance, and agriculture. It holds seminars and workshops periodically, and began research on competition policy issues since 1993. (PECC 1999).

As noted, the *Principles* are non-binding, and do not contain prescriptive clauses. The most important are the four principles upon which it rests: non discrimination, comprehensiveness, transparency, and accountability. The non-discrimination principle states that the competition and regulatory principles should be applied in a manner that does not discriminate between or among economic entities in like circumstances, whether these entities are foreign or domestic.

The comprehensiveness principle requires broad application of competition and regulatory principles to economic activity including goods and services, and private and public business activities. This principle also recognises that the competition considerations should apply to all policies development and reform which affects the efficient functioning of markets. The principle calls for the protection of the competitive process and recognises that maintaining competitive environment requires a good overall legal framework, clear property rights and non discriminatory, efficient and effective enforcement.

The transparency principle requires transparency in policies and rules and their implementation. The accountability principle requires enforcement responsibility to be clearly assigned to particular domestic institutions which will ultimately account for the implementation of the competition and efficiency dimension in the development of policies and rules, and their administration

The second part of the *Principles* deal with implementation. It sets out ten principles of implementation to achieve goals of the core principles described above. They are:

1) Identify and/or review regulations and measures that impede the ability and opportunity of businesses (including SMEs) to compete on the basis of efficiency and innovation.
2) Ensure that measures to achieve desired objectives are adopted and/or maintained with the minimum distortion to competition.
3) Address anti-competitive behaviour by implementing competition policy to protect the competitive process.
4) Consider issues of timing and sequencing involved in introducing competition mechanisms and reform measures, taking into account the circumstances of individual economies.
5) Take practical steps to promote consistent application of policies and rules; eliminate unnecessary rules and regulatory procedures; and improve transparency of policy objectives and the way rules are administered.
6) Foster confidence and build capability in the application of competition and regulatory policy. This will be achieved, inter alia, by promoting advocacy of competition and regulatory reform; building expertise in competition and regulatory authorities, the courts and the private sector; and adequately resourcing regulatory institutions, including competition institutions.
7) Provide economic and technical co-operation and assistance and build capability in developing economies by better utilising the accumulated APEC knowledge and expertise on competition policy and regulatory reform, including by developing closer links with non APEC sources of technical expertise.
8) Build on existing efforts in APEC to help specify approaches to regulatory reform and ensure that such approaches are consistent with these principles.
9) Develop programmes, including capacity building and technical assistance, to support the voluntary implementation of the approaches to regulatory reform developed by relevant APEC fora.
10) Develop effective means of co-operation between APEC economy regulatory agencies, including competition authorities, and ensure that these are adequately resourced.

These are obviously very general principles, and are in no way specific programmes that can be carried out in a visible manner. APEC member economies are understood to make efforts to implement the above, as far as it does not duplicate the work of other APEC fora. Although the

Principles do not explicitly state, reflecting these goals in the IAP is an obvious way to implement the competition principles. The most notable from the above implementation principles are the emphasis on SMEs, the need to adequately resource competition institutions, and technical cooperation, especially from non-APEC sources of technical expertise. Overall, the *Principles* are expected to provide a basic framework with respect to goals and scope of competition policy in the APEC region.

C. Developing Country Perspectives on Competition Policy

Competition policy is advocated, presumably because competition enhances efficiency and therefore is needed to protect competition policy.[7] Such analysis is usually based on static analysis of resource allocation but recent studies such as Aghion, Dewatripont and Rey (1999) and Nickell (1996) show that competition improves corporate performance and therefore enhance economic growth in the long run. However, these studies mainly examine developed economies. Empirical or quantitative studies exploring the link between economic growth and competition during the developing stage is not easy to find. It is often argued that during the development stage of an economy, the economy has many policy objectives and in cases where they contradict competition process, competition policy cannot always be a priority. Markets in developing countries tend to be small, whereas most modern industries require minimum efficient scale that allows only a few number of firms in the market. At the same time, capital resources in developing countries are limited and making duplicate investment, part of which would be dissipated during the competition process, may not be a desirable development strategy. Further, enforcement of competition law is quite costly, and at the same time, technical expertise capable of enforcement may be in short supply.

Some scholars, for example Hoekman and Holmes (1999), recommend that liberal trade and FDI policy would provide competition that may not be available from within developing countries and argue that it can be used as effective part of competition policy. However, multinational firms are a source of market concentration and can easily dominate a developing country market, based on their superior technology and financial resources. Therefore, regarding international regime for competition policy, the main interest of developing countries is geared towards curbing the market power of multinationals.

On the other hand, US and EU have a predominantly 'market access' driven agenda for establishing international rules on competition policy. Non-existent or poorly enforced competition laws are argued to hinder access for exporters by allowing domestic firms to foreclose or greatly increase the cost of entry. Generally, developed countries, home to most of the multinationals, are less interested in subjecting the behaviour of their firms in foreign markets to international disciplines that will benefit foreign consumers. That is, while national promotion of competition law is based on reasons of efficiency, discussions of international competition policy regime which has been led primarily by the developed countries, is by and large, mercantilistic. This is especially true of multilateral forum such as the WTO. In contrast, developing country interests are better reflected in the works of organisations such as the UNCTAD, where developing country representation is greater.

