

# **Evaluation of Investment Liberalization Efforts by APEC Economies**

Taeho Bark

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## Executive Summary

Foreign investment liberalization among member economies has been a main objective for the Asia Pacific Economic Cooperation (APEC). The Committee on Trade and Investment (CTI) has made efforts to improve the openness of investment through various approaches. The main objective of this study is to explore a strategy for the APEC economies to achieve further liberalization of investment by evaluating the general performances of the two investment instruments: Non Binding Investment Principles (NBIPs) and Individual Action Plans (IAPs). In this paper we have showed that there are Various degrees to which twelve NBIPs were adopted in the bilateral investment and trade agreements. Some provisions were well incorporated while some others were not fully adopted. When we evaluate the cumulative improvements that appeared in the IAPs, the overall impression was disappointing. The performance of the individual economies looked even more disappointing. These may imply that the APEC's overall efforts to provide a more liberal investment environment were neither effective nor sufficient. In this paper, several policy recommendations for enhancing the effectiveness of the APEC investment liberalization process have been provided: the NBIPs must be improved; the menu of options needs drastic improvement and the process to evaluate progress needs substantial improvement.

JEL Classification: F200, F210, F290

Key Words: Asia Pacific Economic Cooperation (APEC), Committee on Trade and Investment (CTI), Non Binding Investment Principles (NBIPs), Individual Action Plans (IAPs), Menu of Options

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# Evaluation of Investment Liberalization Efforts by APEC Economies

Taeho Bark\*

## I. Introduction

Foreign investment liberalization among member economies has been a main objective for the Asia-Pacific Economic Cooperation (APEC) since the forum's inception. The APEC's efforts concerning investment began with enhancing cooperation and facilitation. However, since the Seoul Meeting in 1991, the APEC turned its attention to the idea of removing impediments to investment in the region. The first Economic Leaders Meeting hosted by the U.S. held in Seattle two years later was perhaps a major turning point for the APEC to launch more organized framework for investment liberalization. In that year, APEC ministers established the Committee on Trade and Investment (CTI) to create a coherent APEC perspective and voice on global trade and investment issues and pursue opportunities to liberalize and expand trade and investment in the region.

Recognizing the initiative taken by the APEC Economic Leaders to develop a set of non-binding principles to improve the openness of

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investment, the CTI agreed to convene a gathering of investment experts in 1994. Its role was to review member economies' investment regimes and examine other existing binding investment instruments and non-binding principles on investment as an initial step. The meeting of experts successfully drafted a set of the APEC Non-Binding Investment Principles (NBIPs) subsequently endorsed by APEC Ministers in November 1994.

Considering the importance of Continuously liberalizing investment, the CTI decided to reactivate the Investment Expert Group (IEG) as a subcommittee for investment issues in 1995. IEG has since worked to encourage and facilitate free and open investment in the region by assisting CTI to achieve the Bogor goal of free and open trade and investment by 2010 for advanced member economies and by 2020 for developing member economies. In particular, it has concentrated its efforts on the commitment to the full and effective implementation of the Osaka Action Agenda (OAA), which in 1996 APEC members agreed to fulfill through individual and collective actions relating to 15 specific areas, including investment. Consequently, IEG managed the submission of these Individual Action Plans (IAPs) and the Collective Action Plans (CAPs) on liberalization and facilitation of investment.

IAPs are voluntary commitments submitted by each member economy to liberalize their respective rules for foreign investment. IEG drafted the format of OAA Collective Actions on investment and examined a set of policy and practical investment liberalization measures from which member economies could voluntarily select when updating their IAPs. In 1998, IEG finalized the paper on 'Options for Investment Liberalization and Business Facilitation to Strengthen the APEC Economies (henceforth, the Menu of Option)'. Sometimes countries were requested

to submit a summary of improvements made and future improvements planned. These summaries can be used to evaluate a country's progress of liberalizing and facilitating investment.

Although not regarded as investment instruments *per se*, the IEG facilitated the publication of the Investment Guidebook which has served as a useful tool in revealing to investors an economy's investment regime. The Investment Guidebook is useful for government officials, business people and investors who desire to better understand the laws most relevant to investment. However, the information provided depends almost entirely on the information that member economies provide to the Secretariat.

The main objective of this study is to explore a strategy for the APEC economies to achieve further liberalization of investment by reviewing the efforts made so far by member economies through various approaches. In particular, this study tries to evaluate the general performances of the two major investment instruments adopted in the APEC process: Non-Binding Investment Principles and individual action plans on investment. In assessing the IAPs, we have divided the APEC member economies into two groups: advanced members and developing members in order to see if there are any differences in the liberalization efforts between them. For advanced members, we include six economies, Australia, Canada, Japan, New Zealand, Singapore and the U.S. For developing members, we include fifteen economies, Brunei, Chile, China, Chinese Taipei, Hong Kong, China, Indonesia, Korea, Malaysia, Mexico, Papua New Guinea, Peru, Philippines, Russia, Thailand and Viet-Nam.

The paper, in the next section, starts with an overview of the recent trends of foreign direct investment (FDI) inflows into the

APEC economies. In the third section, the paper looks at bilateral investment treaties (BITs) as well as the investment chapters of free trade agreements (FTAs) among the APEC member economies and investigates how the NBIPs have been reflected in these arrangements. It then assesses, in the following section, how much improvement has been achieved since 1996 by examining the most recent IAPs on investment submitted by the APEC member economies. Finally, section five concludes the paper with some policy recommendations for pursuing further liberalization of investment in the APEC.

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## **II. Recent Trends of FDI Inflows to the APEC Economies**

There are two simple ways to evaluate the various efforts made by the APEC process since 1996 to liberalize investment. The first would be to compare the trends of FDI inflows to the APEC economies over two different periods, before and after 1996. The second would be to compare the performance of the APEC economies in receiving FDI with the world trends during the same periods. Table 1 shows the average annual growth rates of FDI inflows world wide to the APEC region and to the APEC member economies over different time periods. Let us first look at the macro pictures. According to Table 1, the annual average growth rate of FDI inflows to the APEC region during 1996-2004 was clearly higher than that over the period 1987-1995. Table 1 further shows that the average annual growth rate of FDI inflows to the APEC economies during 1996-2004 outperformed that of FDI inflows to the world while the opposite case was true during the previous period.

The first finding that could be considered as evidence is that FDI inflows into the APEC region grew at a faster rate since 1996 due to the various initiatives taken by the APEC process. Furthermore, the latter finding could mean that the APEC's efforts to liberalize investment have made the APEC economies perform better in receiving FDI than the world average. These findings based on the overall trends seem to imply that the APEC approaches for investment so far has made positive contributions to the expansion of FDI in the region.



We now turn to the micro pictures. If we look at figures in Table 1, we find individual member economies’ performances uneven.

**<Table 1> Annual Growth Rates of FDI Inflows**

	1987-1995	1996-2004	1987-2004
World	11.8%	6.5%	9.4%
APEC	7.6%	8.3%	5.6%
Australia	10.8%	27.5%	13.1%
Brunei	144.3%	-20.6%	37.5%
Canada	1.7%	-5.2%	-1.5%
Chile	23.6%	5.9%	16.8%
China	41.7%	4.8%	21.2%
Hong Kong	-0.1%	15.9%	10.5%
Taiwan	10.2%	0.2%	5.9%
Indonesia	35.4%	-20.2%	5.9%
Japan	-34.1%	55.6%	11.8%
Korea	9.6%	18.2%	16.2%
Malaysia	38.8%	-5.5%	15.1%
Mexico	17.4%	7.7%	11.4%
New Zealand	14.0%	1.1%	3.9%
Papua New Guinea	46.8%	-33.4%	-0.5%
Peru	76.4%	-7.8%	28.0%
Philippines	21.5%	-13.7%	2.5%
Russia	14.7%	20.8%	14.5%
Singapore	19.2%	6.8%	10.7%
Thailand	24.7%	-9.4%	6.7%
United States	-0.2%	1.6%	2.8%
Vietnam	110.7%	-1.4%	41.2%

Notes: 1. Annual growth rates of FDI inflows were calculated by the author using the World Investment Report by UNCTAD Data.

2. For Brunei and Russia, we used FDI data from 1988 and 1992, respectively.

According to Table 1, only five economies, Australia, Hong Kong, China, Japan, Korea, and Russia showed better performances in receiving FDI during 1996-2004 compared to the previous period. These economies also showed higher average annual growth rates than the world average annual growth rate during 1996-2004. However, the rest of the APEC member economies, in particular most of the developing member economies showed slower average annual growth rates of FDI inflows during 1996-2004 compared to the previous period. Furthermore, these economies' performances were even poorer than the world average performance during the same period. Based on these findings, it would be reasonable to say that the APEC's various efforts to liberalize investment have not effectively worked for these economies.

There are many factors that can influence the inflows of FDI to individual economies. However, analyzing these factors is beyond the scope of this study. In this study, we simply compared average annual growth rates of FDI inflows and tried to identify some of repercussions of the APEC process of investment liberalization. Although the trends of the investment inflows to the whole APEC region seem to be quite impressive, we find that FDI inflows to most of the developing member economies were slowed down since 1996. It is well known that all APEC member economies are continuing to adopt measures to improve their investment climate, especially through various APEC approaches. However, the actual trends of FDI inflows to individual economies may not be an accurate assessment of whether or not these efforts were effective or sufficient.

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### III. Non-Binding Investment Principles in the BITs and FTA-Investment Chapters

The number of bilateral investment treaties and free trade agreements worldwide continues to increase with each of the numbers reaching close to 2,400 and 200, respectively, in recent years. As active economic players in the Asia-Pacific region, APEC member economies have also taken part in this trend. By analyzing the BITs and the investment chapters in the FTAs among APEC member economies, we may be able to see how the APEC Non-Binding Investment Principles were reflected in those treaties and thus shed light on the validity or effectiveness of the APEC’s efforts to liberalize investment. To assess how the twelve non-binding principles have been adopted into the BITs and the investment chapters in FTAs between APEC member economies, 21 bilateral investment treaties and 16 free trade agreements were selected for evaluation. All of the BITs and FTAs selected for evaluation had been concluded after November 1994, when the Non-Binding Investment Principles were officially adopted in Bogor, Indonesia. The BITs and the FTAs selected for evaluation and their status of reflecting the APEC NBIPs are shown in Table 2.1 and Table 2.2, respectively.

As we can see in Tables 2.1 and 2.2, there are various degrees to which twelve NBIPs were adopted in 21 BITs and 16 FTAs. Let’s first look at the results for the BITs in Table 2.1. Principles such as Non-Discrimination (MFN), Expropriation and Compensation, Repatriation and Convertibility, and Settlement of Disputes were adopted by all 21 BITs examined. It should be noted, however that there are several

other principles which were not fully adopted. For example, Investment Incentives and Performance Requirements were each included in only two and four BITs, respectively. It is also interesting to note that both Investment Behavior and the Removal of Barriers to Capital Exports had not been included in any single BIT. There are also notable differences in adopting these principles between BITs. For example, the Japan-Korea BIT and the Japan-Viet-Nam BIT each included ten and eleven principles, respectively while there are three BITs which adopted even less than five principles. Despite the APEC member economies' efforts to liberalize investment through concluding numerous BITs, it appears that adoption of NBIPs was difficult to achieve due to the economic and political consideration of individual member economies.

Let's turn to Table 2.2. We can find very similar results in the investment chapters of 16 FTAs. However, there are several differences to be noted. Firstly, Performance Requirements were much better reflected in the FTAs than the BITs. Ten out of sixteen FTAs adopted this principle while only four out of twenty one BITs included the principle. Secondly, Entry and Sojourn of Personnel and Avoidance of Double Taxation were not covered well in the investment chapter of the FTAs. Only one FTA adopted these principles. It may be the case that these principles had been dealt with elsewhere in the FTAs. Thirdly, only one FTA between Chile and Mexico incorporated all 12 principles and most other FTAs examined included less than seven principles.

&lt;Table 2-1&gt; Inclusion of NBIPs in the BITs between the APEC Economies since 1994

BITs	Year	Transparency	Non-Discrimination	National Treatment	Investment Incentives	Performance Requirements	Expropriation and Compensation	Regulation and Oversight	Settlement of Disputes	Entry and Stay of Persons	Avoidance of Double Taxation	Investor Reliance	Forecast of Business Capital Exports	Total Number (%)
AUS JPN	95	1	1	0	0	0	1	1	1	1	1	0	0	7 (83.3)
AUS JPN	96	1	1	0	0	0	1	1	1	1	1	0	0	6 (80.0)
AUS CHN	98	0	1	1	0	0	1	1	1	0	0	0	0	5 (41.7)
AUS KOR	98	0	1	1	0	0	1	1	1	0	0	0	0	5 (41.7)
CAN THA	97	1	1	1	0	0	1	1	1	0	1	0	0	7 (83.3)
CHN FRA	99	0	1	0	0	0	1	1	1	0	0	0	0	4 (53.3)
CHN KOR	96	0	1	1	0	0	1	1	1	0	0	0	0	5 (41.7)
CHN NZL	96	0	1	1	0	0	1	1	1	0	1	0	0	6 (80.0)
CHN VIE	99	0	1	0	0	0	1	1	1	0	0	0	0	5 (25.0)
HKG JPN	98	0	1	1	0	0	1	1	1	0	0	0	0	5 (41.7)
HKG KOR	98	0	1	1	0	0	1	1	1	0	0	0	0	5 (41.7)
HKG NZL	96	0	1	1	0	0	1	1	1	0	0	0	0	5 (41.7)
INA THA	98	0	1	0	0	0	1	1	1	0	0	0	0	4 (53.3)
JPN KOR	92	1	1	1	1	0	1	1	1	1	1	0	0	8 (68.7)
JPN AUS	96	1	1	1	0	0	1	1	1	1	1	0	0	7 (83.3)
JPN VIE	97	1	1	1	1	1	1	1	1	1	1	0	0	8 (68.7)
KOR MEX	98	0	1	1	0	0	1	1	1	0	1	0	0	6 (80.0)
KOR VIE	97	0	1	1	0	0	1	1	1	0	0	0	0	5 (41.7)
THA THA	99	0	1	1	0	0	1	1	1	0	0	0	0	5 (41.7)
AUS THA	97	0	1	1	0	0	1	1	1	1	1	0	0	6 (80.0)
THA THA	96	0	1	0	0	0	1	1	1	1	1	0	0	4 (53.3)
Total Number (%)		6 (26.5)	21 (100.0)	15 (73.4)	2 (9.5)	0 (0.0)	28 (100.0)	21 (100.0)	29 (95.2)	26 (6)	20 (66.7)	10 (33.3)	60	

Note: The IOC country codes were used for the APEC economies.