The significant difference in interests between developed and developing countries can be found in discussions of international competition policy in all important international organisations such as the OECD and the WTO. It is also manifest in the process of adopting the competition principles in APEC, as can be seen above. Developing and developed economies' interests may coincide more on

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[7] Although for some schools of economic thought (e.g., the Chicago School and the Austrian School), competition policy only represents another type of government regulation, and hinders, rather than promotes the competition process. It is argued that the competitive process is self-regulating and inherently efficient and therefore needs no protection from special competition policy. Competition policy, can only be used by the weaker firms to protect themselves.

issues relating to cross-border merger control in which merger of individual firms have competitive effects in more than one country. It is possible that multilateral pressure to strengthen enforcement of competition policy may help developing countries to counter domestic resistance against competition advocacy. However, this process will not progress very much without serious commitment of developed countries to technical cooperation, monitoring of multinationals and viewing trade policy tools such as anti-dumping from competition policy perspective.

2. Deregulation

A. Regulatory Reform and Deregulation

Recently, awareness of the role that regulation plays in economic efficiency has been growing, and there is realization that a more rational regulatory structure will raise the economic and social well being of a country, and its people. This realization has led many nations to engage in a program of deregulation, and more comprehensive regulatory reform.

Traditionally, governments have used various economic, social, and administrative regulations to carry out social and economic objectives. However, until recently, there was relatively little attention paid on the costs of these regulations. Recent studies suggest that the costs are considerable. OECD estimates that a well-structured and ambitious regulatory reform program in a more heavily regulated economies can lead to increases in real GDP levels on the order of 3 to 6 percent[8].

Several countries have carried out, or are in the process of carrying out, ambitious regulatory reform programs. The United States of America engaged in a deregulation program in the 1980s, followed by administrative regulation reform program in the 1990s. As the result of its regulatory reform program, the United States deregulated a wide-ranging area of its economy, ranging from the financial sector, to the air transportation sector. Also, President Clinton and Vice President Gore have made government administrative regulatory reform one of the centerpieces of their administration. Such regulatory reforms are thought to be one of the more important factors behind the current unprecedented growth of the American economy.

Korea has also recently carried out a massive regulatory reform program. Korea has established a Regulatory Reform Commission whose task is to review existing, as well as newly proposed regulations, to see whether the regulation is necessary, formulated in a market-friendly way, is efficient, and benefits outweigh the costs. Korea has also eliminated 50% of existing regulation[9], and in particular, has eliminated much of the regulations on foreign investment. Korea has also reorganized its regulatory structure so that there is more transparency and less chance of regulatory capture, where the regulators are co-opted by the industry being regulated. Most notable example is the new independent Financial Supervisory Commission, whose sole task is to supervise the financial sector.

As these examples indicate, regulatory reform is a multi-faceted program, requiring not only reduction of regulation (deregulation), but also streamlining of the regulatory structure, taking account government administration, market openness, and competition policy. OECD, in its Report on Regulatory Reform, suggests following seven principles for regulatory reform[10].

1) Adopt at the political level broad programs of regulatory reform that establish clear objectives and frameworks for implementation;

[8] : OECD (1997a)
[9] : as of year-end, 1998.
[10] : OECD (1997a)

2) Review regulations systematically to ensure that they continue to meet their intended objectives efficiently and effectively;
3) Ensure that regulations and regulatory processes are transparent, non-discriminatory and efficiently applied;
4) Review and strengthen where necessary the scope, effectiveness and enforcement of competition policy;
5) Reform economic regulations in all sectors to stimulate competition, and eliminate them except where clear evidence demonstrates that they are the best way to serve broad public interests;
6) Eliminate unnecessary regulatory barriers to trade and investment by enhancing implementation of international agreements and strengthening international principles;
7) Identify important linkages with other policy objectives and develop policies to achieve those objectives in ways that support reform.

Such advice is not unique to OECD. Because of the wide-ranging nature of regulations in most countries, regulatory reform program should be comprehensive; seeking to enhance transparency, efficiency, and market competition. While deregulation is an important component of regulatory reform, establishing proper regulations and regulatory structure can be as important as eliminating inefficient or unnecessary regulations.

However, as we shall see in the next section, APEC, by its very nature, can only apply itself to matters which deal with international trade and investment. Thus, while it certainly does have a role to play in its member economies' regulatory reform, it cannot deal with some of the most important aspects of regulatory reform.

B. APEC Deregulation Program: Overall Evaluation

The objective of APEC’s deregulation program is to increase transparency of each member economy’s regulatory regime, and eliminate any unnecessary regulations which distort open markets. As seen in each member’s IAP, the members have engaged in multitudes of deregulation measures designed to further these objectives.