&lt;Table 2-2&gt; Inclusion of NBIPs in the FTAs among the APEC Economies since 1994

FTAs	Year	Transparency	Non-Discrimination	National Treatment	Investment Insurance	Reference Requirements	Expropriation and Compensation	Repatriation and Convertibility	Settlement of Disputes	Entry and Stay of Investors' Personnel	Accession of Double Taxation	Investor Liability	Revised Offerings to Capital Exports	Total Number (%)
AUS-SIN	06	1	1	1	0	0	1	1	1	0	0	0	0	6/300
AUS-THA	06	0	1	1	1	0	1	1	1	0	0	0	0	6/300
AUS-USA	06	0	0	1	0	1	1	1	1	0	0	0	0	5/417
CAN-CHL	06	0	1	1	0	1	1	1	1	0	0	0	0	6/300
NAFTA	06	1	1	1	0	1	1	1	1	0	0	0	0	7/383
CH-ICR	06	0	1	1	0	1	1	1	1	0	0	0	0	6/300
CH-MEX	09	1	1	1	1	1	1	1	1	1	1	1	1	12/1010
CH-USA	06	1	1	1	0	1	1	0	1	0	0	0	0	6/300
CHN-HKG	06	0	0	0	0	0	0	0	0	0	0	0	0	0/100
JPN-MEX	06	0	1	1	1	1	1	0	1	0	0	0	0	6/300
JPN-SIN	02	0	0	1	0	0	1	0	1	0	0	0	0	3/260
JPN-MKS	06	0	1	1	0	1	1	0	1	0	0	0	0	5/417
KOR-THA	06	0	1	1	0	0	1	1	0	0	0	0	0	4/353
KOR-SIN	06	0	0	1	0	0	1	1	1	0	0	0	0	4/353
KOR-SIN	06	0	0	1	0	1	1	1	1	0	0	0	0	5/417
SIN-USA	06	0	1	1	0	1	1	1	1	0	0	0	0	6/300
Total Number (%)	255	706	882	176	368	824	647	824	59	59	59	59	59	

Note: The IOC country codes were used for the APEC economies.

In summary we found that five principles, Non-Discrimination (MFN), National Treatment, Expropriation and Compensation, Repatriation and Convertibility, and Settlement of Disputes were well stipulated in the BITs as well as in the FTAs. The remaining seven principles were either represented or subtly indicated within the text of a few treaties. More detailed evaluation provided below is mainly based on the 21 BITs undertaken between the APEC member economies.<sup>1)</sup>

### **Transparency**

This is an important feature of a favorable investment climate. This is because foreign investors will more likely invest in a country if they certainly believe that the laws of the host country will govern their investments. From simple disclosure and publicizing of government measures in accordance with a country's legal system to specific notification and availability of certain types of measures to an international body or to officials of another country, transparency is multifaceted. From the 21 BITs examined, not many transparency clauses were found in the agreements. The Australia-Peru BIT, the Australia-Philippines BIT, and Canada-Thailand BIT are three examples where a separate clause was titled "Transparency of Laws" or "Transparency." The other three BITs between Korea-Japan, Japan-Russia, and Japan-Viet Nam stressed the importance of transparency in making all investment related laws or measures accessible.

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1) Since similar patterns were found in the FTA cases, detail evaluation of the FTAs among the APEC member economies was not reported in the paper.

## **Non-discrimination**

Non-discrimination or most-favored nation (MFN) treatment, which seeks to prevent discrimination against investors from foreign countries on grounds of their nationality, is a core element of international investment agreements. This is crucial for establishing competitive opportunities between investors from different foreign countries, as it gives the investors a guarantee against certain forms of discrimination by the host countries. Non-discrimination or the MFN principles was stipulated in all of the 21 BITs evaluated. In principle, there are several types of MFN clauses; however, in bilateral investment treaties, MFN clauses are usually reciprocal, unconditional and apply to all investment-related matters. Nevertheless, MFN clauses differ in one area, namely, whether they apply exclusively to the post-entry stage or whether they should pertain to the pre-entry stage. The majority of BITs do not include binding provisions concerning the admission of foreign investment, meaning that there is an obligation to apply MFN under these terms only after an investment has been made. Several exceptions to the MFN standard can be highlighted in the BITs between APEC member economies: general exceptions (national security reasons), individual country-specific exceptions, exceptions based on reciprocity considerations (taxation and intellectual property), and exceptions related to special privileges accorded to members of a customs union or a free trade area.

## **National Treatment**

The national treatment is a principle whereby a host country



extends to foreign investors treatment that is at least as favorable as the treatment that it accords to national investors in like circumstances. Together with the MFN principle, both provide two different standards to prevent discriminatory treatment of different classes of investments in bilateral investment treaties. Although this non-distinction between domestic and foreign investors is the basis of a liberalized investment regime, it is also the most difficult to achieve in that it touches upon both politically and economically sensitive issues. Exceptions to national treatment range from general exceptions, subject specific exceptions, and country specific exceptions. In comparison to the number of BITs that contained a provision on MFN treatment, a smaller number of BITs directly stipulated a national treatment standard. Fourteen out of the 21 BITs included the national treatment standard in their investment treaties

### **Investment Incentives**

According to the APEC Non-Binding Investment Principles, "Member economies will not relax health, safety, and environmental regulations as an incentive to encourage foreign investment." The Korea-Japan BIT and the Japan-Viet-Nam BIT were the only two bilateral investment treaties in the treaties examined that directly stipulated "it is inappropriate to encourage investment by investors of the other Contracting Party by relaxing environmental measures."

### **Performance Requirements**

The APEC Non-Binding Investment Principles state that "member

economies will minimize the use of performance requirements that distort or limit the expansion of trade and investment.” Performance requirements impede the management of investment by the investors and may require investors to conduct business in ways that reduce efficiency and profitability. Moreover, these performance requirements may distort international trade. Therefore, the minimization of these requirements can have a positive effect on the investment environment of host countries. Four bilateral investment treaties concluded between Canada-Thailand, Korea-Japan, Japan-Russia, and Japan-Viet-Nam included this provision.

### **Expropriation and Compensation; Repatriation and Convertibility; and Settlement of Disputes**

All of the BITs examined adopted some variation of the three principles on expropriation and compensation, repatriation and convertibility, and the settlement of disputes. The expropriation and compensation clauses stipulate that the State may not expropriate the property of an alien unless it is for a public purpose, in a non-discriminatory manner, with a payment of compensation, and in accordance with the law. The aim of this provision is to facilitate investment. The repatriation and convertibility provision seeks to remove the various restrictions that hinder the free movement of capital flows. These provisions on the transfer of payments are considered to be among the most important in an investment agreement by both investors and countries. Repatriation and convertibility were included in all of the 21 treaties examined. Several of the treaties stated exceptions to prevent a transfer. The settlement of

disputes ensures that the standards of treatment and protection granted by a treaty are effectively implemented and enforced. Presence of an effective mechanism to resolve disputes, such as the international arbitration institution established under the International Convention for the Settlement of Investment disputes (ICSID) can help guarantee protection for foreign investors. The treaties all included provisions on the settlement of disputes. There was a variety of scopes and some even included detailed procedures for arbitration.

### **Entry and Sojourn of Personnel**

For investment to be efficiently operated, the application of specialized knowledge possessed by only foreign nationals may be required. Thus, host countries need to provide a favorable investment climate where foreign nationals are allowed to enter and stay in their country. Among the BITs examined, seven treaties contained the provision on the entry and sojourn of personnel in the host country: Australia-Peru, Australia-Philippines, Canada-Thailand, Korea-Japan, Japan-Russia, Japan-Viet-Nam, and Russia-Thailand.

### **Avoidance of double taxation**

The provisions for the avoidance of double taxation in the APEC instruments are arguably weak in that they appear only to encourage the formation of double taxation agreements rather than attempt to harmonize their provisions. Separate from the APEC provisions, the avoidance of double taxation clauses appear to be well followed when being implemented into BITs. Thirteen of the 21 BITs examined

had provisions in their bilateral investment treaties that dealt with “double taxation.”

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## **IV. Assessment of the Individual Action Plans on Investment**

In 1998, the APEC ministers approved the Menu of Options and member economies agreed to take follow-up actions in order to enhance the environment for investment in the APEC region. Since then member economies have submitted their individual action plans to implement the menu of options. Considering the difficulty in reporting the implementation of the Menu of Options, the CTI agreed that member economies would record implementation of the menu of options by means of cross reference in their IAPs, relating individual actions undertaken to the menu of options.

In this section, we try to assess the APEC member economies' efforts to enhance their investment regimes by examining their IAPs. Using the most recent IAP reports, we would like to see how much improvement has been made in the investment environment of these economies.<sup>2)</sup> We particularly focus on the improvements since the base year of 1996.

### **Assessment Procedure and Scoring Scheme**

In the IAPs on investment, there are two main columns to report each member economy's investment environment: "Position at Base Year" and "Cumulative Improvements Made to Date." Member economies are supposed to record in each column their implementation

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<sup>2)</sup> Chile was not included in the analysis since it submitted a blank IAP.

of the Menu of Options by means of cross reference in their IAPs. The Menu of Options on investment currently has 15 options and within each option, there are numerous sub-items. We adopt a two-step assessment procedure. First, we look at the contents in the column of "Position at Base Year" in detail and check how each sub-item for a certain option of the master menu has been reflected. Through the first step, we have found three different cases regarding the column of the "Position at Base Year." Some economies report existing measures for the certain option item but some other economies either do not report any existing measures or report the measures with unclear description.

As the second assessment step, we look at the contents reported in the column of "Cumulative Improvements Made to Date." Here we have also found three cases. Some economies report that they made a progress in updating, improving or making new regulations in that certain option item. The second group of economies report vague statements regarding improvements while the third group of economies report that they made neither progress nor improvement since the base year.

In order to evaluate the performance of individual economies, we assign points to each option item based on the quality of the reported improvements made since the base year. The base point for each option item was determined by the evaluation of the cumulative improvements. We assign 10 points for the case in which clear improvements were reported, 5 points for the case with unclear improvements and finally, 0 point for the case with no improvement. To further differentiate the efforts of member economies, we give an additional point if the economy reported existing measures for the

option item at the base year and take away 1 point if there was no existing measure at the base year. Hence, for each option item, the score ranges from -1 to 11. For example, if an economy receives the highest score, 11 points for a specific option item, it means that the economy already had existing measures in 1996 and made a clear improvement since then. On the contrary, an economy can receive the lowest score of -1 for a certain option item if the economy neither had an existing measure nor made any improvement since 1996.

### **Evaluation Results for the Individual Options**

Tables 3.1 and 3.2 show the total average scores of the individual options in the menu. As can be seen in the Tables 3.1 and 3.2, the overall performance of APEC member economies, advanced and developing members alike, in making improvements in their investment regimes, look generally unimpressive, although the assessment for individual options varies. For example, for the option "Avoidance of Double Taxation," most member economies exhibited their efforts by providing the exact number of bilateral agreements in which this option is included. On the contrary, for the two newly-added options "Technology Transfer" and "Venture Capital and Start-Up Companies," they barely reported any improvement, let alone an existing measure.

In addition to the general impression, we have found a couple of differences between advanced and developing member economies. First, advanced economies received consistently higher scores for almost all options than developing economies. Second, the difference in scores between the two groups was very large for the options

“Protection from Strife and Similar Events,” “Performance Requirement” and “Expropriation and Compensation.”