While these are certainly worthy goals, they are not the only objectives for deregulation. Many countries, including many of the member economies of APEC, are carrying out a more comprehensive program of regulatory reform, which includes deregulation. In such regulatory reform programs, countries establish a strong regulatory reform authority which carries out a comprehensive reform program to improve efficiency of business and government, and raise the welfare of consumers. Often, these countries establish an ongoing program for reviewing new regulations; as well as establishing institutions to periodically and comprehensively review all regulations, to determine whether old regulations need to be eliminated or modified.

By these standards, APEC’s deregulation program is not a comprehensive regulatory reform program. APEC’s deregulation program is a part of APEC’s larger agenda: development of its members’ economy through facilitation of economic interchange between the member economies. Thus, for the most part, APEC deals only with the international aspects of regulation, and rarely deals with the purely domestic, internal matters concerning its members’ economies. Thus, APEC becomes relevant only when an external element is involved. In other words, APEC, by the nature of the organization, is concerned only with the market openness aspect of regulatory reform and deregulation rather than a comprehensive view of regulatory reform. Because of this limitation, APEC overlooks of some of the most important and interesting aspects of regulatory reform. For example, there is little mention of how public administration is being reformed, or whether tools to examine usefulness and efficiency of regulations, such as the regulatory impact analyses (RIAs) are being used or not. Also,

there is little mention of how these reforms will affect domestic businesses and consumers. As a result, the IAP gives only a partial, incomplete picture of the overall effects of regulatory reform.

For the same reasons, when each member is describing their deregulation measures in its IAP, it tends to dwell on individual market opening initiatives rather than giving a comprehensive view of their comprehensive domestic regulatory reform strategies, assuming that they do have a regulatory reform strategy in the first place. Because the IAP will give, at best, only a partial picture of its deregulation and regulatory reform strategy, most deregulation measures listed in the IAPs seem haphazard and piece-meal, rather than carefully planned and thought out; even though in reality, the regulatory reform program may actually be well planned.

Even with this caveat, the APEC members' IAPs seem, for the most part, not based on any coherent strategy. With notable exceptions like Chile, most members have merely listed all of its recent deregulation measures for various sectors of their economy, with virtually no logic or reason behind why the measures were initiated. While in general, more market opening and transparency is desirable, it is also desirable that the member economies have an overall strategy of regulatory reform. For most member economies, no sense of an overall strategy can be sensed from the IAPs. They are merely listings of some market opening, or transparency-enhancing deregulation measures which have recently been enacted.

Part of the problem may stem from the lack of clear definition of "deregulation." Deregulation, which implies elimination of regulation and regulatory burden, is only a part of a comprehensive regulatory reform. Regulatory reform encompasses not only deregulation, but streamlining of regulation, as well as modifying regulations to make sure that it enforces a desirable social or economic goal at the least possible cost to the economy. In effect, regulatory reform encompasses not only the deregulation and competition measures listed in this book, but also other facets of the economy, such as customs procedures, technical standards and conformity, and sectoral regulations.

Thus, the "deregulation" component of the APEC IAP is somewhat misleading, since APEC IAP gives many of the most important components of regulations their own separate sections, such as: "standards and conformity," "customs procedures," and "investment measures." Thus, many of the most important regulatory reform measures are missing from the APEC IAP on deregulation, and the "deregulation" section of the IAP tend to act as a "catch-all" listing various deregulation measures which are not listed elsewhere. Such nature of the "deregulation" component of the IAP may explain a part of the haphazard nature of some member economies' IAP on deregulation.

Because the other sections of the APEC IAP tend to be better defined, both in terms of its scope and its goals, those sections tend to be slightly more coherent than the deregulation component of the IAP. However, even in those other sections, most members still tend to list their measures hapazardously, without considering (or reporting) a cohesive framework for their measures, implying a lack of a comprehensive, coordinated regulatory reform program.

The degree of ambition and accomplishment on individual deregulation measures differs among member economies as well. On one end of the scale, we have a country such as Brunei Darussalem, which has submitted virtually the same IAP since 1996, with no new commitments added since the initial 1996 MAPA (Manila Action Plan Agenda) IAP plan.

On the other hand, there are members who have deregulated their economies in an exemplary fashion, most notably Chile. While it does have some shortcomings, Chile has carried out deregulation in a coherent fashion, with a consistent strategy: The provision of public services by using the market mechanism through the tool of concessions. The tactics of deregulation are also consistent: Private concessions given through competitive bidding, open to any qualified bidders; direct supervision of

concessions through the Superintendency; and oversight by relevant Ministries in charge. Thus, there is a consistent overall framework, based on economic logic, which Chile uses to deregulate its economy. While the Chilean deregulation process does have some possible problems in universal service, lack of competition for the period under concession contract, and so on, Chile does show that it has a solid strategy for deregulation.