In the following, we try to present some noticeable features of the evaluation of individual options.<sup>3)</sup> In the case of the option “General Policy Framework,” scores for sub-items regarding “Prior Authorization Requirements” (1.04-1.07) were relatively poor for developing economies compared with advanced economies meaning that these developing economies still maintain some sort of prior approval

**<Table 3-1> Average Scores for the Individual Options for  
the Advanced Economies**

Rank	Options		Average Scores
1	11	Avoidance of Double Taxation	9.000
2	12	Competition Policy and Regulatory Reform	7.500
3	5	Protection from Strife and Similar Events	6.667
4	7	Performance Requirements	5.833
5	8	Entry and Stay of Personnel	5.750
6	4	Expropriation and Compensation	4.667
7	9	Settlement of Disputes	4.167
8	10	Intellectual Property	3.600
9	1	General Policy Framework	3.093
10	2	Transparency	2.306
11	13	Business Facilitating measure to Improve Domestic Business Environment	2.295
12	6	Transfers of Capital Related to Investments	2.222
13	3	Non-Discrimination	1.926
14	14	Technology Transfer	-1.000
15	15	Venture Capital and Start-up Companies	-1.000
Average score of all options			2.807

<sup>3)</sup> For this part, see the Appendix 1.



system for FDI. In the case of the “Transparency” option, the sub-item concerning the publication of the screening information (2.03) received negative scores. The option of “Non-discrimination” has 27 sub-items which are divided into 5 different sub-groups: MFN, National Treatment, Ownership, Finance and Capitalization, and other measures. Among the 5 sub-groups, options related to ownership (3.09 – 3.18) received the lowest scores, showing slow improvement

**<Table 3-2> Average Scores for the Individual Options for the Developing Economies**

Rank	Options		Average Scores
1	11	Avoidance of Double Taxation	10.929
2	8	Entry and Stay of Personnel	5.857
3	12	Competition Policy and Regulatory Reform	5.500
4	7	Performance Requirements	3.429
5	1	General Policy Framework	3.302
6	2	Transparency	3.179
7	5	Protection from Strife and Similar Events	2.857
8	6	Transfers of Capital Related to Investments	2.714
9	10	Intellectual Property	2.557
10	9	Settlement of Disputes	2.536
11	4	Expropriation and Compensation	2.262
12	3	Non-Discrimination	1.828
13	13	Business Facilitating measure to Improve Domestic Business Environment	1.456
14	15	Venture Capital and Start-up Companies	-0.286
15	14	Technology Transfer	-0.762
Average score of all options			2.542

in reducing the discriminatory actions related to company ownership. As for the “Transfers of Capital Related to Investment,” we have found that not much progress was made on the sub-items of making a binding commitment and guaranteeing the right to transfer capital (6.02 – 6.03).

The option of “Entry and Stay of Personnel” was one of the few cases that showed relatively high scores for both advanced and developing economies. This means that the host economies recognize the importance of the movement of personnel for inducing new FDI. The option of “Intellectual Property” did not get good scores in the case of developing economies and in particular, the sub-item related to the implementation of programs that require official agencies to respect intellectual property rights (10.04) received a very low score. In addition to the two newly-added options, the option “Business Facilitating Measures to Improve the Domestic Business Environment” received extremely low scores; sub-items related to establishing legal and taxation systems for flexible corporate reorganization, introducing global accounting standards, strengthening corporate governance, enhancing labor market flexibility and improving standards of professional services (13.07–13.13) in particular did not get much positive response from the developing economies.

A very low average score for a certain option, however, does not mean that every sub-item within the option also got a low score. Several examples are worth noting. While the option “Transparency” got a total average score of only 2.306 in advanced economies and 3.179 in developing economies, the sub-items related to publicly providing information on the investment regime (2.02) received a

quite high average score of 9.169 in advanced economies and 8.000 in developing economies, respectively. In the case of “Intellectual Property,” the sub-item related to providing adequate and effective enforcement measures (10.03) received a good average score of 8.167 in advanced economies and 5.857 in developing economies despite the very low total average scores in both groups. Another example is the sub-items within the option of “General Policy Framework” related to broadening definitions and types of investment, standstill on restriction and promoting international agreements (1.01 – 1.03, 1.08). These sub-items in developing economies got scores ranging from 6.000 to 6.857, almost twice the total average score the option.

### **Evaluation Results for the Individual Economies**

We now turn to the performance of the individual economies. Table 4 shows the total average scores for the individual economies included in the study. The overall picture looks even more disappointing than that of the individual options shown in Tables 3.1 and 3.2. Korea received the highest total average score which is, however, lower than 5 points. Fourteen out of twenty economies received total average scores below 3 points. It should be noted that Brunei was ranked the lowest being the only economy with a total average score below 1 point.

Each economy’s performance, however, varies as to different options.<sup>4)</sup> Here, we present some notable features found in individual economies’ performances. As can be seen in Table 5, Brunei whose

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<sup>4)</sup> For this part, it would be useful to see tables in Appendix 2 together with Table 5.

overall performance was ranked the lowest, received relatively high score for the options of “General Policy Framework” (ranked 5<sup>th</sup>) and “Intellectual Property” (ranked 6<sup>th</sup>) compared to other economies. In

**<Table 4> Average Scores for the Individual Economies**

Rank	Economy	Total Average Score
1	Korea*	4.232
2	Singapore*	3.902
3	China*	3.805
4	Canada*	3.439
5	Chinese Taipei*	3.098
6	Malaysia	3.061
7	Japan	2.756
8	Australia*	2.707
9	Russia	2.634
10	Thailand	2.573
11	Vietnam*	2.524
12	Indonesia	2.512
13	US	2.354
14	Hong Kong China	2.220
15	Papua New Guinea*	2.049
16	Peru	1.780
17	Philippines*	1.695
18	New Zealand*	1.683
19	Mexico	1.317
20	Brunei	0.695
Average of all economies		2.552

Note: 2004 IAPs were used for the Economies with \* while for the rest of the economies, 2005 IAPs were used.

the case of Singapore, exactly the opposite situation was found. Despite its high ranking for the overall performance, Singapore got very poor scores for the options of "Transparency" (ranked 20<sup>th</sup>), "Expropriation and Compensation" (ranked 15<sup>th</sup>), "Transfers of Capital Related to Investment" (ranked 14<sup>th</sup>), "Performance Requirement" (ranked 16<sup>th</sup>), "Settlement of Disputes" (ranked 11<sup>th</sup>) and "Intellectual Property Right" (ranked 13<sup>th</sup>). The low scores for these options in Singapore might be due to the fact that it had already fulfilled the requirements in the base year. In that case, it did not have to report any progress since the base year. In fact, advanced economies like Australia and the U.S. stated "No further action required" in the column of "Cumulative Improvements Made to Date." We should therefore be careful when interpreting the results, especially the scores for advanced economies. A similar situation was found in the case of Hong Kong China. Hong Kong China showed a strong performance except the options of "Non-Discrimination" (ranked 15<sup>th</sup>) and "Performance Requirement" (ranked 17<sup>th</sup>). However, we found that Hong Kong China had met the requirements for these options in the base year.

China showed a very strong performance in improving its investment environment being ranked first for 5 options including "Transparency," "Transfer of Capital Related to Investment," and "Settlement of Disputes." However, China received relatively low grades for such options as "Non-Discrimination" (ranked 15<sup>th</sup>), "Protection from Strife and Similar Events" (ranked 9<sup>th</sup>) and "Entry and Stay of Personnel" (ranked 8<sup>th</sup>). Although Indonesia's performance was quite modest, it received very low scores for the options of "Expropriation and Compensation" (ranked 15<sup>th</sup>), "Transfer of Capital

Related to Investment” (ranked 17<sup>th</sup>) and “Entry and Stay of Personnel” (ranked 18<sup>th</sup>). It is interesting to note that Korea, which received the highest overall score, got very poor scores for the options of “Performance Requirement” (ranked 17) and “Settlement of Disputes” (ranked 18<sup>th</sup>). In the case of Malaysia, which ranked 6<sup>th</sup> for the overall evaluation, it received a relatively low score for the option “Transfer of Capital Related to Investment” (ranked 15<sup>th</sup>).<sup>5)</sup>

Mexico ranked 19<sup>th</sup> for the overall assessment since it did not report much improvement in its investment regime. However, Mexico performed well for the options of “Transparency” (ranked 4<sup>th</sup>) and “Settlement of Disputes” (ranked 6<sup>th</sup>). It was already noted that almost all member economies did not report for the two newly added options, “Technology Transfer” and “Venture Capital and Start-Up Companies.” It is interesting to find that Papua New Guinea, with the overall rank of 15<sup>th</sup>, was the only economy that positively responded in these options. It should also be noted that despite the low overall ranking (17<sup>th</sup>), Philippines received a very high evaluation for the option “Performance Requirement” (ranked 3<sup>rd</sup>). A similar pattern was found in the case of Thailand. Thailand, with the overall rank at 10<sup>th</sup>, received high scores for the options “Expropriation and Compensation” (ranked 4<sup>th</sup>) and “Performance Requirements” (ranked 5<sup>th</sup>). In addition, we have also found that scores given to Russia were quite evenly distributed while China got the most 1<sup>st</sup> places among the developing economies examined.

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5) International capital flows seem to have been regarded as a very sensitive subject in the policy-making of Malaysia.

<Table 5> Average Scores of Economies for the Individual Options

Option 1			Option 2			Option 3			Option 4		
Rank	Economy	Option Av.	Rank	Economy	Option Av.	Rank	Economy	Option Av.	Rank	Economy	Option Av.
1	Singapore*	6.556	1	China*	6.333	1	Singapore*	5.111	1	Japan	11.000
2	Indonesia	5.333	2	Australia*	5.000	2	Korea*	5.000	2	U.S.	9.667
2	Thailand	5.333	2	Russia	5.000	2	Malaysia	5.000	3	Canada*	7.000
4	China*	5.222	4	Japan	4.667	4	Taiwan*	4.370	4	Thailand	6.333
5	Brunei	4.667	4	Korea*	4.667	5	Indonesia	2.963	5	Russia	4.000
6	Peru	3.778	4	Mexico	4.667	6	Vietnam*	2.889	6	Hong Kong	3.667
7	Korea*	3.667	7	Peru	4.167	7	Canada*	2.370	6	Papua New Guinea*	3.667
7	Mexico	3.667	8	Vietnam*	4.000	8	Australia*	1.815	8	China*	3.000
9	Hong Kong	3.444	9	Hong Kong	3.333	9	Philippines*	1.556	8	Korea*	3.000
10	U.S.	3.222	9	Papua New Guinea*	3.333	10	U.S.	1.481	8	Malaysia	3.000
11	New Zealand*	3.111	11	Indonesia	3.000	11	Russia	1.407	8	Mexico	3.000
11	Vietnam*	3.111	11	Taiwan*	3.000	12	Thailand	1.222	8	Peru	3.000
13	Australia*	2.778	11	Thailand	3.000	13	China*	1.074	13	Australia*	1.000
14	Papua New Guinea*	2.667	14	U.S.	2.667	14	Japan	0.741	14	Vietnam*	0.333
15	Philippines*	2.333	15	New Zealand*	1.000	15	Hong Kong	0.259	15	New Zealand*	-0.333
16	Canada*	2.111	15	Canada*	1.000	16	Papua New Guinea*	0.111	15	Brunei	-0.333
17	Malaysia	1.667	17	Malaysia	0.333	17	New Zealand*	0.037	15	Indonesia	-0.333
18	Russia	1.000	18	Philippines*	0.000	18	Brunei	0.000	15	Philippines	-0.333
19	Japan	0.778	19	Brunei	-0.333	18	Peru	0.000	15	Singapore*	-0.333
20	Taiwan*	0.333	20	Singapore*	-0.500	20	Mexico	-0.259	15	Taiwan*	-0.333
Total Av.		3.239	Total Av.		2.917	Total Av.		1.857	Total Av.		2.983

&lt;Table 5&gt; Continued

Option 5			Option 6			Option 7			Option 8		
Rank	Economy	Option Av.	Rank	Economy	Option Av.	Rank	Economy	Option Av.	Rank	Economy	Option Av.
1	Canada*	11.000	1	China*	11.000	1	Canada*	11.000	1	Korea*	11.000
1	Japan	11.000	2	Korea*	9.667	2	Japan	9.667	1	Malaysia	11.000
1	Hong Kong	11.000	3	Taiwan*	6.333	3	Philippines*	9.333	1	Papua New Guinea*	11.000
1	Singapore*	11.000	4	New Zealand*	4.333	4	New Zealand*	9.000	1	Singapore*	11.000
5	Taiwan*	10.000	5	Canada*	3.667	5	China*	7.000	1	Taiwan*	11.000
6	Thailand	6.000	5	Hong Kong	3.667	5	Thailand	7.000	6	Peru	10.500
7	New Zealand*	5.000	7	Japan	3.000	7	Malaysia	6.333	7	Japan	7.000
8	Russia	4.000	7	Russia	3.000	9	Papua New Guinea*	4.333	8	China*	6.000
9	Australia*	1.000	7	Vietnam*	3.000	10	U.S.		9	U.S.	5.500
9	U.S.	1.000	10	Peru	1.333	10	Indonesia	3.000	9	Thailand	5.500
9	Brunei	1.000	10	Thailand	1.333	10	Mexico	3.000	11	New Zealand*	5.000
9	China*	1.000	12	Australia*	1.000	10	Taiwan*	3.000	11	Canada*	5.000
9	Indonesia	1.000	12	US	1.000	10	Vietnam*	3.000	11	Hong Kong	5.000
9	Korea*	1.000	14	Singapore*	0.333	14	Russia	2.333	11	Vietnam*	5.000
9	Malaysia	1.000	15	Malaysia	0.000	15	Australia*	1.000	15	Russia	4.000
9	Mexico	1.000	15	Mexico	0.000	16	Singapore*	0.000	16	Brunei	1.500
9	Peru	1.000	17	Brunei	-0.333	17	Hong Kong	-0.333	17	Australia*	1.000
9	Philippines*	1.000	17	Indonesia	-0.333	17	Korea*	-0.333	18	Indonesia	0.500
9	Vietnam	1.000	17	Papua New Guinea*	-0.333	19	Peru	-0.667	19	Mexico	0.000
20	Papua New Guinea*	0.000	17	Philippines*	-0.333	20	Brunei	-1.000	19	Philippines*	0.000
Total Av.		4.000	Total Av.		2.917	Total Av.		4.150	Total Av.		5.825