However, most member economies' deregulation IAPs are much like (for example), Taipei, which merely lists various market opening deregulation measures without much coherence or logic. While some market opening deregulation is better than none, it would be reassuring to see the logical or empirical basis behind the measures, and to see a comprehensive, cohesive reasoning and strategy behind the measures taken. For many member economies, it seems that these measures were taken almost randomly, without due consideration for sequencing or prioritisation, which will weaken the effect of the deregulatory measures, and may even bring adverse consequences.

Such problems in the IAP underscore again, the fundamental weakness of APEC in terms of regulatory reform. Namely, APEC is an international cooperative "organisation" which serves to encourage and in a sense, enforce international policy agendas, and thus tends to overemphasize the market opening aspects of regulatory reform.

Commitments to international organisations such as WTO, IMF, OECD and APEC often serve to give credibility to a country's change in policy. By committing the policy changes to these organisations, a country can help implement a policy which is helpful to the country, but may not be politically popular. Also, such commitment can also show investors and other countries that the country is indeed serious in intending to carry out the policy measures. Thus, there is no doubt that international mechanisms such as APEC can be helpful in the regulatory reform process.

However, as emphasized above, regulatory reform is not a program which should be limited to international transparency and market opening measures. The goal should be to increase the efficiency of the entire economy, rather than certain aspects of that economy. Thus, the program should emphasize coherent, wide-ranging, comprehensive reforms rather than limited reforms. While there is no question that increases in international transparency and market openness will help the economy considerably, the APEC IAPs, by emphasizing only a part of the whole, may serve to de-emphasize some of the most important aspects of regulatory reforms. The seemingly random way that many of the IAPs were written serves to underscore this problem.

Another problem which complicate the reform process is that, sometimes other countries may use international fora as just an extended stage for bilateral negotiations. Sometimes, a measure which is of relatively minor importance for a member, may be given importance in an international forum because it is of importance to one or more of other members. In such cases, the reported measures may seem haphazard and somewhat incoherent, when approached from a domestic point of view.

For APEC member economies such as China and Taipei, there seem to be some indications that this is indeed what happened. The measures reported by China and Taipei seem to lack an overall coherence, and the IAP emphasises that many of these measures are conditional on their accession to the WTO. Thus, the measures listed serve as a summary of other negotiating documents and give little hint of how these measures will actually improve the efficiency of the domestic economy.

Also, it should be noted that some deregulatory measures by the member economies were carried out because the economic circumstances forced some members to reform. The Asian Financial Crisis of 1997-1998 has been a major factor behind deregulatory measures for many of the Asian members of APEC, most notably Indonesia, Malaysia and Thailand. These economies undertook a comprehensive reform of the financial sector, and substantially liberalised foreign investment. However,

these measures were, for the most part, taken during a crisis situation, and it remains unclear from the IAPs if there was an underlying strategy and a framework behind these reforms. Also, the reforms tend to be very thorough and comprehensive for the financial sector, but the reforms on other sectors, especially those areas which were not directly involved with the Financial Crisis, such as the industrial manufacturing sector or public administration, tend not to be as comprehensive or strong. Again, while some deregulation and market opening is generally preferable to none, the emphasis of the reform is perhaps too concentrated on certain sectors of the economy; and they may be ignoring the need for a comprehensive and coordinated regulatory reform program.

It is worth noting that some members of APEC are still somewhat distrustful of a competitive market economy. China, for example, while stating it will reform along the lines of market competition, still very strongly maintains that stability is important, laying justifications for government controls. Malaysia also has shown some reluctance to merely continue a deregulatory policy, preferring to strengthen regulations in some areas such as prudential supervision of the financial sector, and controls over short term capital flows. While some regulations are necessary, and in certain cases may even need to be strengthened, regulatory system should be, as much as possible, market enforcing. Such distrust of the market structure may hinder the regulatory reform process in the long run.

In general, the Latin American members of APEC such as Chile and Peru seem to have carried out its deregulation and regulatory reform programme much more successfully over longer time periods than the Asian members. The Latin American members tend to have covered more sectors of the economy using a more consistent framework than the Asian counterparts. Asian members seems to have ignored deregulation, or have carried out hasty measures as a result of the Asian Financial Crisis, or bilateral negotiations. The IAP measures by Asian members tend to be less cohesive overall, and the parts which are cohesive and comprehensive, tend to be focused on those sectors affected by the recent Asian Financial Crisis.

Finally, some comments on the form of the IAPs seem to be warranted. The IAPs were designed to list various concrete measures which each individual economies took, or will take, in trying to achieve the objectives as set out in the Osaka Action Agenda. Thus, it was supposed to serve as a list of concrete measures already accomplished, and those concrete measures which each economy would carry out in the short term, the medium term, and the long term. The current status reports would serve as both a report on the state of that economy, as well as a checklist of measures accomplished.

However, most of the member economies have been lax in setting goals for themselves. Many member economies' commitments do not go beyond reviewing their current regulations, and most goals remain vague and unspecific. Even short term goals, which are meant to be very specific in nature, are mostly vague and unambitious.

Perhaps the title of the IAP classification indicates part of the problem. The IAP specifies "deregulation", not "regulatory reform." Thus, even from the title, the scope of the APEC intentions and commitments are unambitious. APEC, by itself, has no incentive and no agenda to induce a true reform of the domestic regulatory structures of its member economies to make them more efficient and better. APEC does rightly place much emphasis on transparency and access to information about the member economies' regulatory structure, but they are only a part of a comprehensive regulatory reform program, not the whole. In order for APEC to become an active agent for a comprehensive regulatory reform and economic development, it needs to develop a much stronger and ambitious agenda, emphasising efficiency of the domestic economy as well as market openness. However, that goal may be inappropriate for APEC under its current charter, which states that APEC will try to increase openness among member economies. Thus, under the current charter, APEC may have no choice but to be only a partial advocate for regulatory reform.

Appendix : History of APEC

Since the APEC first met in Canberra, Australia in 1989, there has been progress in several respects: institutional development, membership, and coverage of issue areas. APEC now have 9 working groups, and 2 expert groups, 4 committees, and many sub fora under Committee on Trade and Investment (CTI) and Economic Committee(EC). In addition, 11 sectoral Ministerial Meetings are being held. In terms of membership, APEC, which started with 12 economies, have 21 member economies in 2000. Peru, Russia, and Viet Nam joined the Forum in 1999. APEC's initial area of focus was economic and technical cooperation. APEC's interest has been expanded to include trade and investment liberalization and facilitation, and macroeconomic and financial cooperation.

1. First 5 Years: Formation of APEC

First 5 years of APEC are characterized by the institutional building and membership expansion. During this period, APEC has developed into a unique and an important forum where Economic Leaders around the Asia-pacific rim meet annually. APEC was launched in 1989 in response to the growing interdependence among Asia-Pacific economies. The stimulus for this meeting was Australian Prime Minister Hawke's call, in January 1989, for more effective Asia Pacific Economic Cooperation. That proposal stemmed from the recognition that the increasing interdependence of regional economies indicated a need for effective consultations among regional decision-makers to; 1) help strengthen the multilateral trading system and enhance the prospects for success in the Uruguay round; 2) provide an opportunity to assess prospects from and obstacles to, increased trade and investment flows within the Asia Pacific region; and 3) identify the range of practical common economic interests. 12 economies around the Asia-Pacific Rim participated in the first Ministerial in Canberra, Australia, and they are Australia, Korea, Japan, Canada, New Zealand, United States, and six ASEAN nations. In the first Ministerial, member economies agreed on 8 general principles for Asia-Pacific Cooperation. 8 general principles are Goal for Cooperation, Respect for diversity, equal participation, mode of opinion exchange(informal consultation), Field of Cooperation (economic area), Openness, Relation with existing Organization, and New membership. The second Ministerial was held in Singapore and member economies agreed on 7 work programs in the area of trade and investment data review, trade promotion, investment and technology transfer, human resource development, energy, fishery, and marine resource conservation. The first two ministerials in Canberra and Singapore were a warming up stage for APEC and informal in character. They produced general principles and 7 working groups.

The third APEC ministerial was convened in Seoul in 1991. Member economies adopted Seoul APEC Declaration, which stipulated the following objectives of APEC;

- To sustain the growth and development of the region for the common good of its peoples and, in this way, to contribute to the growth and development of the world economy.
- To enhance the positive gains, both for the region and the world economy, resulting from increasing economic interdependence, by encouraging the flow of goods, services, capital and technology.
- To reduce barriers to trade in goods and services among participants in a manner consistent with GATT principles, where applicable, without detriment to other economies.
- To develop and strengthen the open multilateral trading system in the interest of Asia-Pacific and all other economies.