<Table 5> Continued

Option 9			Option 10			Option 11			Option 12		
Rank	Economy	Option Av.	Rank	Economy	Option Av.	Rank	Economy	Option Av.	Rank	Economy	Option Av.
1	New Zealand*	6.000	1	U.S.	6.000	1	Australia*	11.000	1	Japan	11.000
1	U.S.	6.000	2	Australia*	5.000	1	New Zealand*	11.000	1	China*	11.000
1	Japan	6.000	3	New Zealand*	4.400	1	Canada*	11.000	1	Hong Kong	11.000
1	China*	6.000	4	China*	4.200	1	Japan	11.000	1	Indonesia	11.000
1	Hong Kong	6.000	4	Korea*	4.200	1	China*	11.000	1	Korea*	11.000
6	Canada*	5.000	6	Brunei	4.000	1	Hong Kong	11.000	1	Singapore*	11.000
6	Mexico	5.000	6	Indonesia	4.000	1	Indonesia	11.000	7	Malaysia	9.000
6	Peru	5.000	6	Russia	4.000	1	Korea*	11.000	7	Papua New Guinea*	9.000
6	Vietnam*	5.000	9	Hong Kong	3.800	1	Malaysia	11.000	9	New Zealand*	6.000
10	Russia	4.000	10	Mexico	3.600	1	Mexico	11.000	9	Canada*	6.000
11	Australia*	4.000	11	Philippines*	3.200	1	Papua New Guinea*	11.000	9	U.S.	6.000
11	Brunei	1.000	12	Papua New Guinea*	3.000	1	Peru	11.000	9	Peru	6.000
11	Indonesia	1.000	13	Japan	2.200	1	Philippines*	11.000	9	Philippines*	6.000
11	Malaysia	1.000	13	Singapore*	2.200	1	Russia	11.000	14	Australia*	5.000
11	Singapore*	1.000	15	Canada*	1.800	1	Singapore*	11.000	15	Russia	4.000
11	Thailand	1.000	15	Malaysia	1.800	1	Taiwan*	11.000	16	Mexico	0.000
17	Philippines*	0.500	17	Peru	0.000	1	Thailand	11.000	16	Taiwan*	0.000
18	Korea*	0.000	17	Taiwan*	0.000	1	Vietnam*	11.000	16	Thailand	0.000
18	Papua New Guinea*	0.000	17	Thailand	0.000	19	Brunei	10.000	16	Vietnam*	0.000
18	Taiwan*	0.000	17	Vietnam*	0.000	20	U.S.	-1.000	20	Brunei	-1.000
Total Av.		3.025	Total Av.		2.870	Total Av.		10.350	Total Av.		6.100

<Table 5> Continued

Option 13			Option 14			Option 15		
Rank	Economy	Option Av.	Rank	Economy	Option Av.	Rank	Economy	Option Av.
1	Australia*	5.000	1	Papua New Guinea*	2.333	1	Papua New Guinea*	9.000
1	Canada*	5.000	2	Australia*	-1.000	2	Australia*	-1.000
3	China*	4.538	2	New Zealand*	-1.000	2	New Zealand*	-1.000
4	Russia	4.000	2	Canada*	-1.000	2	Canada*	-1.000
5	Singapore*	3.077	2	U.S.	-1.000	2	U.S.	-1.000
6	Thailand	2.385	2	Japan	-1.000	2	Japan	-1.000
7	Korea*	2.308	2	Brunei	-1.000	2	Brunei	-1.000
8	Taiwan*	2.077	2	China*	-1.000	2	China*	-1.000
9	Hong Kong	1.769	2	Hong Kong	-1.000	2	Hong Kong	-1.000
10	Japan	1.538	2	Indonesia	-1.000	2	Indonesia	-1.000
10	Vietnam*	1.538	2	Korea*	-1.000	2	Korea*	-1.000
12	Philippines*	1.462	2	Malaysia	-1.000	2	Malaysia	-1.000
13	Indonesia	0.769	2	Mexico	-1.000	2	Mexico	-1.000
13	Peru	0.769	2	Peru	-1.000	2	Peru	-1.000
15	Mexico	0.000	2	Philippines*	-1.000	2	Philippines*	-1.000
16	Malaysia	-0.077	2	Russia	-1.000	2	Russia	-1.000
17	U.S.	-0.231	2	Singapore*	-1.000	2	Singapore*	-1.000
17	Papua New Guinea*	-0.231	2	Taiwan*	-1.000	2	Taiwan*	-1.000
19	New Zealand*	-0.615	2	Thailand	-1.000	2	Thailand	-1.000
20	Brunei	-0.923	2	Vietnam*	-1.000	2	Vietnam*	-1.000
Total Av.		1.708	Total Av.		-0.833	Total Av.		-0.500

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## V. Concluding Remarks

In this study, we have evaluated the efforts of the APEC member economies to further liberalize their investment regimes. To be more specific, two major APEC investment instruments, NBIPs and IAPs have been closely assessed. As section III outlines, there are various degrees to which twelve NBIPs were adopted in 21 BITs and 16 FTAs concluded among the APEC member economies since 1994. Provisions in areas such as “Non-Discrimination (MFN),” “Expropriation and Compensation,” “Repatriation and Convertibility,” and “Settlement of Disputes” were well incorporated in BITs and FTAs examined. It should be noted, however, that there are several other areas in which not much action was taken. “Investment Incentives,” “Performance Requirements,” “Investor Behavior” and “Removal of Barriers to Capital Exports” are among them. Despite the APEC member economies’ efforts to liberalize investment through concluding numerous BITs and FTAs, it appears that the adoption of NBIPs was difficult to achieve due to the economic and political consideration of individual member economies.

When we evaluate the cumulative improvements appeared in the IAPs, the overall impression was disappointing. As seen in the previous section, however, the assessment for individual options varies. For example, most economies reported clear improvements for the option “Avoidance of Double Taxation,” while on the contrary, they barely reported any improvement for the two newly-added options of “Technology Transfer” and “Venture Capital and Start-Up Companies.” A very low average score for a certain option, however, does not mean that every sub-item within the option also got a low

score. Several examples can be provided. While the option "Transparency" got a very low total average score, the sub-items related to publicly providing information on the investment regime received quite high average scores. Another example is the sub-items within the option of "General Policy Framework" related to broadening definitions and types of investment, standstill on restriction and promoting international agreements. These sub-items got scores almost twice the average score of the main option.

Turning to the performance of the individual economies, the overall picture looks even more disappointing. Korea received the highest total average score which is lower than 5 points. Fourteen economies received average total scores below 3 points. However, each economy's performance varies for different options. Brunei, ranked the lowest, received relatively high grades for the options of "General Policy Framework" and "Intellectual Property." China, being ranked first for 5 options including "Transparency," "Transfer of Capital Related to Investment," and "Settlement of Disputes," received relatively low grades for such options as "Non-Discrimination," "Protection from Strife and Similar Events" and "Entry and Stay of Personnel." It should be also noted that Korea, which received the highest overall score, got a very poor score for the options of "Performance Requirement" and "Settlement of Disputes."

The negative evaluation results of the performances for both options and member economies may imply that the APEC's overall efforts to provide a more liberal investment environment were neither effective nor sufficient. However, based on these evaluations, we can draw yet another important implication. If we look at the highest scores among the 20 APEC member economies for 14

different options (excluding the option “Technology Transfer”), they are ranging between 5 and 11. This score range tells that there is at least one economy which performed extremely well compared to other member economies for each individual option. In other words, it will be possible to achieve more improvement if member economies, particularly developing economies, work harder.

One thing we would like to point out here is a possible negative bias of the evaluation. As explained in the previous section, we can think of cases where an economy does not need to report any improvement since it has already completed the requirements and/or the existing measures in the base year were very effective. In these cases, economies may get poor scores even though their investment regimes are in excellent condition. In fact, we have found such cases in the IAPs submitted by several economies such as Australia, Hong Kong China, Singapore and the U.S. Therefore, the performances of advanced economies could have been somewhat biased towards lower scores. However, such cases were not found extensively in developing economies and thus the overall picture of the evaluation for developing member economies will not be changed.

Based on these findings, we can provide several policy recommendations for enhancing the effectiveness of the APEC investment liberalization process. First, the NBIPs must be improved. As seen in section III, some principles were not well reflected in both BITs and FTAs. It might imply that APEC member economies did not make much effort to effectively liberalize their investment regimes. But it might also imply that some of the NBIPs are inadequate for practical investment rules. If the problem lies in the latter, the APEC must review the NBIPs and try to completely revise the NBIPs. In this

process, particular attention must be paid to the voices of the business community. In fact, the APEC Business Advisory Council (ABAC) has made various recommendations regarding the NBIPs. The ABAC would like to amend and clarify the NBIPs and add a new principle concerning intellectual property right. In the course of reviewing the BITs and FTAs for this study, we have also found several provisions different from the NBIPs included in the treaties. “Subrogation,” “Environment,” and “Intellectual Property Rights” are among them. Considering the evaluation of the NBIPs conducted in this study, the ABAC’s proposal and other provisions appeared in the BITs and FTAs, it might be a good idea for the APEC economies to agree on a non-binding investment agreement (NBIA). It might not be an easy task to agree on a NBIA but if agreed, the NBIA will serve as a model investment chapter for the future FTAs among APEC member economies and make substantial contribution to accelerating the investment liberalization in the Asia-Pacific region.

Second, as for the IAPs, the menu of options needs drastic improvement. Even though the menu of options is an illustrative list, wordings of the options are abstract, the number of sub-items for individual options is not balanced (it ranges from 1 to 27), and some options have no practical sub-items. The options must be completely redrafted. In doing this, the OECD’s “Policy Framework for Investment (PFI)” will provide a useful guidance. The OECD’s PFI has been originated by recognizing that the most effective way to realize the full potential of investment is to provide a range of conditions needed to attract and sustain the investments. The core purpose of the OECD’s PFI is to encourage policymakers to ask appropriate questions in order to identify their priorities and to develop an

effective set of policies. It highlights ten areas that have a strong bearing on the investment environment: investment policy, investment promotion and facilitation, trade policy, competition policy, tax policy, corporate governance, corporate responsibility and market integrity, human resource development, infrastructure development and financial services, and public governance.<sup>6)</sup> The menu of options should not be a collection of policy prescriptions. Rather, it should provide a reference point which will guide the formulation of policy standards in all areas bearing on the investor climate.

Third, the process to evaluate progress needs substantial improvement. The existing IAP system has revealed numerous problems. Since the APEC investment instruments are voluntary and non-binding, there is no need for members to show progress on the implementation. The APEC process lacks the ability to effectively compare policy regimes of member economies. The APEC must develop an effective peer review mechanism through which member economies receive peer pressure to make progress. In this area of peer review and peer pressure, the APEC must learn from the OECD. In the OECD, in addition to country reviews, peer pressure has also been exercised via “horizontal” peer exercises comparing all OECD countries.<sup>7)</sup> The APEC must consider developing similar modalities for peer review and peer pressure to encourage further investment liberalization.

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<sup>6)</sup> See OECD (2005a).

<sup>7)</sup> See OECD (2003).

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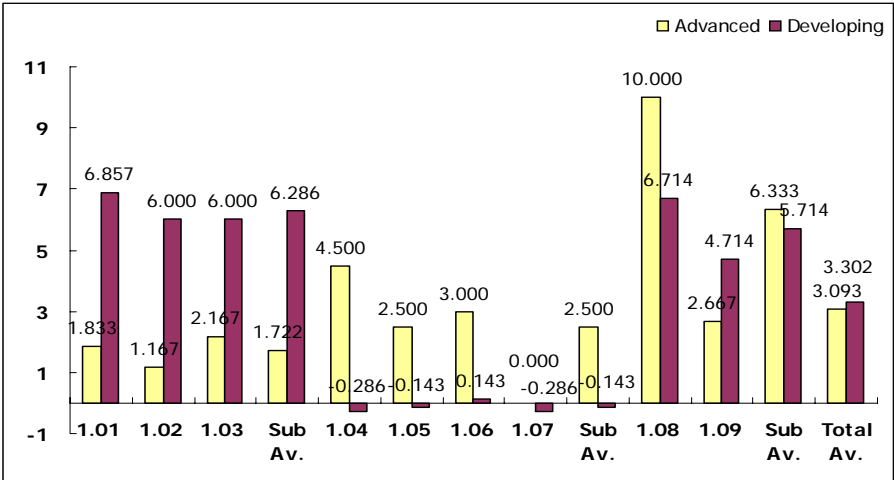
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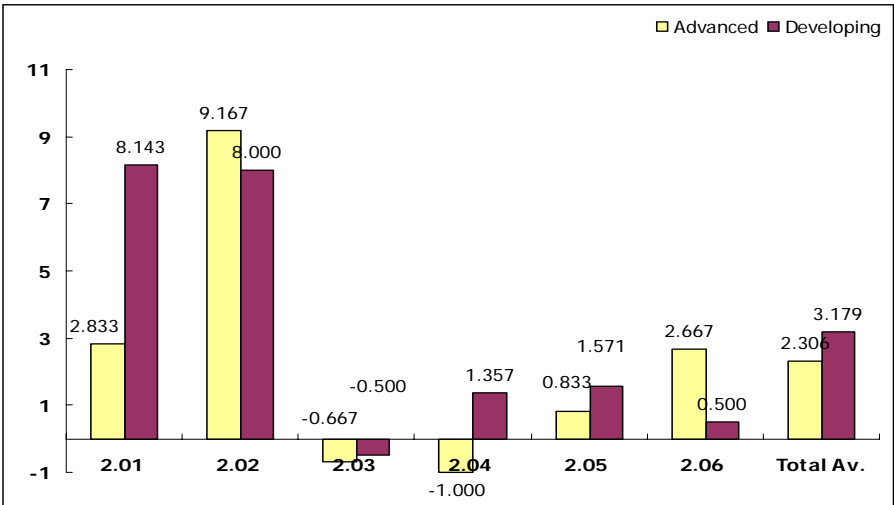


# Appendix 1. Score of Sub-items for Individual Options

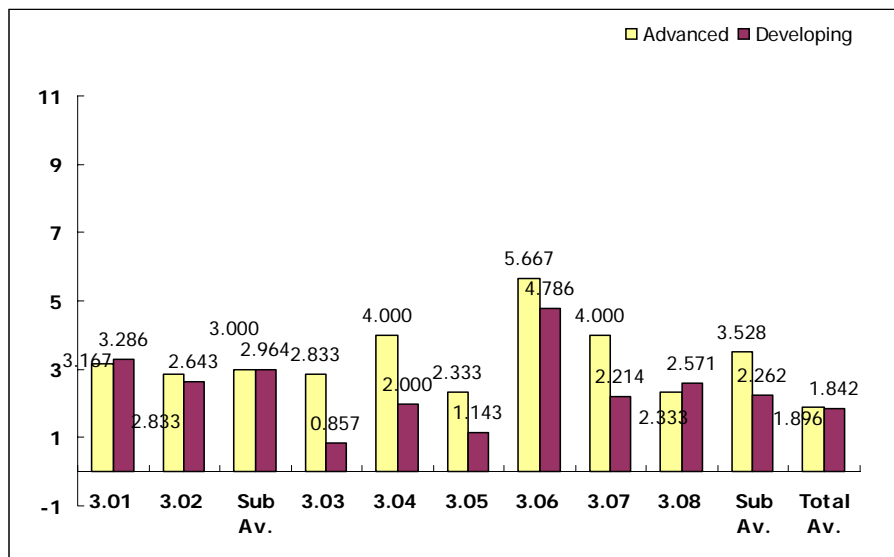
<Figure A1-1> Scores of Sub-items for Option 1 “General Policy Framework”



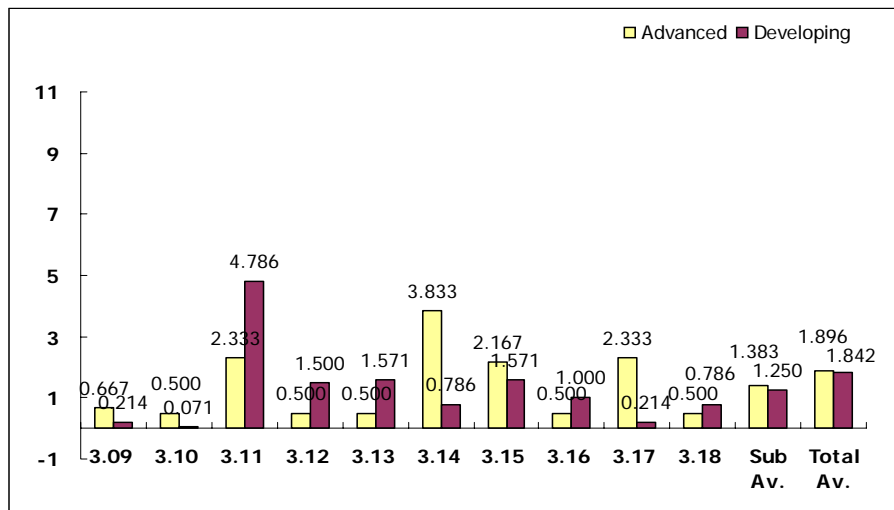
<Figure A1-2> Scores of Sub-items for Option 2 “Transparency”



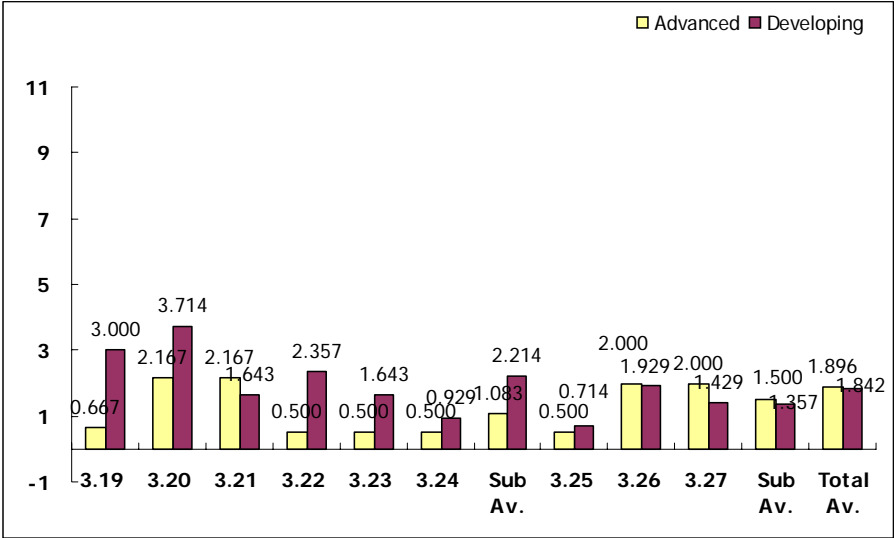
&lt;Figure A1-3&gt; Scores of Sub-items for Option 3 “Non-Discrimination”



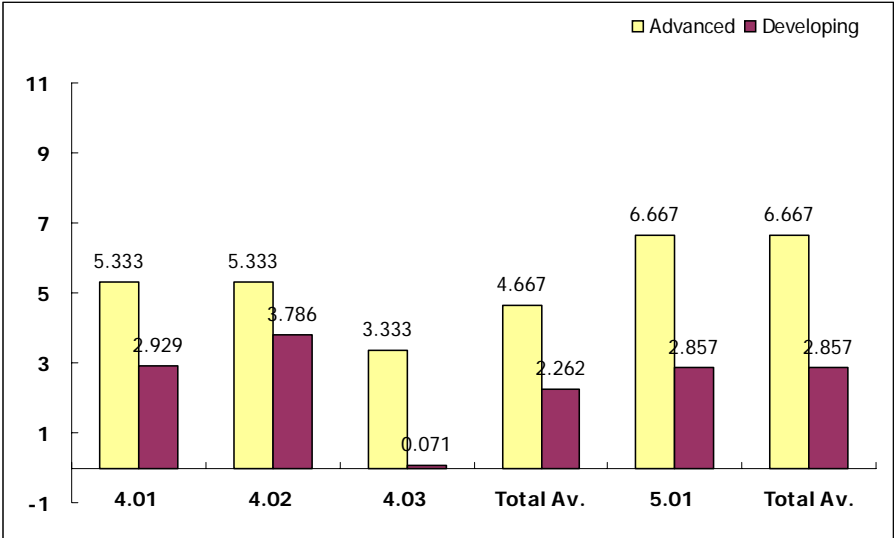
&lt;Figure A1-4&gt; Scores of Sub-items for Option 3 “Non-Discrimination”



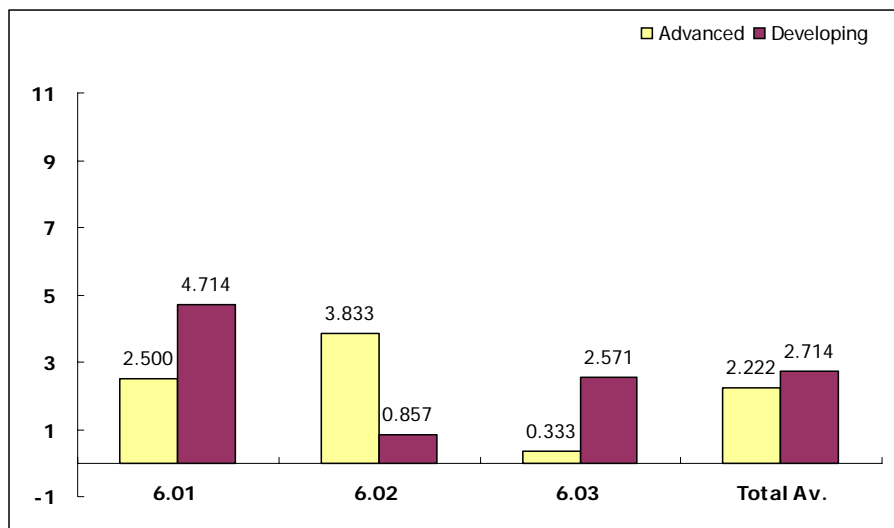
<Figure A1-5> Scores of Sub-items for Option 3 “Non-Discrimination”



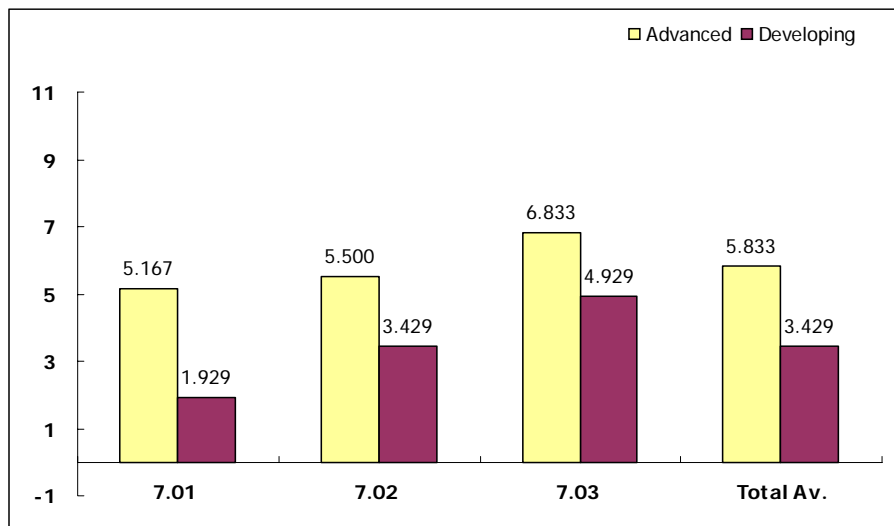
<Figure A1-6> Scores of Sub-items for Option 4 “Expropriation and Compensation” and Option 5 “Protection from Strife and Similar Events”



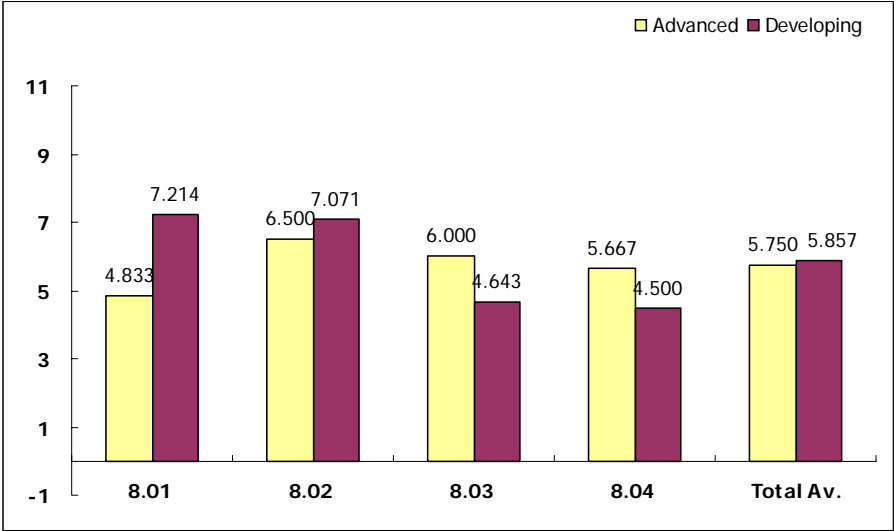
**<Figure A1-7> Scores of Sub-items for Option 6 “Transfers of Capital Related to Investments”**



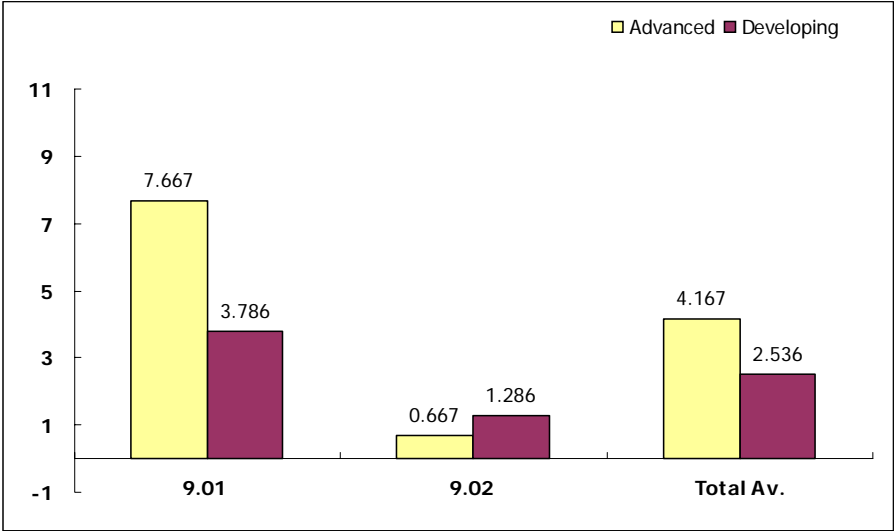
**<Figure A1-8> Scores of Sub-items for Option 7 “Performance Requirements”**