<Table 1> Development of APEC

-	Major Results	Institutionalization	New Membership
1st MM (89.11., Canberra)	• 8 General Principles for Asia-Pacific Economic Cooperation		Australia, New Zealand, Korea, US, Japan, Canada, 6 ASEAN
2nd MM (90.11., Singapore)	• APEC Declaration on the Uruguay Round	7WGs : Trade and Investment Data Review, Trade Promotion, Investment and technology transfer, Energy, Telecommunications, Marine Resource Conservation, HRD	
3rd MM (91.11, Seoul)	• Seoul APEC Declaration	3WGs : Fishery, Transportation, Tourism	PRC, Chinese Taipei, HongKong China
4th MM (92.9., Bangkok)	• Declaration on institutional arrangements of APEC	APEC Secretariat, APEC Central Fund, EPG	
5th MM & 1st LM (93.11., Blake Island)	• APEC Leaders Economic Vision Statement • Declaration on an APEC Trade and Investment Framework • APEC Education Initiative	CTI, BAC, Finance M, SME M, Environmental M, Trade M, Pacific Business Forum	Mexico, PNG
6th MM & 2nd LM (94.11., Bogor)	• Bogor Declaration • APEC Non-Binding Investment Principles	Economic Committee, PLG on SME, Telecommunication M, S & T M, MM on Sustainable Development	Chile
7th MM & 3rd LM (95.11., Osaka)	• Osaka Action Agenda : TILF(15 areas) and ECOTECH(13areas)	ABAC, APEC Education Foundation HRD M, Energy M, MM on Sustainable Development	
8th MM & 4th LM (96.11., Subic)	• MAPA(IAP & CAP) • Declaration on an APEC framework for Strengthening Economic Cooperation & Development • ITA		
9th MM & 5th LM (97.11., Vancouver)	• Manila Framework for Financial Stability • EVSL • Framework for Facilitating Private Sector Investment in Infrastructure in APEC	MM on Women Ecotech Sub-Committee	
10th MM & 6th LM (98.11., Kuala Lumpur)	• EVSL • Financial Stability	BAC → BMC	Viet Nam, Russia, Peru
11th MM & 7th LM (99.9., Auckland)	• Recommendation for WTO New Round • APEC Principles for Enhancing Competition and Regulatory Reform		

Source: Various APEC Official Documents

In its endeavor to define its mission, APEC has given rise to new concepts in order to capture the essence of its activities. At the core of APEC is "open regionalism".[1] From its inception, APEC was not intended to become an economic bloc or a free trade area. Instead, APEC has sought to contribute to the realization of global free trade, harnessing the dynamism of the Asia-Pacific region.

The declaration also recognized the important contribution of the private sector to the dynamism

[1] Open Regionalism was adopted to proclaim to the world that APEC doesn't seek a trade bloc or an exclusive free trade area. EPG Report(1994) recommends four formula to implement APEC's commitment to open regionalism : 1) the maximum possible extent of unilateral liberalization, 2) a commitment to continue reducing its barriers to non-member countries, 3) a willingness to extend its regional liberalization to nonmembers on a mutually reciprocal basis, 4) recognition that any individual APEC member can unilaterally extend its APEC liberalization to nonmembers on a conditional or unconditional basis

of APEC economies and called for more active participation of the business/private sector in APEC. The ministers committed APEC to enhance and promote the role of the private sector and the application of free market principles to maximize the benefits of regional cooperation. The launching of the APEC Business Advisory Council (ABAC) in 1995, as well as the utilization of the PBEC for constructive and regular input reflect such commitments.

Chinese Taipei, P.R. China, Hong Kong, China first attended the APEC meeting in Seoul, marking the first occasion that the three met in an official, multilateral capacity. The successful inclusion of the three Chinese economies gave new optimism to APEC member economies, who upgraded the forum by agreeing on the goal of regional trade liberalization to further the progress of UR of global trade talks. Membership of three Chinese economies had the meaning well beyond the substance and protocol of APEC meeting. The inclusion of senior Chinese Taipei officials in Seoul led to the first official contact between Japan and Chinese Taipei at the ministerial level since Japan severed ties with Chinese Taipei in 1971. P.R.China's entrance also provided a forum for high-level Sino-US dialogue, particularly after the advent of leaders' meeting in 1993. Hong Kong, China also benefited from the arrangement since it gained a voice in the development of the regional economy. In terms of institutionalization, 3 working groups were added for the economic cooperation, which are fishery, transportation, and tourism.

At the fourth Ministerial in Bangkok, a declaration on institutional arrangements of APEC was adopted. Member economies agreed to establish APEC secretariat and APEC Central Fund to support the APEC activities. Eminent Persons Group (EPG) was also established to seek the direction of APEC's future.

In 1993, APEC economic leaders met for the first time at Blake Island near Seattle. Their vision was for an Asia-Pacific that harnesses the energy of its diverse economies, strengthens cooperation, and promotes prosperity. They envisioned a community of Asia-Pacific economies in which the spirit of openness and partnership deepens and dynamic growth continues, contributing to an expanding world economy and supporting an open multilateral trading system.

APEC Ministers adopted a Declaration on a Trade and Investment Framework to increase economic activity and facilitate the flow of goods and services among member economies. Based on the Declaration, Ministers formed the Committee on Trade and Investment(CTI), which aimed to create an APEC perspective on trade and investment issues and to pursue liberalization and facilitation initiatives. Ministerial Meetings, including Finance, SME, Environment, and Trade, were initiated for the sectoral level cooperation.

2. Second 5 Years: Setting up agenda

Based on the institutional capacity built during the first 5 years, APEC picked up the trade and investment liberalization agenda. In 1994, Indonesia hosted the second APEC Economic Leaders'

meeting. In their Declaration of Common Resolve, Leaders agreed that APEC member economies should work toward free trade and investment in the region, with the industrialized economies achieving the goal of free and open trade and investment no later than 2010 and developing economies no later than 2020. This goal is so called the "Bogor Goal". The economic leaders added that cooperation between APEC member economies should be based on equal partnership, shared responsibility, mutual respect, common interest, and common benefit. The institutionalization process of APEC was almost completed by 1994. APEC had enough instruments to act as an established international forum by that time. APEC had Committee on Trade and Investment(CTI), Budget and Administrative Committee(BAC), Economic Committee(EC), Secretariat, 10 working groups, and major ministerial meetings.

In 1995 APEC Economic Leaders adopted the Osaka Action Agenda, a blueprint to implement their commitment to free and open trade and investment, business facilitation, and economic and technical cooperation. Part I of the Action Agenda deals with liberalization and facilitation, and part II deal with economic and technical cooperation. Also, 9 principles of TILF were adopted, which are comprehensiveness, WTO-consistency, comparability, non-discrimination, transparency, standstill, flexibility, simultaneous start (continuous process and differentiated timetables), and cooperation. The principle of flexibility was added to provide APEC with the mechanism to consider diverse economic situations those member economies could face in their liberalization processes.

In 1996, the Manila Action Plan for APEC (MAPA) was adopted by Economic Leaders. MAPA consists of three major parts: Individual Action Plan (IAP), Collective Action Plan (CAP), and the Declaration to strengthen Economic and Technical Cooperation. IAP specifies the voluntary plans of eighteen APEC member economies for trade and investment liberalization and facilitation in fourteen areas such as tariffs, non-tariffs, investment, customs procedures, intellectual property rights, and so on. CAP specifies the trade and investment liberalization and facilitation measures that will be collectively pursued by the member economies. The declaration to strengthen Ecotech selects six areas of major focus: human resource development, capital markets, infrastructure, technology, environment, and small and medium enterprises. MAPA was effective as of January 1997.

The 5th Economic Leaders' Meeting was held in Vancouver, Canada, in November 1997. Economic Leaders endorsed 15 sectors for Early Voluntary Sectoral Liberalization (EVSL), of which 9 sectors were to be advanced throughout 1998 with a view to implementation beginning in 1999. Leaders also instructed trade ministers to finalize detailed targets and timelines by their next meeting in June 1998. Leaders further instructed the additional sectors nominated by members in 1997 to be brought forward for consideration of additional action in 1998. The year 1997 also marked as the year of financial crisis. Financial crisis broke out in Thailand in July 1997 and spread to Indonesia and Korea, destabilizing the Asian and world financial market. The APEC Economic Leaders' Meeting was held in the middle of Asian financial crisis. Economic Leaders expressed their concerns about the situation and instructed the Finance Ministers to prepare the appropriate measures to resolve the financial crisis.

The 6th APEC Economic Leaders' Meeting was held in Kuala Lumpur, Malaysia, in November

1998. Following the instruction Vancouver from Summit, member economies tried to reach the consensus on EVSL. However, Mexico and Chile did not participate in EVSL initiative at all, asserting that their approach to liberalization would be comprehensive, not sectoral one. Japan insisted that she would not participate in the EVSL of fishery and forest products sectors. Thus, the result did not meet the expectation of Vancouver statement and therefore, received as a disappointing conclusion of EVSL. However, member economies agreed to take the current package to WTO to form a critical mass for worldwide early liberalization in those sectors.

Financial crisis in the Asian region continued in 1998 and even further spread to other regions, raising the concerns of a worldwide recession. APEC Leaders expressed extended concerns on the financial crisis in the region and economic situation in the world economy. Leaders identified the major challenge as how to support an early and sustained recovery in the region. To meet challenge, Leaders were committed to pursue "a cooperative growth strategy" with the following dimensions:

- Growth-oriented macroeconomic policies, appropriate to the specific requirements of each of our economies;
- Expanded financial assistance from the international community to generate employment and to build and strengthen social safety nets to protect the poor and vulnerable;
- A comprehensive program of support for efforts to strengthen financial system, restore trade finance, and accelerate corporate sector restructuring;
- New approaches to catalyze the return of stable and sustainable private capital flows into the region;
- A renewed commitment to the goal of achieving free and open trade and investment within APEC; and
- Looking toward the longer-term, urgent work among member economies and with other economies and institutions to develop and implement measures to strengthen the international financial system.

Japan and United States announced Asian Growth and Recovery Initiative on the eve of summit. The initiative is to assist the domestic restructuring and economic recovery effort made by the crisis-stricken economies.[2] This initiative responded to the call for specific measures to be taken for the usefulness and credibility of APEC.

The 7th Economic Leaders' Meeting was held in Auckland, New Zealand. New Zealand as the Chair in 1999 identified four broad goals for the meeting: 1) to achieve further substantive progress towards trade and investment liberalization and facilitation; 2) to shape a credible response to the economic crisis; 3) to reinforce the capacity of institutions and human resources in the region to deal with the economic challenges they face; and 4) to build broader support for APEC among the wider community. Building on these broad goals New Zealand proposed three unifying themes for APEC

[2] Before the summit, Japan also announced so called "Miyazawa Plan" to support the crisis-affected economies in the region. Subsequently, Japan announced "New Miyazawa Plan", which expanded the level of support and funding.

initiatives in 1999: 1) Expanding opportunities for doing business throughout the APEC region; 2) Working with other economies to strengthen the functioning of markets; and 3) broadening support for and understanding of APEC in the community. The specific agenda for the New Zealand year were Competition principles, APEC' s support for the WTO, and women issues.