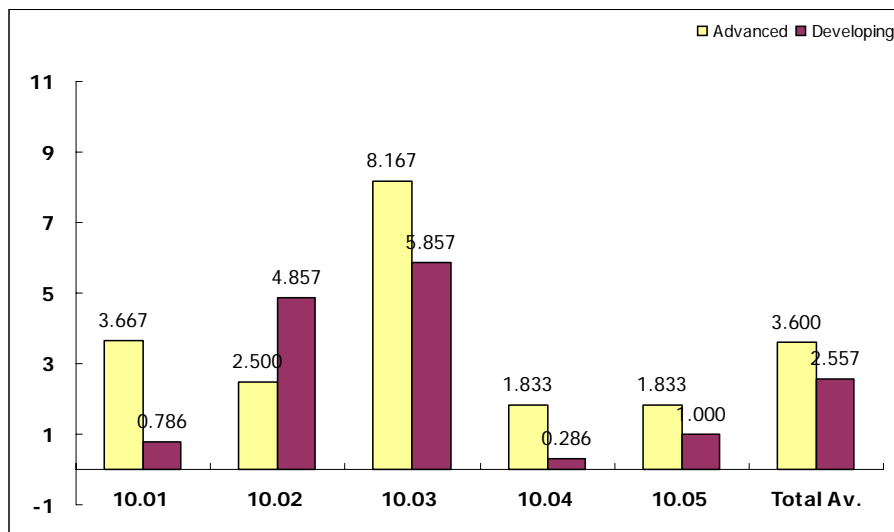
<Figure A1-9> Scores of Sub-items for Option 8 “Entry and Stay of Personnel”



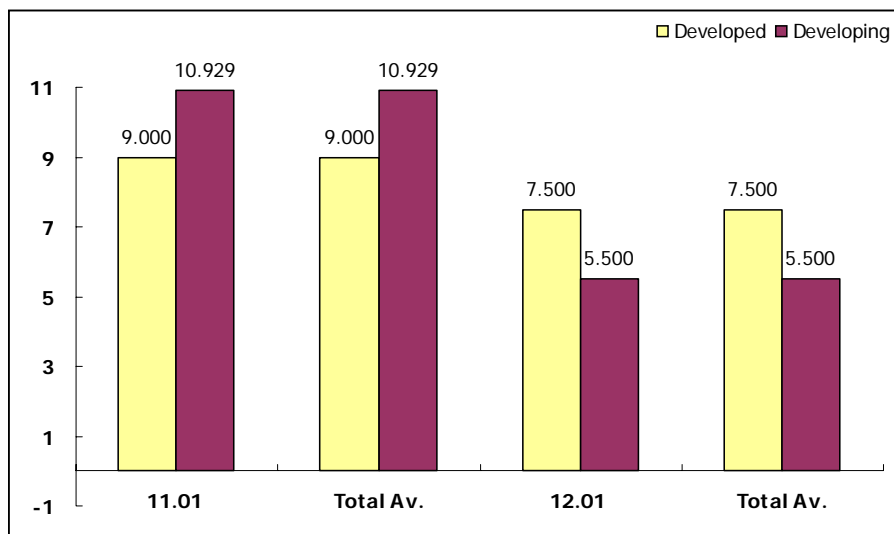
<Figure A1-10> Scores of Sub-items for Option 9 “Settlement of Disputes”



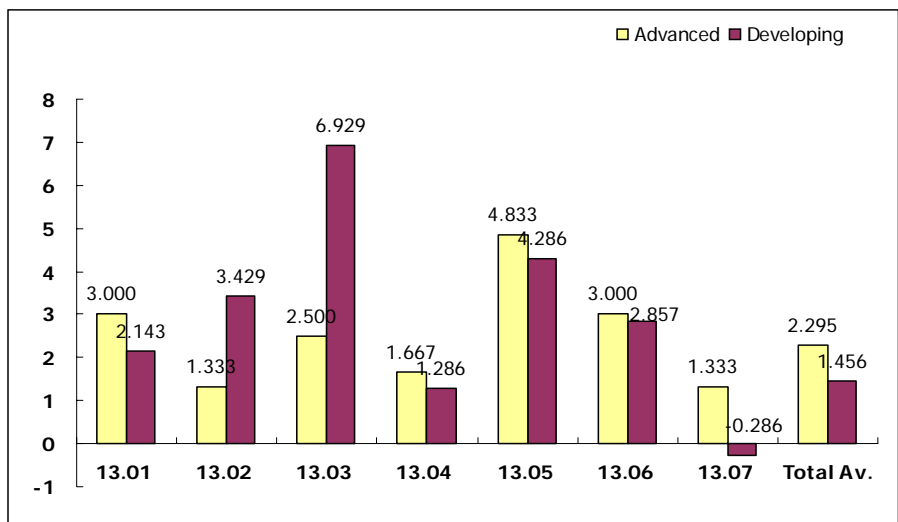
&lt;Figure A1-11&gt; Scores of Sub-items for Option 10 “Intellectual Property”



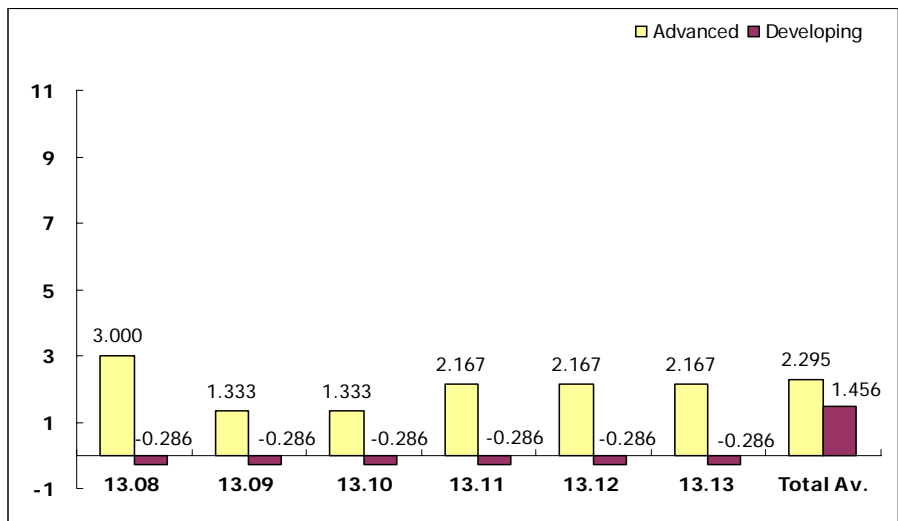
&lt;Figure A1-12&gt; Scores of Sub-items for Option 11 “Avoidance of Double Taxation” and Option 12 “Competition Policy and Regulatory”



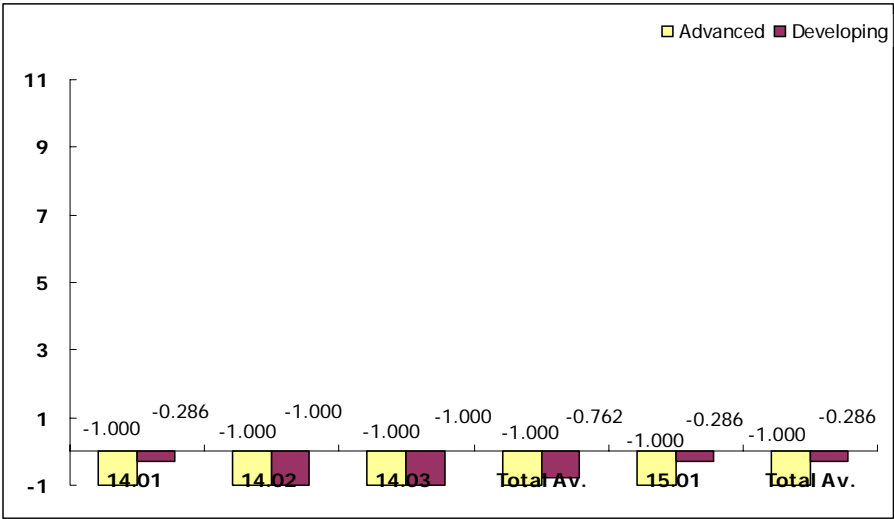
<Figure A1-13> Scores of Sub-items for Option 13 “Business Facilitating Measures to Improve Domestic Business Environment”



<Figure A1-14> Scores of Sub-items for Option 13 “Business Facilitating Measures to Improve Domestic Business Environment”



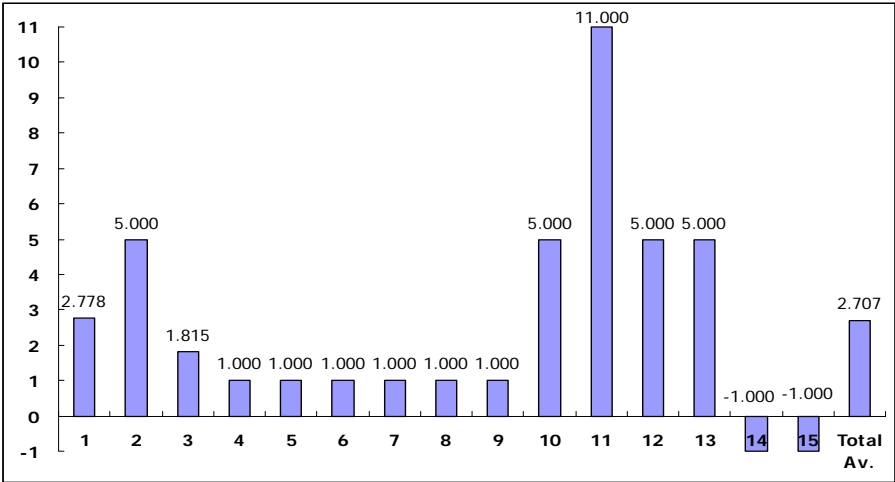
<Figure A1-15> Scores of Sub-items for Option 14 “Technology Transfer” and Option 15 “Venture Capital and Start-Up Companies”



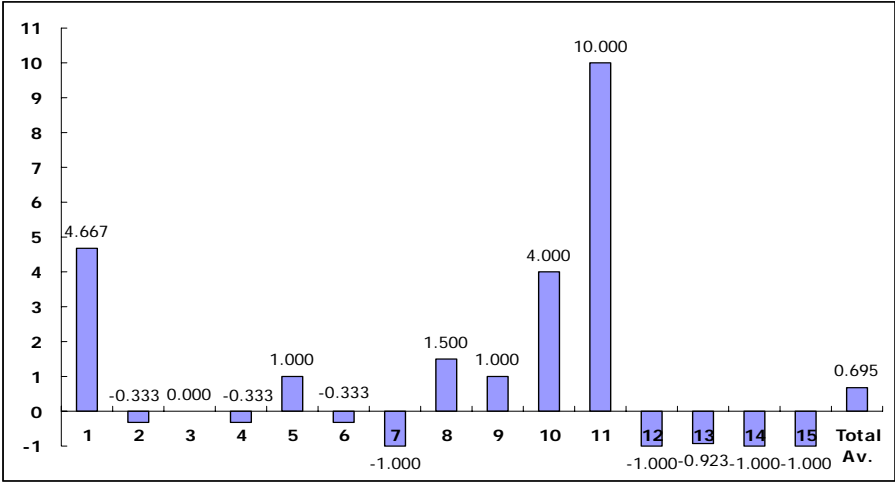


# Appendix 2. Scores of Option for Individual Economies

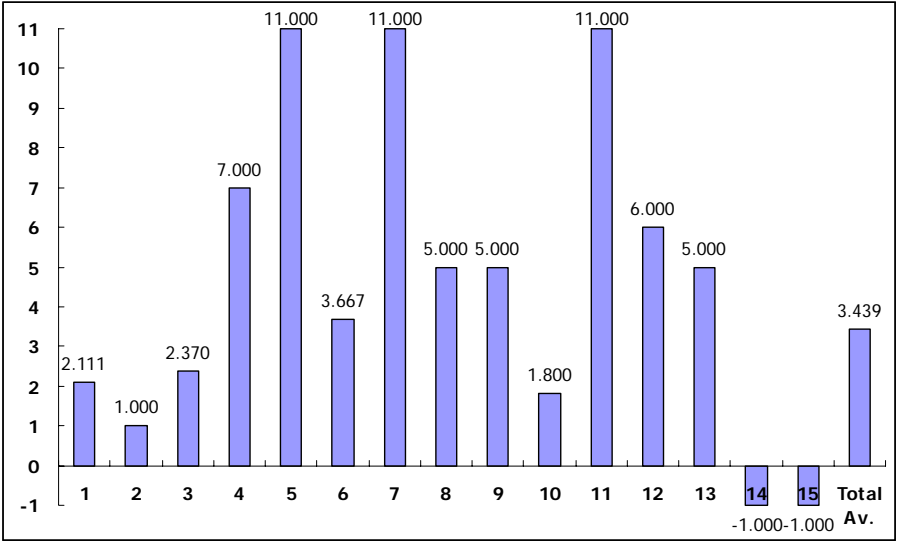
<Figure A2-1> Scores of Options for Australia