Leaders adopted the APEC Principles to Enhance Competition and Regulatory Reform. The principles are to expand trade and investment liberalization in the region by strengthening the functioning of markets. These principles are non-binding and is implemented by each member economy voluntarily. Leaders also expressed strong support for the launching of New Round WTO negotiations. They agreed that New Round should include industrial tariffs, adopt a balanced and sufficiently broad-based agenda, and complete the negotiation within 3 years as a single package. They also supported the abolition of agricultural export subsidies and unjustifiable export prohibitions and restrictions, and standstill on trade measures for the duration of the negotiations and before the Seattle WTO Ministerial Meeting. In broadening the support for APEC, Leaders noted the importance of Women' s participation and instructed Ministers to implement the Framework for the Integration of Women in APEC, which is a significant step to enhance the ability of women to contribute to and benefit from prosperity of the region.

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국문요약

APEC 에서는 무역과 투자의 자유화를 위하여 개별실행계획 (Individual Action Plans: IAPs)이라는 매우 독특한 방식을 도입하고 있다. 개별실행계획하에서는 회원국이 각국의 자유화 계획을 자발적이고 일방적으로(unilaterally) 발표하고 또, 이를 실행에 옮기고 있으며 이러한 계획이 제대로 실행되고 있는지 다른 회원국들로부터 검토를 받는 과정을 거치고 있다. 이를 위해 회원국들은 15 개 분야에 걸쳐 단기 및 중장기 개별실행계획과 실천결과를 매년 보고하고 있다. 동 보고서는 OECD 회원국이 아닌 APEC 회원국들의 IAP 를 경쟁정책과 규제완화 부문에 국한하여 요약, 검토하고 그에 대한 평가를 제시하고 있다.

경쟁정책은 각 APEC 회원국의 경쟁정책을 검토하고 국제적 협력을 도모하여 아시아 태평양 지역에서의 경쟁을 제고하기 위하여 IAP 에 포함되었다. 또한 규제완화 부문은 각 회원국의 규제개혁 과정을 지원하고 규제제도의 투명성을 기하여 무역과 자유화 과정에 규제에 따른 왜곡을 최소화하고자 IAP 에 포함되었다.

본 보고서에서 검토 대상으로 삼은 회원국들이 제출한 IAP 를 살펴보면 APEC 차원의 무역 및 투자자유화를 달성하기 위하여 경쟁정책이 매우 중요하다는 공감대는 형성되었으나 경쟁정책 적용의 범위나 구체적 목적 등에 관한 세부적인 사항들에 대해서는 합의점을 도출하는 것이 어렵다는 것을 확인 할 수 있다. 이는 특히 회원국들의 경제개발수준 정도와 제도적, 법적, 그리고 문화적 전통이 각기 다르기 때문이다. 이러한 문제를 어느 정도 극복하고 APEC 지역내에 공통적인 경쟁원칙을 수립하기 위하여 1999 년 9 월 APEC 정상회의에서 APEC 경쟁원칙(APEC Principles To Enhance Competition and Regulatory Reform)이 채택된 바 있다.

규제개혁 부문에서도 각국의 규제개혁 과정을 전반적으로 제고하기에는 개별실행계획은 상당한 한계를 가지고 있다. 원래 탈규제(deregulation)를 포함한 규제개혁(regulatory reform)이란 매우 광범위한 작업으로 대부분 규제개혁을 단행하는 국가들은 무역과 투자의 자유화 이외에도 정부와 민간 부문의 효율성 제고, 그리고 소비자 후생 증대를 위한 전반적인 프로그램을 수행하게 된다. 그러나 APEC IAP 차원의 규제개혁이란 주로 무역과 투자자유화 및 규제개혁의 일부분인 "탈규제"에만 초점을 맞추고 있어 각 회원국내에서의 전반적인 규제개혁에 크게 기여하고 있다고 하기는 어렵다. 또한 구체적으로 무역과 투자자유화를 위하여 필요한 규제완화 조치에 대해서는 세관절차, 표준 및 적합성 등 다른 부문에서 다루고 있으므로 규제완화 부문에서 다루어지는 계획이나 조치들은 다른 부문에서는 다루어지지 않는 조치들을 포괄적으로 총망라하고 있어 그 성격이 매우 모호하다. 따라서 IAP 의 규제완화 부문만 본다면 해당 회원국의 규제완화 조치는 자칫 무원칙적이고 돌발적으로 진행되는 것처럼 보일 수 있다. 따라서 향후 IAP 에서는 이러한 취약점들이 보완되어야 할 것으로 판단된다.

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