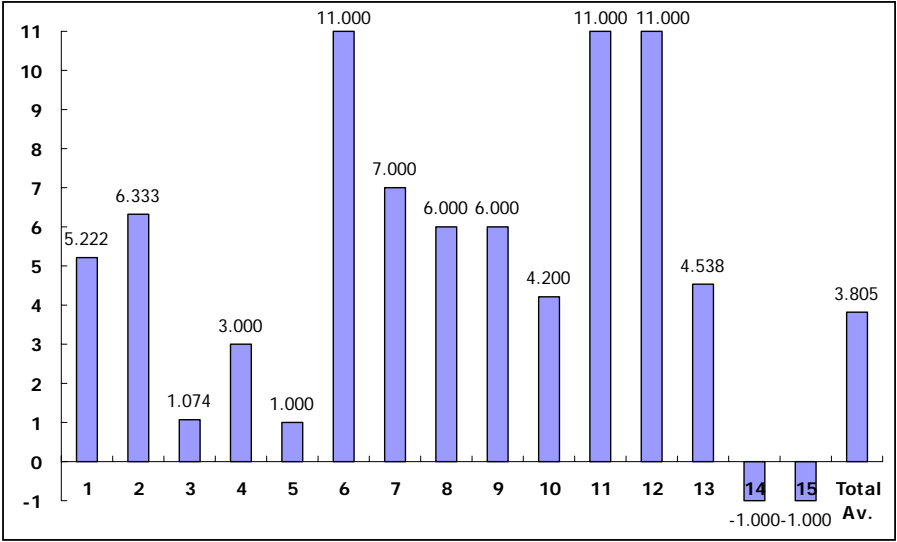
<Figure A2-2> Scores of Options for Brunei



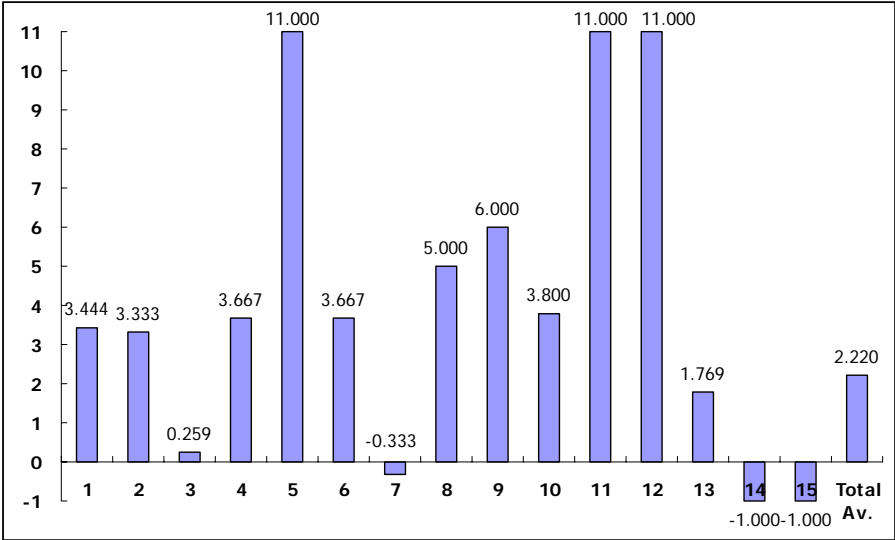
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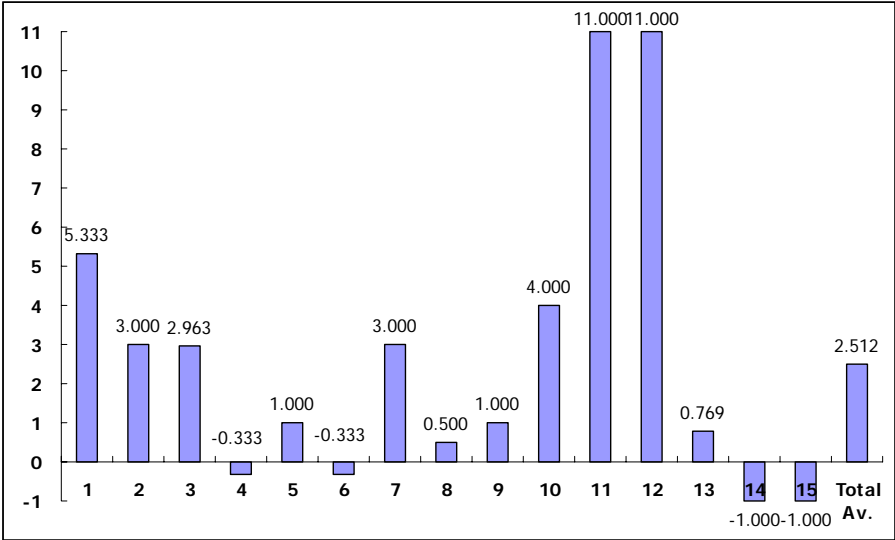
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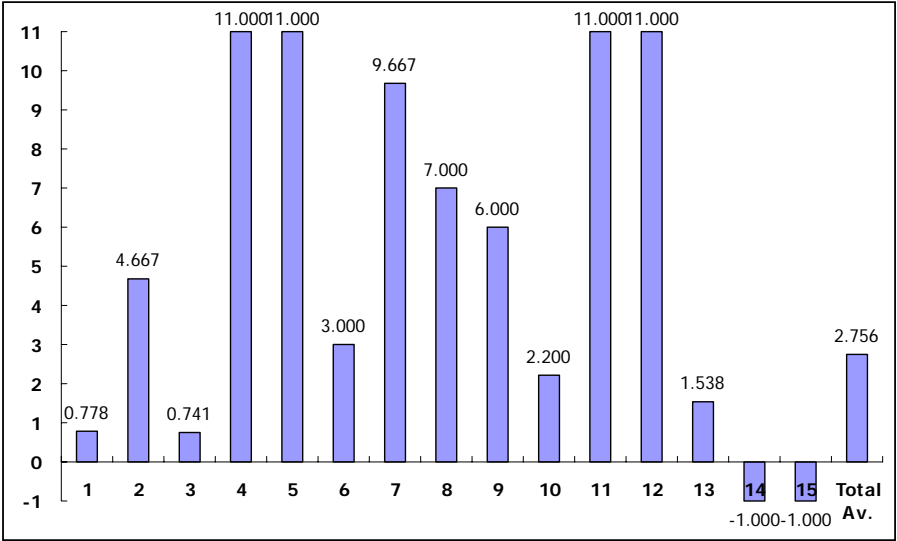
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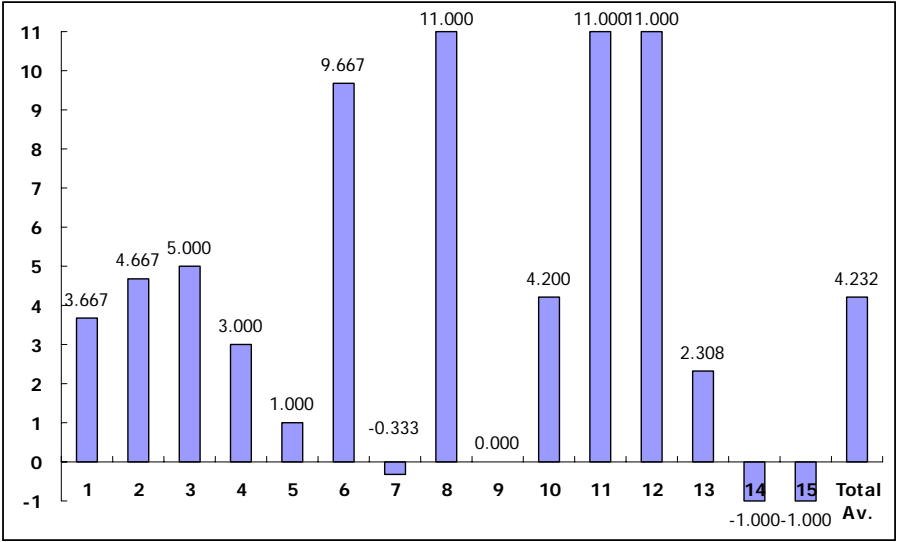
<Figure A2-6> Scores of Options for Indonesia



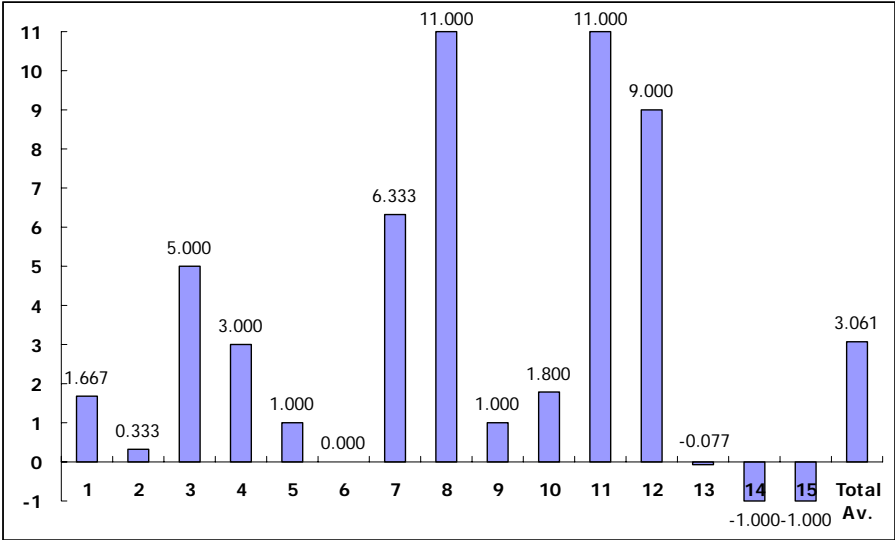
<Figure A2-7> Scores of Options for Japan



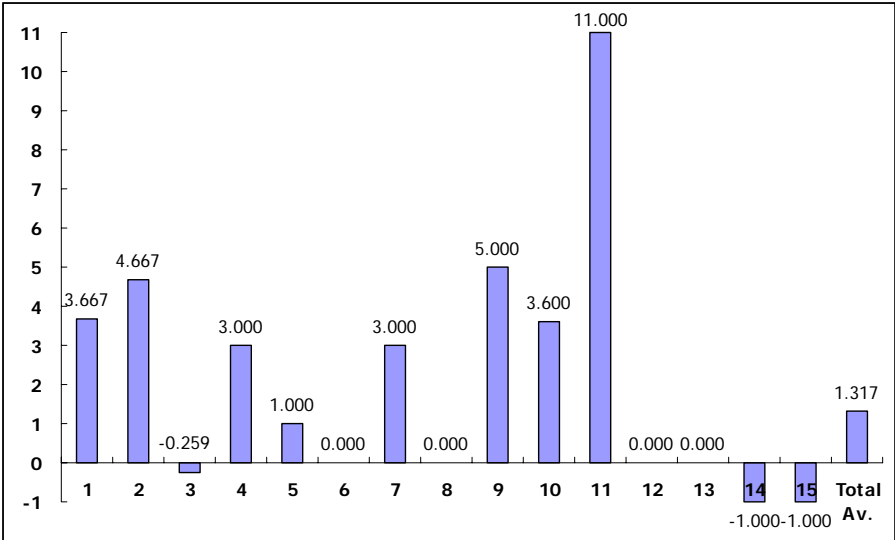
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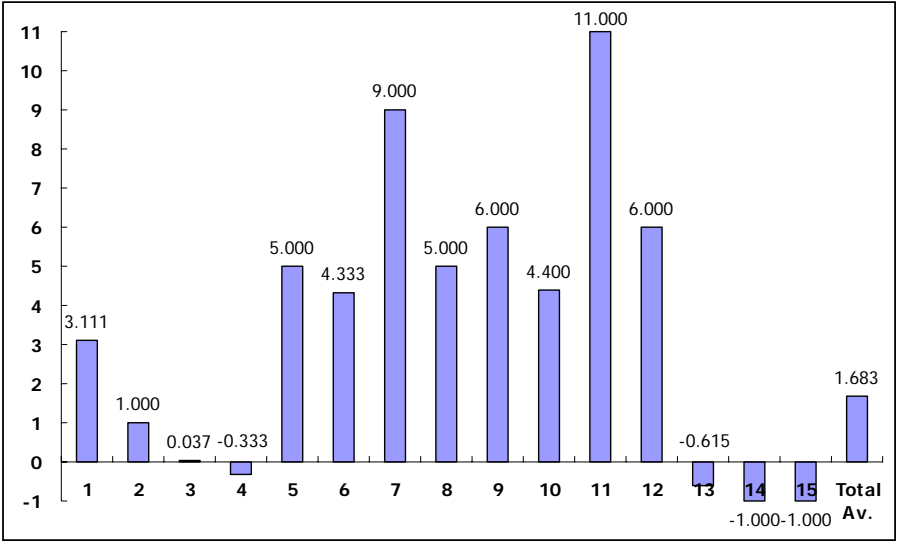
<Figure A2-9> Scores of Options for Malaysia



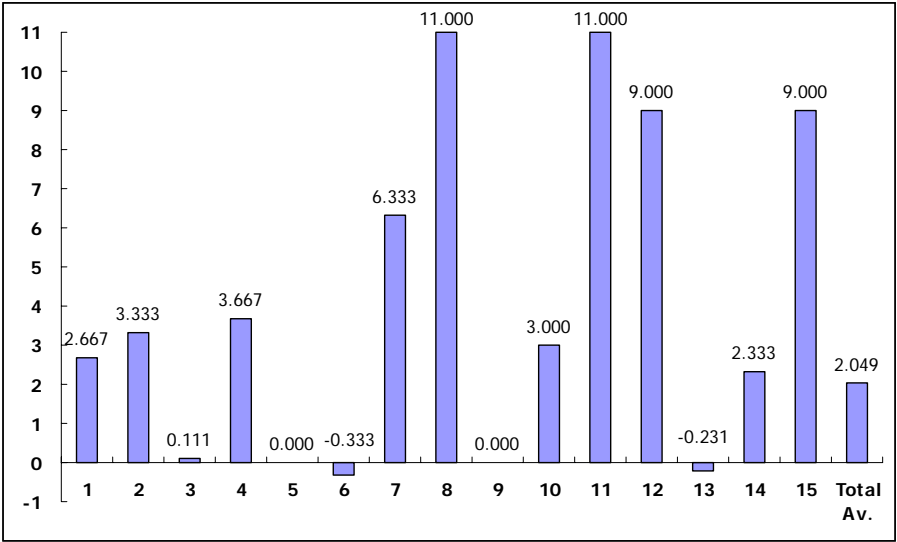
<Figure A2-10> Scores of Options for Mexico



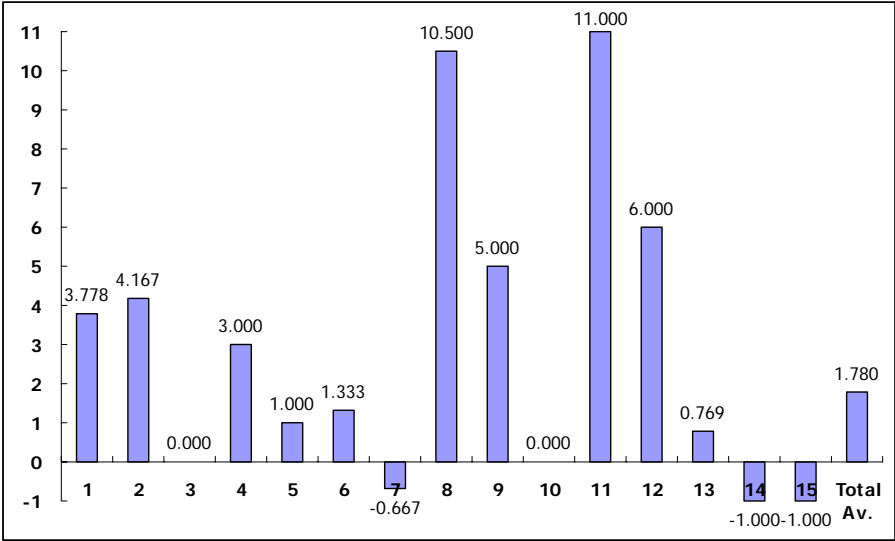
<Figure A2-11> Scores of Options for New Zealand



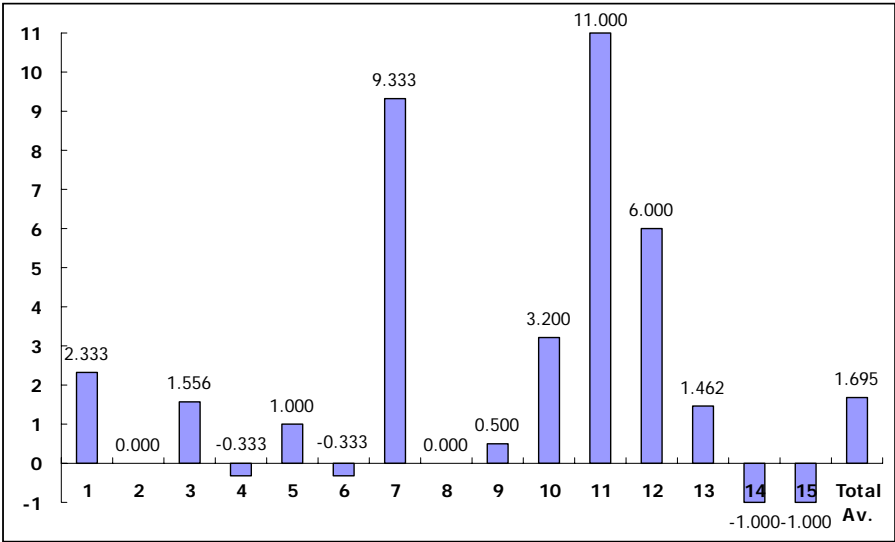
<Figure A2-12> Scores of Options for Papua New Guinea



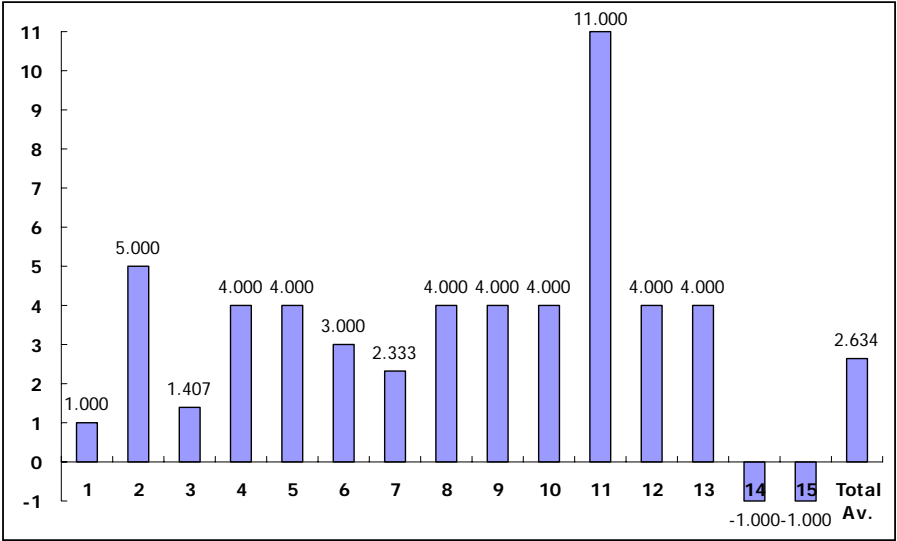
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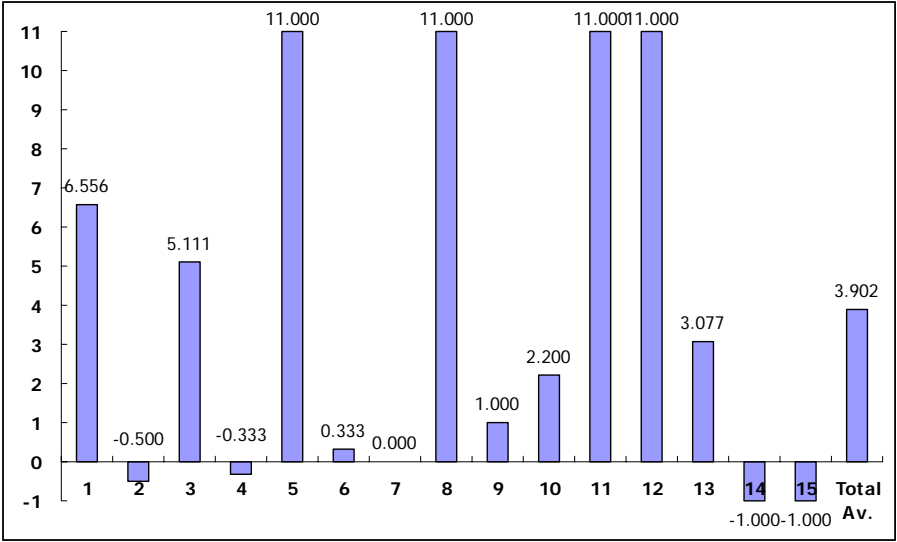
<Figure A2-14> Scores of Options for Philippines



<Figure A2-15> Scores of Options for Russia

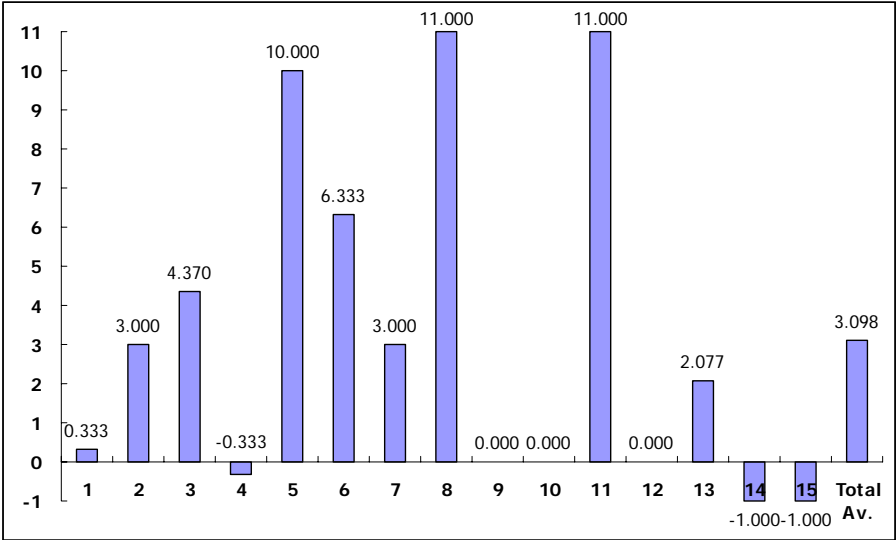


<Figure A2-16> Scores of Options for Singapore

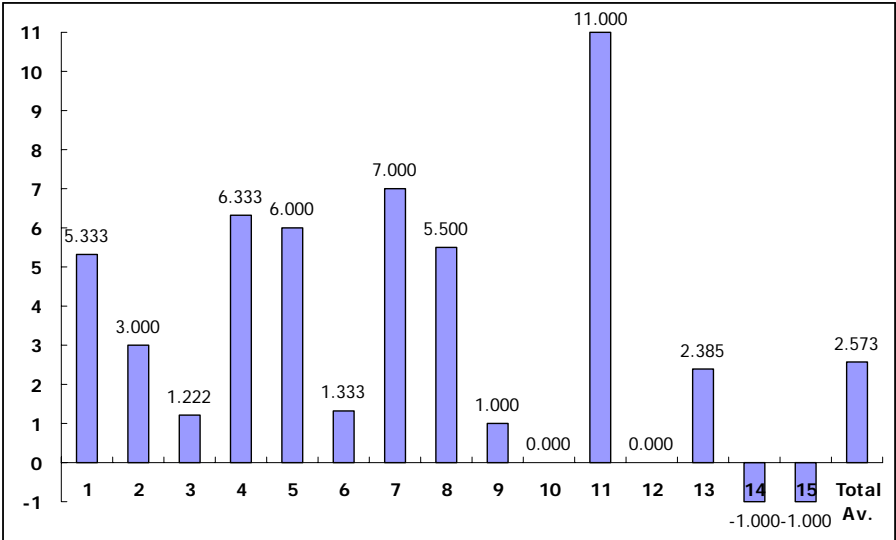




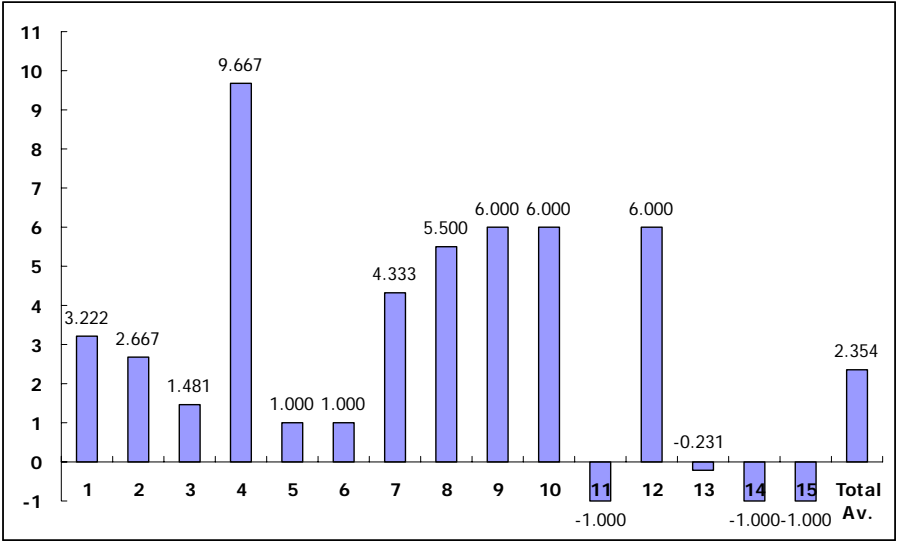
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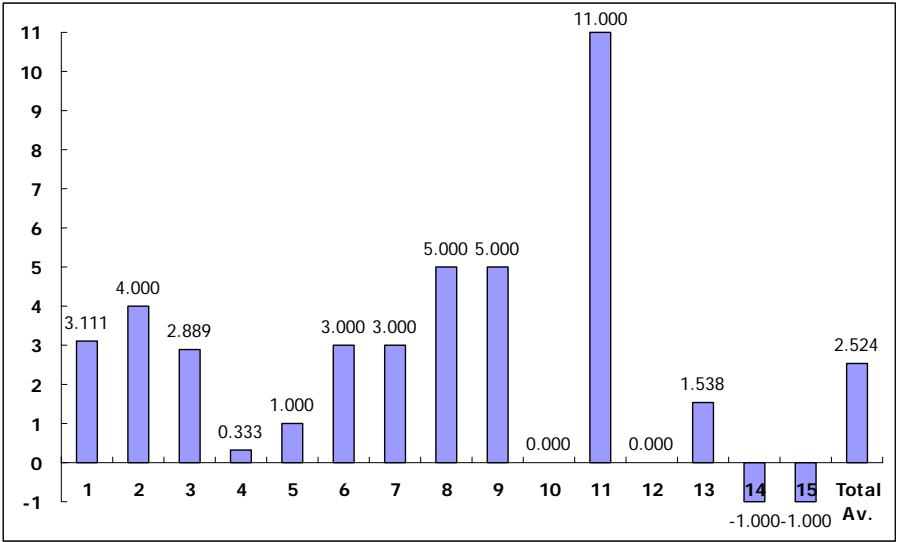
<Figure A2-18> Scores of Options for Thailand



<Figure A2-19> Scores of Options for the United States



<Figure A2-20> Scores of Options for Viet Nam



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